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# SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

Senator Bill Dodd

Chair

2019 - 2020 Regular

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<b>Bill No:</b>	AB 499	<b>Hearing Date:</b>	8/14/2020
<b>Author:</b>	Mayes, et al.		
<b>Version:</b>	7/31/2020 Amended		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Felipe Lopez		

Due to the COVID-19 Pandemic and the unprecedented nature of the 2020 Legislative Session, all Senate Policy Committees are working under a compressed timeline. This timeline does not allow this bill to be referred and heard by more than one committee as a typical timeline would allow. In order to fully vet the contents of this measure for the benefit of Senators and the public, this analysis includes information from the Senate Judiciary Committee.

**SUBJECT:** Personal information: social security numbers: state agencies

**DIGEST:** This bill prohibits a state agency from sending any outgoing United States mail that contains an individual's social security number (SSN) unless the number is truncated to its last four digits or in specified circumstances.

## ANALYSIS:

Existing law:

- 1) Prohibits any state agency from sending any outgoing United States mail to an individual that contains personal information about that individual, including, but not limited to, the individual's SSN, telephone number, driver's license number, or credit card account number, unless that personal information is contained within sealed correspondence and cannot be viewed from the outside of that sealed correspondence.
- 2) Prohibits a person or entity from printing an individual's SSN on any material that is mailed to the individual, unless state and federal law requires the SSN to be on the document to be mailed. However, SSNs may be included in application and forms sent by mail, including documents sent as part of an application or enrollment process, or to establish, amend or terminate an account, contract or policy, or to confirm the accuracy of the SSN.

This bill:

- 1) Prohibits, commencing on or before January 1, 2023 a state agency from sending any outgoing United States mail to an individual that contains the individual's social security number unless the number is truncated to its last four digits, except in the following circumstance:
  - a) Federal law requires inclusion of the SSN.
  - b) The documents are mailed to a current or prospective state employee.
  - c) An individual erroneously mailed a document containing a SSN to a state agency, and the state agency is returning the original document by certified or registered United States mail.
  - d) The Controller is returning documents to an individual previously submitted by the individual.
- 2) Requires, on or before September 1, 2021, each state agency that mails an individual's full or truncated part of a SSN to that individual to report to the Legislature regarding when and why it does so.
- 3) Provides that a state agency that is unable to comply with the requirements of this bill shall submit an annual corrective action plan to the Legislature until it is in compliance with this bill.
- 4) Requires a state agency that is not in compliance to offer to provide appropriate identify theft prevention and mitigation services for no less than 12 months to any individual, at no cost to the individual, to whom it sent outgoing mail that contained the individual's full SSN, along with all information necessary to take advantage of the offer.
- 5) Provides that the requirement of a report shall become inoperative on January 1, 2024.

## Background

*Purpose of the bill.* According to the author's office, "it goes without saying that an individual's SSN is one of the most important pieces of information an individual should protect. This legislation follows a recommendation by the State Auditor after an investigation into Employment Development Department (EDD) practice of sending out mail with full SNNs. EDD exposed nearly 300 claimants to the risk of identity theft when it inappropriately disclosed their personal information, including SSNs, to other mail recipients. EDD is currently

undergoing a system modernization project, which will incorporate a unique identifier to replace SSNs. However, this will not be completed before 2024.”

The author’s office further states that, “prior to the COVID-19 pandemic, it was estimated that EDD would send approximately 70 million documents with SSNs during this period. Due to unemployment related to COVID, it is expected that this number will be much higher. It is also unclear that EDD needs to send SSNs through the mail as the State Auditor could not find any laws expressly requiring them to do so.”

*California State Auditor Report on Publication of SSNs.* According to the Social Security Administration, the use of the SSN has expanded significantly since its inception in 1936. Created merely to keep track of the earnings history of U.S. workers for Social Security entitlement and benefit computation purposes, it is now used as a nearly universal identifier. Assigned at birth, the SSN enables government agencies to identify individuals in their records and allows businesses to track an individual’s financial information. Unfortunately, this universality has led to abuse, as the SSN is a key piece of information used to commit identity theft. The Federal Trade Commission estimates that as many as nine million Americans have their identities stolen each year.

After widespread media coverage of EDD’s printing full SSNs on correspondence to millions of Californians in 2015, EDD claimed it would begin to redact SSNs on 75 percent of all mailed documents. In March 2019, the California State Auditor reported that EDD exposed approximately 300 people to possible identity theft by disclosing their personal identifying information in correspondence. EDD claims it is required to use SSNs to determine eligibility and comply with federal law and that it is in the process of developing unique identifiers for claimants.

However, EDD had not completed the transition as of March 2019. Ultimately, the State Auditor found that EDD should take near-term measures to protect its claimants better, and made several recommendations to that effect. This bill would codify a number of those recommendations for all state agencies.

*Senate Judiciary Committee Comments.* This bill raises various issues that are within the jurisdiction of the Senate Judiciary Committee. The focus of the bill is on protecting consumers and their privacy, a right granted to Californians by the state’s constitution. Social Security numbers are often used to verify identity, and, in the wrong hands, can be used by an identity thief to fraudulently open credit card or utility accounts, access financial accounts, or obtain loans, among other things. The overall growth in the use of SSNs is important to individual SSN holders because this number is one of the personal identifiers most sought after by

identity thieves, making it easy availability, particularly in public records, of special concern.

This bill takes steps toward better protecting this incredibly sensitive piece of information by implementing the suggestions found in the recent auditor's report. One issue that has been raised was the use of the term "full social security number" in a previous version of the bill that could have possibly served to undermine the stated goal of the bill. An identity thief does not need a full SSN and can infiltrate a person's finances and personal affairs with a partial number. Various California laws provide for the truncation of SSNs to protect Californians' identities and define that as limiting any listing of a SSN to no more than four digits and generally requiring the redaction of the first five numbers. Agreeing that such a limitation would go a long way to truly protecting Californians the author agreed to amend the bill to address this concern.

**Prior/Related Legislation**

SB 447 (DeSaulnier, 2012) would have prohibited a state agency from sending any communication to any individual that contains the full SSN of that individual unless required by federal law. (Vetoed by Governor Brown)

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

**SUPPORT:**

None received

**OPPOSITION:**

None received