

## CONCURRENCE IN SENATE AMENDMENTS

AB 499 (Mayes)

As Amended August 20, 2020

Majority vote

**SUMMARY:**

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.

**The Senate Amendments:**

1) Specify the circumstances in which it is permissible for a State agency to send outgoing mail that contains an individual's SSN; 2) clarify that only state agencies mailing documents with full or truncated SSNs, other than as permitted, shall report specified information to the Legislature; 3) make those reports confidential; and 4) eliminate the requirement that agencies that mail full SSNs provide identity theft prevention and mitigation services, as specified.

**COMMENTS:**

- 1) *Purpose of this bill:* This bill seeks to protect California residents from identity theft by, among other things, prohibiting state agencies from sending any mail to an individual containing their full SSN, unless a full SSN is required by federal law. This bill is author-sponsored.
- 2) *Widespread use of SSNs makes the identifier an attractive target for identity thieves:* 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 United States 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 9 million Americans have their identities stolen each year. (Puckett, *The Story of the Social Security Number* Social Security Bulletin, Vol. 69, No. 2, 2009.)

After widespread media coverage of California's Employment Development Department (EDD) printing full SSNs on correspondence to millions of Californians in 2015, EDD claimed it would begin to redact SSNs on 75% of all mailed documents. In a recent report regarding EDD's privacy protection practices when mailing documents to its customers, the State Auditor concluded that "[a]lthough EDD has undertaken efforts since 2015 to reduce the amount of mail it sends to claimants that include full SSNs, its efforts have been insufficient." Specifically, the State Auditor found that "EDD likely sent more than 17 million pieces of mail containing full Social Security numbers (SSNs) to a total of more than a million people in fiscal year 2017–18 [and that] several of the security incidents [...] reviewed from 2015 through 2018 showed that EDD exposed nearly 300 claimants to the risk of identity theft when it inappropriately disclosed their personal information, including SSNs, to other mail recipients." (The full report (hereinafter "Report") may be found online at <<http://www.auditor.ca.gov/pdfs/reports/2018-129.pdf>> [as of Jan. 7, 2020].)

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.

- 3) *Prohibits the mailing of SSNs to individuals except as specified:* This bill would prohibit, beginning January 1, 2023, a state agency from sending any outgoing United States mail to an individual unless the number is truncated to the four digits of that individual's SSN, except in specified circumstances, including when federal law requires the inclusion of an SSN, the documents are mailed to a current or prospective state employee, or the state agency is returning an erroneously mailed document containing an SSN.
- 4) *Delayed implementation combined with reporting requirements gives state agencies time to update privacy practices and seek statutory amendments if necessary:* Beginning on or before September of 2021, this bill would require any state agency that mails documents containing full or truncated SSNs to individuals, except as permitted, to report to the Legislature when and why it does so. The bill would additionally require any agency that, in its estimation, cannot cease mailing SSNs except as permitted by the bill to individuals by January 1, 2023, to provide the Legislature with an annual correction plan until it can comply with the requirements therein. Amendments taken in the Senate further ensure that any report or corrective action plan submitted to the Legislature are confidential and shall not be disclosed to the public, thereby shielding this information from would-be identity thieves. These amendments appropriately protect individual privacy and safeguard against any security risk that could be created if the reports and corrective action plans were available to the public at large.

**According to the Author:**

It goes without saying that an individual's Social Security Number 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 the Employment Development Department (EDD) practice of sending out mail with full Social security numbers. 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 and EDD will send approximately 70 million documents with SSNs during this period. 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.

**Arguments in Support:**

None on file

**Arguments in Opposition:**

None on file

**FISCAL COMMENTS:**

According to the Senate Appropriations Committee, the EDD reports that it is investing in a new wholesale benefit system replacement, known as the Benefit Systems Modernization (BSM) project, that will allow it to use a unique identifier in lieu of a SSN on documents mailed to claimants by January 1, 2023.

The EDD would develop business requirements and make technical changes to information technology systems to accommodate the new identifier. The EDD estimates costs in the millions to tens of millions of dollars to incorporate the requirements of this bill into the BSM project. The final cost estimate will depend on project details, required program resources, among other factors.

Additionally, cost pressures of up to \$1 million (General Fund) to the Department of Justice's California Justice Information Services Division.

## **VOTES:**

### **ASM RULES: 12-0-0**

**YES:** Cooley, Cunningham, Carrillo, Flora, Grayson, Kamlager, Maienschein, Mathis, Quirk-Silva, Ramos, Robert Rivas, Wicks

### **ASM PRIVACY AND CONSUMER PROTECTION: 11-0-0**

**YES:** Chau, Kiley, Bauer-Kahan, Berman, Calderon, Kalra, Gallagher, Irwin, Obernolte, Smith, Wicks

### **ASM APPROPRIATIONS: 18-0-0**

**YES:** Gonzalez, Bigelow, Bloom, Bonta, Brough, Calderon, Carrillo, Chau, Megan Dahle, Diep, Eggman, Fong, Gabriel, Eduardo Garcia, Maienschein, Petrie-Norris, Quirk, Robert Rivas

### **ASSEMBLY FLOOR: 78-0-2**

**YES:** Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Mullin, Muratsuchi, Nazarian, O'Donnell, Obernolte, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood

**ABS, ABST OR NV:** Cervantes, Rendon

### **SENATE FLOOR: 39-0-1**

**YES:** Allen, Archuleta, Atkins, Bates, Beall, Borgeas, Bradford, Caballero, Chang, Dahle, Dodd, Durazo, Galgiani, Glazer, Lena Gonzalez, Grove, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva, McGuire, Melendez, Mitchell, Monning, Moorlach, Morrell, Nielsen, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

**ABS, ABST OR NV:** Jones

## **UPDATED:**

VERSION: August 20, 2020

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