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The Social Security Number: Legal Developments Affecting Its Collection, Disclosure and Confidentiality

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The Social Security Number: Legal Developments Affecting Its Collection, Disclosure and Confidentiality

Summary

While the social security number (SSN) was first introduced as a device for keeping track of contributions to the Social Security system, its use has been expanded by government entities and the private sector to keep track of many other government and private sector records. Use of the social security number as a federal government identifier was based on Executive Order 9393, issued by President Franklin Roosevelt. Beginning in the 1960's federal agencies started adopting the social security number as a governmental identifier, and its use for keeping track of government records, on both the federal and state levels, greatly increased.

Section 7 of the Privacy Act of 1974 limits compulsory divulgence of the social security number by government entities. While the Privacy Act does provide some limits on the use of the social security number by state and federal entities, exceptions provided in that statute and succeeding statutes have resulted in only minimal restrictions on governmental usage of the social security number. Constitutional challenges to social security number collection and dissemination have, for the most part, been unsuccessful. Private sector use of the social security number is widespread, and continues to be unregulated by the federal government. The chronology in this report provides a list of federal developments affecting use of the social security number, including federal regulation of the number, as well as specific authorizations, restrictions and fraud provisions concerning its use.

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The Social Security Number: Legal Developments Affecting Its Collection, Disclosure, and Confidentiality

Origin of the SSN and Federal Government Usage

The social security number (SSN) was first introduced as a device for keeping account of contributions to the Social Security system. Through the years, however, the use of this identifying number has been expanded by government entities and the private sector to keep track of many other government and private sector records. In the view of some, a person's SSN has attained the status of a quasi-universal personal identification number.[1] Today one can be required to furnish one's SSN to obtain a driver's license, apply for public assistance, donate blood, or take out a loan. And SSNs may be used to access insurance records, track down student loan defaulters, compile direct marketing mailing lists, or identify convicted felons on lists of potential jurors.[2]

The original Social Security Act of 1935,[3] did not expressly mention the use of SSNs but it did authorize the creation of some type of record-keeping scheme. Section 807(b) of the Act stated:

> Such taxes shall be collected and paid in such manner, at such times, and under such conditions, not inconsistent with this title (either by making and filing returns, or by stamps, coupons, tickets, books, or other reasonable devices or methods necessary or helpful in securing a complete and proper collection and payment of the tax or in securing proper identification of the taxpayer), as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

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[1] R. Brian Black, *Legislating U.S. Data Privacy in the Context of National Identification Numbers: Models From South Africa and the United Kingdom*, 34 Cornell L. J. 398 (2001); *see also*, Flavio L. Komuves, *We've Got Your Number: An Overview of Legislation and Decisions to Control the Use of Social Security Numbers as Personal Identifiers*, 16 Marshall J. Computer & Info. L. 529, 531-532 (1998).

[2] Public records access to personal information has also been used for nefarious purposes. *See*, Joan Zorza, *Recognizing and Protecting the Privacy and Confidentiality Needs of Battered Women*, 29 Fam. L.Q. 273, 287 (1995), in which an incident is described whereby a murderer located a victim after searching publically accessible state motor vehicle records, which included SSNs.

[3] Act of August 14, 1935, ch. 531, 49 Stat. 620 (codified as amended at 42 U.S.C. §§ 301 *et seq.)*.

In addition, Section 808 of the Act provided that "[t]he Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make and publish rules and regulations for the enforcement of the title." Shortly after passage of the Social Security Act the Bureau of Internal Revenue required the issuance of an account number to each employee covered by the Social Security program.[4]

Although the SSN was originally established for the Social Security program,[5] other government agencies soon realized that it could be used as a convenient identifying number for tracking other government programs. Use of the SSN as a federal government identifier was based on Executive Order 9397,[6] issued by President Franklin Roosevelt, which provided as follows:

> Whereas certain Federal agencies from time to time require in the administration of their activities a system of numerical identification of accounts of individual persons; and...
>
> Whereas it is desirable in the interest of economic and orderly administration that the Federal Government move toward the use of a single, unduplicated numerical identification system of accounts and avoid the unnecessary establishment of additional systems:
>
> Now, therefore...it is hereby ordered as follows:
>
> Hereafter any Federal department, establishment, or agency shall, whenever the head thereof finds it advisable to establish a new system of permanent account numbers pertaining to individual persons, utilize exclusively the Social Security account numbers...

However, as a Social Security Administration staff paper indicated, it was not until the 1960's that federal agencies began to adopt the SSN as a general government identifier in other contexts.[7]

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[4] T.D. 4704, 1 Fed Reg. 1741, Nov. 7, 1936; 26 C.F.R. Part 401 (1st ed., 1939). Current regulations relating to applications for and assignment of social security numbers, and the maintenance of earnings records of individuals by the Social Security Administration (SSA), may be found at 20 C.F.R. §§ 422.101 *et seq.* SSA publications about the SSN may also be found on their website at [http://www.ssa.gov]

[5] The SSA has emphasized that the SSN identifies a particular record only and the social security card indicates the person whose record is identified by that number. Thus, the social security card was not meant to identify the bearer. From 1946 to 1972 the legend "NOT FOR IDENTIFICATION" was printed on the face of the card, as a warning that no proof of identity was required to get a social security card. However, the legend was largely ignored and was eventually dropped.

[6] 8 Fed. Reg. 16095-16097, 3 C.F.R. (1943-1948 Comp.) 283-284 (1943).

[7] Social Security Administration, *Use of the SSN — Background and Legislative History* 2-3 (1980). *See also*, Use of Social Security Number as a National Identifier: Hearing before the Subcomm. on Social Security of the House Comm. on Ways and Means, 102d Cong., 1st Sess. 23 (1991) (testimony of Comm'r Gwendolyn C. King).

> The impetus for the Executive Order came from consideration the Civil Service Commission was giving to establishing a numerical identification system for all Federal employees, using the SSN as the identifying number. However, in spite of the Executive Order, there was little program use of SSN's within the Federal Government in the 1940's and 1950's, because there was no real incentive for those agencies which kept individual records (e.g., Civil Service Commission, the Armed Forces, IRS, etc.) to change their record keeping systems. The potential for expanded use of the SSN was increasingly recognized during this period, though. After its adoption in 1961 by the Civil Service Commission for Federal employees, the next major use of the SSN for other than social security purposes occurred in 1962, when the IRS adopted the SSN as its official taxpayer identification number. While the use of the SSN by IRS has no relationship to the social security system as such, this step was nevertheless considered entirely appropriate.

Even though individuals are required to disclose their SSN under many circumstances in dealing with governmental entities, possession of a SSN is not a condition of United States citizenship. This is why regulations issued by the Social Security Administration regarding obtaining a SSN state that "(a)n individual needing a social security number may apply for one by filing a signed form SS-5, 'Application For A Social Security Number Card,'..."[8] Each individual determines when he or she needs a number based upon federal and state statutes requiring disclosure of an SSN. In reality, it would be very difficult to work or engage in many activities in this country without a SSN. Virtually all tax matters require the disclosure of one's SSN,[9] as does participation in many government programs, and obtaining a driver's license. While one may choose not to disclose a SSN in some circumstances, one may have to forgo a benefit. For example, a parent can refuse to provide a SSN for a child on an income tax form, but then the parent cannot claim that child as a dependent on the tax form.

Restrictions on Governmental Collection and Use of SSNs

Concerns regarding increased uses of the SSN by both government and private entities prompted studies and subsequent congressional action limiting government uses of the SSN. The Social Security Administration created a task force in 1970 to investigate "non-program" uses of the SSN, and the task force's report the following year stated:[10]

> Any examination of SSN policy must begin with the recognition that the number has ceased to be merely a "social security number." Especially in the past few

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[8] 20 C.F.R. § 422.103(b)(1).

[9] There are penalties which may be imposed under the Internal Revenue Code for failure to furnish an SSN when required to do so pursuant to a federal statute. *See* 26 U.S.C. § 6723 and 6724.

[10] Social Security Number Task Force, Social Security Administration, Report to the Commissioner (1971) at 4.

> years, the number has come into increasingly wide use as a numerical identifier throughout society, to the point where the adult American citizen is beginning to need a number to function effectively even if he is among the very small minority of people who never work in covered employment.

In 1973, the Department of Health, Education and Welfare Secretary's Advisory Committee on Automated Personal Data Systems proposed (1) that an individual whose SSN is requested should be informed as to whether or not divulging his number is legally required; and (2) that no individual should be denied a benefit because of his refusal to divulge his SSN for purposes other than those required by federal law.[11]

The Privacy Act of 1974

When Congress passed the Privacy Act of 1974,[12] it took the first statutory step toward establishing a federal policy limiting compulsory divulgence of the SSN. In its report accompanying S. 3418, which became the Privacy Act, the Senate Committee on Government Operations stated that the extensive use of the SSN as a universal identifier was "one of the most serious manifestations of privacy concerns in the nation."[13] Citing its fear of harm to individual privacy through misuse of information systems,[14] Congress intended, in the Privacy Act, to curb government use of SSN as a personal identifier.

Section 7(a)(1) of the Privacy Act provides that:

> It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

However, the effectiveness of the Privacy Act in restricting SSN use was somewhat limited by the exemptions in section 7(a)(2) of the Privacy Act:

> The provisions of paragraph (1) of this subsection shall not apply to
>
> (A) any disclosure which is required by Federal statute, or
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> (B) the disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

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[11] DHEW Secretary's Advisory Committee on Automated Personal Data Systems, *Records, Computers, and the Rights of Citizens* (Washington: U.S. Government Printing Office, 1973), Chapter VII.

[12] P. L. 93-579, 88 Stat. 1896, 5 U.S.C. 552a note.

[13] S. Rep. No. 1183, 93rd Cong., 2d Sess., *reprinted in* 1974 U.S. Code Cong. & Admin. News 6916, 6943.

[14] Section 2(a) of P. L. 93-579.

In any situation where a government agency asks for a person's SSN, the agency, under section 7(b) of the Privacy Act, is required to tell the person whether the request is mandatory or voluntary, and what uses the agency will make of the SSNs that are collected.

While section 7 of the Privacy Act does not explicitly provide remedies for its violation, courts have held that it would be illusory for section 7 to provide that persons have the right to have their SSN free from compulsory disclosure with no judicial remedy. Thus, courts have granted declaratory relief and permanent injunctions to comply with the Privacy Act's SSN disclosure and notice provisions.[15] The United States Supreme Court, however, recently ruled, 6-3, in *Doe v. Chao,*[16] that an individual must prove he has suffered actual harm before he can receive a $1,000 minimum statutory award under section 7 of the Privacy Act when the government wrongfully discloses his social security number.

In summary, under the Privacy Act, if an entity is a federal, state or local government agency, it cannot require an individual to submit a SSN, unless (1) the government agency used SSNs in a record system for identification purposes under a statute or regulation adopted prior to January 1, 1975;[17] or (2) it has received specific permission from Congress to require submission of the SSN, and the agency cites such authorizing authority. If neither of those two conditions is satisfied, then the government entity may still ask an individual to submit his or her SSN voluntarily. In either situation where a SSN is requested, the agency must fully disclose what uses will be made of the number.

The Tax Reform Act of 1976

In 1976 Congress further weakened the protections of the Privacy Act by authorizing the states to use the SSN for a wide range of purposes, and by codifying the use of the SSN for federal tax purposes. First, Section 1211(c)(i) of the Tax

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[15] Courts have granted injunctive relief for violations of section 7 where a government agency failed to inform applicants for a license that providing their SSN was optional. *Russell v. Bd. of Plumbing Exam'rs,* 74 F. Supp. 2d 339 (S.D.N.Y. 1999). *See also, Greidinger v. Davis,* 782 F. Supp. 1106 (E.D. Va. 1992), *rev'd and remanded on other grounds*, 988 F.2d 1344 (4th Cir. 1993).

[16] 124 S. Ct. 1204 (2004).

[17] For example, there are currently seven states that require a person's SSN for voter registration pursuant to laws in effect in those states prior to 1975. Those states are Georgia, Hawaii, Kentucky, New Mexico, South Carolina, Tennessee and Virginia. It is noted that Kentucky's statutory provision also provides that "(n)o person shall be denied the right to register because of failure to include his social security number." KRS § 116.155 (2000). Tennessee's SSN requirement was upheld in *McKay v. Thompson,* 226 F.3d 752 (6th Cir. 2000), *cert. den., McKay v. United States*, 532 U.S. 906 (2001). *See also, Russell v. Bd. of Plumbing Examiners of County of Westchester,* 74 F. Supp. 2d 339 (S.D. N.Y. 1999).

Reform Act of 1976[18] amended Section 205(c)(2) of the Social Security Act[19] by adding the following language:

> (c)(i) It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Secretary for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such state (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Secretary.

Second, Section 1211(c) of the Tax Reform Act amended Section 6109 of the Internal Revenue Code[20] to provide that "[t]he social security account number issued to an individual for purposes of section 205(c)(2)(A) of the Social Security Act, shall, except as otherwise specified under regulations of the Secretary, be used as the identifying number for such individuals for purposes of this title." Before this revision, section 6109 had required taxpayers to use identifying numbers as prescribed by regulations. Although in practice it was the SSN which was used, no provision in federal law had specifically required that the SSN be the identifying number for federal tax purposes until the 1976 amendment.

In studying the effects of these two laws, the Privacy Protection Study Commission found that the restrictions on use of the SSN imposed by section 7 of the Privacy Act had little impact on government agencies. The Commission stated that "[t]he Tax Reform Act grants most State and local government agencies that found its continued use necessary authority to demand it. In short, the Privacy Act and the Tax Reform Act essentially preserved the status quo with respect to the SSN: namely, widespread collection and use of the number."[21]

Other Federal Statutes Affecting SSN Confidentiality

More recent enactments by Congress have provided increased confidentiality of SSNs in public records. Any SSNs and related records that are obtained by federal or state authorized persons pursuant to federal laws enacted on or after October 1, 1990 "shall be confidential, and no authorized person shall disclose any such social security account number or related record."[22] Penalties are provided for unauthorized

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[18] P.L. 94-455, 90 Stat. 1520 (1976).

[19] 42 U.S.C. § 405(c)(2).

[20] 26 U.S. C. § 6109(d).

[21] Privacy Protection Study Commission, *Personal Privacy in an Information Society* 612-13 (1977).

[22] 42 U.S.C. § 405(c)(2)(C)(viii)(I). See the chronology, *infra* at 12, for other specific federal limitations on SSN collection and dissemination.

willful disclosures of such confidential information.[23] Widespread distribution of SSNs from state driver records has been curtailed since 1994 by Congress under the Driver's Privacy Protection Act.[24] Since its amendment in 2000,[25] certain "highly restricted information" (including an individual's photograph or image, social security number, or medical or disability information) may not be disclosed by a state department of motor vehicles without the express consent of the individual, except under limited circumstances.[26] The statute provides for both criminal punishment and a private cause of action for violations of its provisions.[27]

Another federal statute which provides some protection from SSN disclosures is the Freedom of Information Act ("FOIA").[28] The FOIA requires federal agencies to generally make their records available to the public, unless a specific exemption applies. "Exemption 6" allows an agency to withhold records that would "disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy."[29] Courts have held that when a citizen requests federal records under the FOIA, SSNs contained in such records may not be disseminated. For example, a federal court denied a union access to Air Force contractor employees' payroll records which contained SSNs,[30] and another federal court denied a citizen request for addresses and SSNs contained in income tax records.[31]

Publicly-funded schools and those that receive federal education assistance must comply with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, ("FERPA," also known as the "Buckley Amendment"). Under this statute

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[23] 42 U.S.C. § 405(c)(2)(C)(viii)(II).

[24] 18 U.S.C. § 2721 *et seq.* This statute was enacted by Congress after the murder of actress Rebecca Shaeffer. Her assailant had gotten her address from the California Department of Motor Vehicles. *See Reno v. Condon*, 528 U.S. 141 (2000), upholding the constitutionality of the Driver's Privacy Protection Act of 1994.

[25] Section 309 of P.L. 106-346.

[26] Enumerated exceptions to non-disclosure include use by governmental agencies and law enforcement agencies in carrying out their functions, use in connection with judicial proceedings and enforcement of judgments, use by insurance agencies for claims investigations, anti-fraud activities, or rating and underwriting activities, and use by employers or insurers to verify information relating to a commercial driver's license holders. 18 U.S.C. § 2721(b)(1), (4), (6), and (9).

[27] 18 U.S.C. § 2723.

[28] 5 U.S.C. § 552(a).

[29] 5 U.S.C. § 552(b). In *Sherman v. U.S. Dept. of Army*, 244 F.3d 357 (5th Cir. 2001), the court upheld the redaction of SSNs by the Army in the release of servicemen award orders issued during the Vietnam war under an FOIA request. "(W)e recognize that individual citizens have a substantial informational privacy right to limit the disclosure of their SSNs, and consequently reduce the risk that they will be affected by various identity fraud crimes." *Id.* at 244 F.3d 365.

[30] *Sheet Metal Workers Int'l Assn. v. United States Air Force*, 63 F.3d 994 (10th Cir. 1995).

[31] *Aronson v. Internal Revenue Service*, 973 F.2d 962 (1st Cir. 1992).

educational records or personally identifiable information of students may not be released without written consent of the student, with limited exceptions. Not all colleges and universities have interpreted FERPA to prohibit the use of a student's SSN as an indentifier within the school community. However, increasingly, many schools have ended practices whereby students' SSNs are displayed on identification cards or on class roster lists or as identifying numbers for the posting of grades.[32] In one case brought under this Act, students successfully sued Rutgers University and its president to enjoin dissemination of class rosters with student social security numbers to faculty and students.[33]

Constitutional Challenges to SSN Collection and Dissemination

Challenges to SSN collection based on constitutional grounds have not fared well in the courts. Under the current framework for evaluating constitutional privacy rights, which is essentially a "reasonable expectation of privacy" analysis, courts have been hard pressed to find a constitutionally protected privacy interest in the SSN because of the broad dissemination of SSNs in public and private records.[34] In *Doyle v. Wilson*,[35] a federal court held that "mandatory disclosure of one's social security number does not so threaten the sanctity of individual privacy as to require constitutional protection." In a similar vein, courts have held that requiring an SSN on a driver's license application is not unconstitutional,[36] nor is a requirement that welfare recipients furnish their SSNs.[37] In like fashion, an individual's interest in informational privacy does not invalidate the statutory requirement that non-attorney bankruptcy preparers place their SSNs in court filings.[38] In addition, in *Bowen v.*

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[32] Some states have enacted statutes specifically prohibiting public display of students' SSNs for posting of grades, on class rosters, on internet sites, or on student ID cards. See, e.g., N.Y. CLS Educ § 2-b (2001); A.R.S. § 15-1823 (2001); R.I. Gen. Laws § 16-38-5.1 (2001).

[33] *Krebs v. Rutgers*, 797 F. Supp. 1246 (D. N.J. 1992).

[34] *See, e.g.*, 143 Cong. Rec. S3292 (daily ed. April 16, 1997) (statement of Sen. Feinstein) ("I found that my own [SSN] was accessible to users of the Internet. My staff retrieved it in less than 3 minutes.").

[35] 529 F. Supp. 1307, 1348 (D. Del. 1982).

[36] *Michigan Department of State v. United States*, 166 F. Supp. 2d 1228 (W.D. Mich. 2001).

[37] *McElrath v. Califano*, 615 F.2d 434 (7th Cir. 1980); *see also, Chambers v. Klein*, 564 F.2d 89 (3d Cir. 1977).

[38] *In Re Crawford*, 194 F.3d 954 (9th Cir. 1999), *cert. denied sub nom, Ferm v. United States Trustee*, 528 U.S. 1189 (2000). While the court recognized a right to informational privacy, it stated that the right is not absolute, so that it may be infringed upon by proper governmental interests. "(W)e conclude that the speculative possibility of identity theft is not enough to trump the importance of the governmental interests" in preventing fraud and the unauthorized practice of law in the bankruptcy petition preparer industry. 194 F.3d at 960. *See also Arakawa v. Sakata*, 133 F. Supp. 2d 1223 (D. Hawaii 2001).

Roy,[39] the United States Supreme Court held that requiring applicants to provide their SSNs as a condition of eligibility for federal benefits, such as AFDC or food stamps, does not violate the First Amendment to the United States Constitution since such a requirement is neutral in religious terms.[40] Thus, a person may need to make a choice between receiving a government benefit and adhering to religious beliefs. In addition, preventing fraud in federal welfare programs is an important goal, and the SSN requirement is a reasonable means of promoting that goal.[41]

In another federal court case, *Greidinger v. Davis*,[42] Virginia's requirement that each voter's registration form contain an SSN was challenged. The court held that neither SSN collection nor dissemination is itself a violation of a constitutional right of privacy. However, the court found that Virginia had failed to comply with section 7(b) of the Privacy Act by not stating whether the disclosure was mandatory or voluntary, and by not listing what uses would be made of the SSNs. The court went on to find that Virginia's practice of making voter records, including SSNs, available for public inspection placed "a burdensome condition on the exercise of the fundamental right to vote."[43] Virginia's justification for collecting and disclosing SSNs was to prevent voter fraud. The court held that while Virginia's rationale amounted to a compelling state interest, it's policy of keeping SSNs available for public inspection was not "narrowly tailored" to the state's interest, so the court barred further dissemination of voters' SSNs.[44] Thus, the court's specific holding in this case was that the public availability of SSNs is unconstitutional only because it burdens another fundamental right, the right to vote, not because it is per se unconstitutional.[45]

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[39] 476 U.S. 693 (1986). "[G]iven the diversity of beliefs in our pluralistic society and the necessity of providing governments with sufficient operating latitude, some incidental neutral restraints on the free exercise of religion are inescapable." *Id.* at 712.

[40] On the subject of religious objections to the Tax Code requirement of SSNs, *see*, U.S. Library of Congress. Congressional Research Service. *Religious Objections to Use of Social Security Numbers on Tax Returns*. CRS Report RS20066, by Marie B. Morris. Washington D.C. 1999.

[41] 476 U.S. at 710.

[42] 988 F.2d 1344 (4th Cir. 1993).

[43] *Id.* at 1348.

[44] *Id.* at 1354.

[45] At least one court has been more protective of constitutional privacy rights involved in SSN use. In *State ex rel. Beacon Journal Publishing Co. v. Akron*, 640 N.E.2d 164, 166 (Ohio 1994) a newspaper attempted to obtain payroll records of city employees, specifically including SSNs. The Ohio Supreme Court held that disclosure of the individual employees' SSNs "would violate the federal constitutional right to privacy" and prohibited disclosure. *But see Pontbriand v. Sundlun*, 699 A. 2d 856, 870 (R.I. 1997), wherein the court disagreed with the court's holding in *Beacon Journal Publishing Co v. Akron*. More recently, the court in *Arakawa v. Sakata*, 133 F.Supp.2d 1223 (D. Hawaii 2001), concluded that the release of a SSN "potentially rises to the level of a federal constitutional violation" while acknowledging the case law on privacy rights and the SSN to be "ambiguous." Id. at 1229-30.

More recently, the United States Supreme Court, in *Reno v. Condon*,[46] unanimously upheld the provisions of the Driver's Privacy Protection Act of 1994[47] ("DPPA") as constitutional. The DPPA restricts the states' ability to disclose a driver's personal information, including SSN, without the driver's consent. South Carolina had a statute permitting information contained in the state's Department of Motor Vehicle records to be available or sold to any person or entity that fills out a form listing the requester's name and address and stating that the information would not be used for telephone solicitation. However, the High Court found the DPPA's restrictions to be a proper exercise of Congress' authority to regulate interstate commerce since drivers' personal information sold by the states is used by insurers, manufacturers, direct marketers, and others engaged in interstate commerce to contact drivers with customized solicitations. In addition, the Supreme Court rejected arguments that the federal regulation violated Tenth Amendment federalism principles.

In another case involving a federal requirement imposed on states, Michigan challenged a 1996 provision in the Welfare Reform Act that requires states to collect the SSNs of applicants of driver's licenses and other state licenses. The purpose of the requirement, section 666(a)(13)(A) of the Social Security Act,[48] is to facilitate interstate tracking and location of parents who are delinquent in child support payments. Because this statutory provision is tied to federal money that the state receives for its child support enforcement programs, the Michigan Legislature enacted the federally required laws, but then directed the Family Independence Agency to apply for an exemption from the requirement which was denied. The Michigan Department of State filed suit against the United States, challenging the constitutionality of the provision. In *Michigan Department of State v. United States*,[49] the district court upheld this requirement as a proper exercise of Congress' power under the Spending Clause of the U.S. Constitution.[50] The court found that the statutory requirement for collection of SSNs was sufficiently related to the federal interest of assisting the states in the nationwide collection of child support, and that it did not violate a citizen's right to privacy.[51]

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[46] 528 U.S. 141 (2000).

[47] 18 U.S.C. §§ 2721 - 2725.

[48] 42 U.S.C. § 666(a)(13)(A).

[49] 166 F. Supp. 2d 1228 (W.D. Mich. 2001).

[50] U.S. CONST. art. I, § 8, cl. 1.

[51] Individuals have also challenged this provision on grounds that it violates their right to free exercise of religion, the Privileges and Immunities Clause, due process and the right to privacy, but such cases have also been unsuccessful. See, e.g., *Kocher v. Bickley*, 722 A.2d 756 (Pa. Commw. Ct. 1999); *Brunson v. Dep't of Motor Vehicles*, 85 Cal. Rptr. 2d 710 (1999); *Stoianoff v. Comm'r of Motor Vehicles*, 107 F. Supp. 2d 439 (S.D.N.Y. 2000).

SSN Use in the Private Sector

Section 7 of the Privacy Act does not impose any restrictions on private sector use of the SSN. Thus, private businesses and organizations may still request an individual's SSN in exchange for goods or services. Private sector use of the SSN is widespread,[52] including activities such as using SSNs for data exchanges to assess credit risk, tracking patient care among multiple providers, locating bankruptcy assets, and providing background checks on new employees. Some of the largest private sector users of SSNs are companies which trade in financial information. For example, credit reporting bureaus, which typically key records to individual SSNs, maintain over 400 million files, with information on almost ninety percent of the adult American population.[53] Many colleges and universities, and agencies that administer standardized tests such as the Scholastic Assessment Test ("SAT"), also request a person's SSN for both internal purposes and for sending data to schools. One may be asked to provide one's SSN for such diverse activities as taking out an insurance policy, checking into a hospital, applying for a store charge account, or joining a club.

Concerns have been expressed regarding the effect of technological advances on the availability and use of the SSN in private sector databases:[54]

> The extensive use of computers has resulted in the wide-spread private sector use of the social security number as an identifier. Many merchants require a customer to provide a social security number as a condition of doing business. Credit bureaus use the social security number to maintain individual credit files and routinely sell this information to almost anyone who requests it. The ability of the private sector to gather information such as credit history, grocery store purchases, medical records (including pre-natal information), family medical histories and genetic makeup has raised fears that in the near future unregulated companies will serve as national identity bureaus collecting and dispersing an individual's most private information.

While an individual can refuse to give his or her SSN to a company or organization, the business can also refuse to provide the goods or services unless the

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[52] General Accounting Office, Social Security: Government and Commercial Use of the Social Security Number is Widespread (February 16, 1999, No. GAO/HEHS-99-28).

[53] Organizations that sell personal information, including SSNs, have benefitted greatly from continuing advances in computer technology and the availability of computerized data bases. *See* General Accounting Office, SOCIAL SECURITY NUMBERS: Private Sector Entities Routinely Obtain and Use SSNs, and Laws Limit the Disclosure of This Information (January 2004, No. GAO-04-11).

[54] Use of Social Security Number as a National Identifier: Hearing Before the Subcomm. on Social Security of the House Committee on Ways and Means, 102 Cong., 1st Sess. 2-3 (1991); *see also* Enhancing Social Security Number Privacy: Hearing Before the Subcomm. on Social Security of the House Committee on Ways and Means, 108th Cong., 2nd Sess. (2004).

SSN is provided.[55] If the company insists upon a customer's SSN, the individual can refuse and take his or her business elsewhere. In some cases an accommodation may be reached whereby a business agrees to use an identifier other than a person's SSN, but there is no federal law which prohibits the private entity from requiring a person's SSN as a condition to providing goods or services.[56]

Chronology of Federal Developments Affecting the Social Security Number

The chronology which follows details various federal developments relating to use of the SSN.[57]

1935	Enactment of the Social Security Act of 1935, P. L. 74-271, with authority for development of appropriate record keeping and identification scheme. Section 807 (b) of P.L. 74-271.
1937	By June 30, 1937, approximately 30 million applications for social security numbers are processed.
1943	Executive Order 9397, issued by President Roosevelt, authorizes the use of the SSN as a federal government identifier. 3 C.F.R. (1943-1948 Comp.) 283-284 (1943).

[55] A recent law in California restricts how certain businesses in the private sector can *display* SSNs of their customers. The law, which is being phased in from 2002 to 2005 prohibits businesses such as insurance companies from printing a SSN on identification cards. Companies and persons cannot post or publicly display SSNs, and banks and investment companies cannot transmit their customer's SSNs over the Internet when conducting business online without a password. In addition, SSNs cannot be printed on documents sent through the mail, except under certain circumstances. CAL. CIV. CODE § 1798.85 (West 2002). Arizona has enacted a law with provisions similar to those of California (A.R.S. §44-1376, effective 1/1/05). Other states such as Georgia and Utah have prohibited insurers from using SSNs on identification cards.

[56] But see a recent enactment in Rhode Island which prohibits a business from requiring a customer to disclose his or her SSN "incident to the sale of consumer goods or services." Exceptions are permitted for insurance, health care, or credit related purposes. A violation is a misdemeanor, with a fine up to $500. R. I. Gen. Laws § 6-13-17 (2002).

[57] This chronology is comprehensive, but not necessarily all inclusive. Federal laws not covered in this chronology include those related to computer matching programs which use the SSN to cross match data from two or more federal programs. For example, see 7 U.S.C.§ 2025(e), which authorizes computer matching between Food Stamp program recipients and Supplemental Security Income recipients for verification of income information. *See, generally*, 5 U.S.C. § 552(a)(8),(o),(p). In addition, only selected references to the ubiquitous Tax Code requirements to supply one's SSN ("taxpayer identification number") are included.

1961	The Civil Service Commission adopts the SSN as the official employee identification number.
1962	The Internal Revenue Service adopts the SSN as the official taxpayer identification number.
1964	The Treasury Department, via internal policy, requires buyers of series H Savings bonds to provide their SSN's.
1966	The Veterans Administration begins to use the SSN as its hospital admissions number and for patient record-keeping.
1967	The Department of Defense, via Secretary of Defense memorandum, adopts the SSN as the service number for all military personnel. Actual replacement of serial numbers with SSNs for military personnel occurred on July 1, 1969.
1970	Section 1102(a) of the Organized Crime Control Act of 1970, P. L. 91-452, authorizes the Secretary of the Treasury to require SSNs of persons to whom certain explosive materials are to be distributed. 18 U.S.C. § 842(f).
1971	The Social Security Administration issues a task force report on issues raised by non-program SSN use. The task force report proposes that the agency take a "cautious and conservative" position toward SSN use and do nothing to promote the use of the SSN as an identifier.
1972	Section 130(a) of the Social Security Amendments of 1972, P. L. 92-603, adds subsection (g) to Section 208 of the Social Security Act, setting forth penalties for furnishing false information to obtain a SSN, and for deceptive practices involving SSNs. 42 U.S.C. § 408(g).
	Section 137 of the same Act, P. L. 92-603, directs the Secretary of HEW (now Commissioner of Social Security) to assign SSNs to all aliens permitted to work in the United States, as well as to all recipients of benefits paid for by federal funds. 42 U.S.C. §§ 405(c)(2)(B)(i)(I) and (II). This section also authorizes the Secretary to issue SSNs to children below school age at the request of parents and guardians and to children of school age at their time of enrollment. 42 U.S.C. § 405(c)(2)(B)(iv) and (v). This section also requires the Secretary to obtain evidence necessary to establish age, citizenship, or alien status, and the true identity of applicants of SSNs. 42 U.S.C. § 405(c)(2)(B)(ii).
1973	Buyers of series E savings bonds are required by the Treasury Department to provide their SSNs.

1974	Section 7 of the Privacy Act of 1974, P. L. 93-579, limits governmental use of the SSN. The federal government and state and local governments are prohibited from withholding any right, benefit or privilege from a person simply because the individual refuses to furnish his or her SSN, except under certain circumstances, such as when required by federal law, or under certain grandfathered systems of records maintained by a governmental entity prior to 1975. 5 U.S.C. § 552a note.
1975	Section 101(c)(5)(C) of the Social Services Amendments of 1974, P. L. 93-647, requires disclosure of an individual's SSN as a condition of eligibility for AFDC benefits. 42 U.S.C. § 602(a)(25).
1976	Section 1211(b) of the Tax Reform Act of 1976, P. L. 94-455, authorizes states to use the SSN in the administration of any tax, general public assistance, driver's license or motor vehicle registration law and to require individuals affected by such laws to furnish their SSNs to the states. 42 U.S.C.§ 405(c)(2)(C)(i). In addition, states are permitted to use the SSN for responding to requests for information from any agency operating pursuant to the Aid to Families with Dependent Children program and the Child Support and Establishment of Paternity program. 42 U.S.C. § 405(c)(2)(C)(iii).
	Section 1211(c) of the same Act, P. L. 94-455, amends section 6109 of the Internal Revenue Code to provide that the SSN be used as the tax identification number for all tax purposes. While the Treasury Department had been using the SSN as the tax identification number by regulation since 1962, this law codifies that requirement. 26 U.S.C. 6109(d).
	Section 1211(d) of the same Act, P. L. 94-455, makes misuse of the SSN for any purpose a violation of the Social Security Act. 42 U.S.C.§ 408(g).
1977	Section 4 of the Food Stamp Act of 1977, P. L. 96-58, directs the Secretary of the Department of Agriculture to require that the SSN of all household members be disclosed as a condition of eligibility for participation in the Food Stamp program. 7 U.S.C. § 2025(e).
1981	Section 803(b) of the Omnibus Reconciliation Act of 1981, P. L. 97-35, requires the disclosure of the SSNs of all adult members in the household of children applying for the school lunch program. 42 U.S.C.§ 1758(d). (see 1989 amendment, P.L. 101-147).

	Section 916 of the Department of Defense Authorization Act, 1982, P. L. 97-86, authorizes the Director of Selective Service to require an individual's SSN when registering for the draft and requires the Secretary of HHS to furnish to the Director of Selective Service the names, dates of birth, addresses and SSNs of individuals required to register for the purpose of enforcement of the Military Selective Service Act. 50 U.S.C. App. §§ 453(b).
	Section 4 of the Omnibus Reconciliation Act of 1981, the Social Security Benefits Act, P. L. 97-123, amends the Social Security Act to add alteration and forgery of a social security card to the list of prohibited acts and increases the penalties for such acts under section 208 of the Social Security Act. 42 U.S.C. § 408.
1982	Section 205 of the Alcohol Traffic Safety-National Driver Register Act of 1982, P. L. 97-364, directs the chief driver licensing official in states participating in the National Driver Register to report certain information on drivers whose licenses have been denied, canceled, suspended or who have been convicted of certain offenses, to the Register, including the SSN of the driver if used by the reporting state for driver records or motor vehicle license purposes. 23 U.S.C. § 401 note. (see 1994 revision, P.L. 103-272).
	Section 4 of the Debt Collection Act of 1982, P. L. 97-365, requires all applicants for loans under any federal loan program to furnish their SSNs to the agency supplying the loan. 26 U.S.C. § 6103 note. (repealed, 1994, see P.L. 103-272).
1983	Section 339 of the Social Security Amendments of 1983, P. L. 98-21, requires federal and state agencies to provide the SSNs of incarcerated felons to the Secretary of HHS in order to limit social security benefits to certain prisoners. 42 U.S.C. § 402(x)(3).
	Section 345 of the same Act, P. L. 98-21, requires that the Secretary of HHS issue a social security card at the same time as an SSN is issued, and requires that new and replacement social security cards be made of banknote paper and (to the maximum extent practicable) not be subject to counterfeiting. 42 U.S.C. § 405(c)(2)(F).
	Section 122 of the Department of State Authorization Act for FY 1984 and 1985, P. L. 98-164, requires the Secretary of State to obtain SSNs from borrowers under the repatriation loan program. 22 U.S.C. § 2671(d).

1984	Section 146(a) of the Deficit Reduction Act of 1984, P. L. 98-369, amends Section 6050I of the Internal Revenue Code to require that persons engaged in a trade or business file a return (including SSNs) with the IRS for certain cash transactions over $10,000. 26 U.S.C. § 6050I(b)(2).
	Section 422(b) of the same law, P. L. 98-369, amends Section 215 of the Internal Revenue Code to authorize the Secretary of HHS to prescribe regulations requiring a spouse paying alimony to furnish the IRS with the taxpayer identification number (i.e., SSN) of the spouse receiving alimony payments. 26 U.S.C.§ 215.
	Section 2651(a) of the same law, P. L. 98-369, requires that states have in effect an income and eligibility verification system meeting federal standards for certain programs, and that SSNs be required as a condition for eligibility for benefits under such programs, which include the following: AFDC, Medicaid, Unemployment Compensation, Food Stamps, and SSI. 42 U.S.C. § 1320b-7(a)(1).
	Section 3(b) of the Child Support Enforcement Amendments of 1984, P. L. 98-378, requires states to provide the SSNs of noncustodial parents to state child support enforcement agencies for enforcing child support orders by tax refund offsets. 42 U.S.C. § 666(a)(3)(C).
1985	Section 1324 of the Food Security Act of 1985, P. L. 99-198, provides that certain state financing statements filed in a state central filing system certified by the Secretary of Agriculture for the protection of purchasers of farm products include the SSN of debtors with farm products subject to a security interest. 7 U.S.C. § 1631.
1986	Section 407(a) of the Higher Education Amendments of 1986, P. L. 99-498, requires student loan applicants to submit their SSN as a condition for eligibility. 20 U.S.C. § 1091(a)(4).
	Section 1234(a)(1) of the Tax Reform Act of 1986, P. L. 99-514, provides that applications for United States passports or for legal, permanent resident status (green cards) include the person's Taxpayer Identification Number (usually SSN), if any. 26 U.S.C. § 6039E.
	Section 1524 of the same Act, P. L. 99-514, requires that any dependent age five or older listed on a tax return be identified by a SSN. 26 U.S.C. § 6109(e).

	Section 12006 of the Commercial Motor Vehicle Safety Act of 1986, P. L. 99-570, gives the Secretary of Transportation authority to require that states include a driver's SSN on commercial vehicle licenses. 49 U.S.C. App. § 2705. (see 1994 revision, P.L. 103-272).
	Section 101(e) of the Immigration Control and Reform Act of 1986, P. L. 99-603, requires the Secretary of HHS to undertake a study of the feasibility and costs of establishing a SSN validation system for employment eligibility verification of aliens under 8 U.S.C. § 1324a, and of the privacy concerns that would be raised by the establishment of such a system. 8 U.S.C. § 1324a note.
1987	Section 11(b) of the Criminal Fines Improvement Act of 1987, P. L. 100-185, provides that certain information be included in judgments with fines of more than $100, including the SSN of the defendant. 18 U.S.C. § 3612(b)(1)(A).
	Section 1301(a)(3) of the Omnibus Budget Reconciliation Act of 1987, P. L. 100-203, requires that an entity receiving farm subsidy payments provide the SSN of each individual that holds or acquires a substantial beneficial interest in the entity to the Secretary of Agriculture. 7 U.S.C. § 1308-1(a)(3).
1988	Section 165 of the Housing and Community Development Act of 1987, P. L. 100-242, authorizes the Secretary of the Department of Housing and Urban Development to require disclosure of a person's SSN (or the SSNs of members of a person's household) as a condition of eligibility for any HUD program. 42 U.S.C. § 3543(a).
	Section 125 of the Family Support Act of 1988, P. L. 100-485, requires each state, in issuing birth certificates, to obtain the SSNs of the parents, unless the state determines that there is good cause for not furnishing such number. The SSNs are not to be recorded on the birth certificate but are to be used for child support enforcement activities. 42 U.S.C.§ 405(c)(2)(C)(ii).
	Section 704(a) of the same law, P. L. 100-485, requires that any dependent age two and older listed on a tax return be identified by a SSN. 26 U.S.C.§ 6109(e).
	Section 8008 of the Technical and Miscellaneous Revenue Act of 1988, P. L. 100-647, authorizes any state and any authorized blood donation facility to require that blood donors furnish their SSNs for purposes of identification. Requests to the Blood Donor Locator Service for the mailing address of blood donors who may have the HIV virus shall include the donor's SSN. 42 U.S.C. § 405(c)(2)(D)(i) and § 1320b-11(c).

	Section 7088 of P. L. 100-609, the Anti-Drug Abuse Act of 1988, deleted the $5,000 and $25,000 upper limits on fines that can be imposed for violations of Section 208 of the Social Security Act. The general limit of $250,000 for felonies in Title 18 of the United States Code applies to violations under the Social Security Act. 42 U.S.C.§ 408(a).
1989	Section 202(b)(2)(A) of the Child Nutrition and WIC Re-authorization Act of 1989, P. L. 101-147, amends the National School Lunch Act to specify that the member of the household who executes the application for the school lunch program must furnish only the SSN of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made. Only if verification of the application data is necessary may the Secretary require the SSNs of all adult household members. 42 U.S.C. § 1758(d).
	Section 301(a)(3) of the Coast Guard Authorization Act of 1989, P. L. 101-225, requires the SSNs of owners of certain registered seagoing vessels for use in the identification of such vessels. 46 U.S.C. §§ 12103, 12501, 12503.
	Section 2008 of the Omnibus Budget Reconciliation Act of 1989, P. L. 101-239, authorizes development of a National Student Loan Data System containing information on student loans, including the SSNs of borrowers. 20 U.S.C. § 1092b(a)(2).
1990	Section 8053(a) of the Omnibus Budget Reconciliation Act of 1990, P. L. 101-508, requires the SSN of any person applying for benefits under Department of Veterans Affairs programs. This section also requires the SSN (if assigned) of any dependent or beneficiary on whose behalf a person applies for veterans benefits. 38 U.S.C. § 5101(c)(1).
	Section 11112(a) of the same Act, P. L. 101-508, requires any dependent who has attained age one before the close of the year to be identified by a SSN for tax purposes. This section applies to returns for taxable years beginning after December 31, 1990. 26 U.S.C. § 6109(e).
	Section 1735(a) of the Food, Agriculture, Conservation, and Trade Act of 1990, P. L. 101-624, authorizes the Secretary of Agriculture to require the SSN of officers of wholesale food and retail stores that redeem food stamps. Such numbers are to be kept for the sole purpose of determining whether applicants have been previously sanctioned or convicted under the Food Stamp Act. 42 U.S.C. § 405(c)(2)(C)(iii)(I).
	Section 2201(a) of the same Act, P. L. 101-624, requires SSNs as a condition of eligibility for participation in the multiple peril crop insurance program. 7 U.S.C. § 1506(m)(1).

	Section 2201(b) of the same Act, P. L. 101-624, authorizes the Federal Crop Insurance Corporation to require each policyholder and each reinsured company to furnish to the insurer or Corporation the SSN of such policyholder. The SSN of each individual who holds a substantial beneficial interest in the policyholder may also be required. 42 U.S.C. § 405(c)(2)(C)(iv).
	Section 2201(c) of the same Act, P. L. 101-624, requires that SSNs maintained as a result of any law enacted on or after October 1, 1990, will be kept confidential, and may not be disclosed; penalties for unauthorized disclosures are provided. 42 U.S.C. 405(c)(2)(C).
	Section 3611 of the Crime Control Act of 1990, P. L. 101-647, adds federal debt collection procedures to be used by the United States to recover a judgement on a debt owed to the United States. Under these procedures an application by the United States for a writ of garnishment against a debtor's property must include the judgement debtor's SSN (if known). 28 U.S.C. § 3205(b)(1)(A)
1992	Section 483 of the Higher Education Amendments of 1992, P. L. 102-325, adds new guidelines for student financial aid applications including a requirement that the preparer of the application include his or her SSN. 20 U.S.C. § 1090(e).
	Section 19143(c) of the Coal Industry Retiree Health Benefit Act of 1992, P. L. 102-486, requires that the United Mine Workers of America Combined Benefit Fund furnish to the Commissioner of Social Security the name and SSN of each eligible beneficiary. 26 U.S.C. § 9706(c).
	Section 202 of the Anti Car Theft Act of 1992, P. L. 102-519, provides that the operator of the National Motor Vehicle Title Information System may not collect an individual's SSN or enable users of the information system to obtain an individual's SSN. 15 U.S.C. § 2042.
1993	Section 13581(a) of the Omnibus Budget Reconciliation Act of 1993, P. L. 103-66, establishes a Medicare and Medicaid Coverage Data Bank to assist in third party payor collections under Medicare and Medicaid. Employers are required to provide the TIN (SSN) of group health plan employees and their covered family members. 42 U.S.C. § 1320b-14(c)(5). (see 1996 amendment, P.L. 104-226, repealing this section).

1994	Section 1(e) of the Revision of Title 49, the Transportation Code, P. L. 103-272, repeals the prior provisions at 49 U.S.C. App. §§ 2705 and 2706, and sets out similar provisions authorizing the Secretary of Transportation to require the SSN on a commercial driver's license, and the operator's SSN in the commercial driver's license information system. 49 U.S.C. §§ 31308 and 31309.
	Section 1(e) of the same Act, P. L. 103-272, repeals the prior provisions at 15 U.S.C. § 2042, and sets out similar provisions prohibiting the collection or dissemination of individual SSNs by the operator of the National Motor Vehicle Title Information System. 49 U.S.C. § 30502(e)(2).
	Section 1(e) of the same Act, P. L. 103-272, repeals the prior provisions at 23 U.S.C. § 401 note, and sets out similar provisions concerning reporting certain adverse driver's license information to the National Driver Register by participating states' chief driver licensing officials. 49 U.S.C. § 30304.
	Section 7(b) of the same Act, P. L. 103-272, repeals the requirement set out at 26 U.S.C. § 6103 note requiring SSNs of persons applying for federal loans.
	Section 304 of the Social Security Independence and Program Improvements Act of 1994, P. L. 103-296, allows state and local governments to use SSNs for determining eligibility of potential jurors. 42 U.S.C. § 405(c)(2)(E).
	Section 318 of the same Act, P. L. 103-296, authorizes the Secretary of Labor to require by regulation that workers seeking benefits under federal workers' compensation laws provide their SSNs. 42 U.S.C. § 405(c)(2)(D).
	Section 300002(a) of the Violent Crime Control Act of 1994, P. L. 103-322, prohibits the release and use of certain personal information (including SSNs) from state motor vehicle records, with exceptions for certain permissible uses (known as the Driver's Privacy Protection Act). 18 U.S.C. §§ 2721 and 2725(3).
	Section 101(a) of the Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995, P. L. 103-333, directs federal and state agencies to make available to the Secretary of Labor the SSNs of incarcerated persons convicted of certain felonies for forfeiture of worker compensation benefits. 5 U.S.C. § 8148(c).

	Section 225 of the Bankruptcy Reform Act of 1994, P. L. 103-394, states that official notice from a debtor to a creditor shall contain the debtor's SSN. However, lack of inclusion of the SSN does not invalidate the legal effect of the notice. 11 U.S.C. § 342(c).
	Section 308(a) of the same Act, P. L. 103-394, requires that a non-attorney who prepares a bankruptcy petition provide his or her SSN on the document. 11 U.S.C. § 110(c)(1) and (2).
	Section 742 (a) of the Uruguay Round Agreements Act, P. L. 103-465, provides that any taxpayer claiming an exemption or a deduction on a tax return include the dependent's SSN, for tax years beginning after 12/31/94. 26 U.S.C. § 6109(e). (See also P.L. 104-188.)
1996	Section 734 of the National Defense Authorization Act for 1996, P. L. 104-106, permits the Secretary of Defense to require CHAMPUS beneficiaries to disclose their SSNs in order to facilitate collections from third-party payors. 10 U.S.C. § 1095(k)(2).
	Section 1615(a) of the Small Business Job Protection Act, P. L. 104-188 moved the requirement of an SSN for individuals claimed as dependents on tax returns to 26 U.S.C. § 151(e). See also 26 U.S.C. § 32 (c)(3)(D)(i) which requires the SSN of a "qualifying child" for identification purposes on a tax return. 26 U.S.C. § 151(e).
	Section 221(a) of the Health Insurance Portability and Accountability Act of 1996, P. L. 104-191, provides that the Health Care Fraud and Abuse Data Collection Program shall include the SSNs of health care providers included in the data base. 42 U.S.C. § 1320a-7e.
	Section 111 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P. L. 104-193, directs the Commissioner of Social Security to develop a prototype of a counterfeit-resistant social security card. 42 U.S.C. § 405 note.
	Section 202(b) of the same Act, P. L. 104-193, provides that the Commissioner of Social Security shall furnish federal and state law enforcement officers certain information, including SSNs, regarding Supplemental Security Income recipients involved in the commission of a crime. 42 U.S.C. § 1382(e).

	Section 313 of the same Act, P. L. 104-193, requires states, as part of their efforts to locate individuals who fail to pay child and spousal support obligations, to establish a "Directory of New Hires." Upon hiring a new worker, employers must furnish the worker's SSN to the state directory so that information may be matched with the federal registry and debt collection facilitated. 42 U.S.C. § 653a.
	Section 316 of the same Act, P. L. 104-193, directs the Secretary of Health and Human Services to establish in the Federal Parent Locator Service an automated registry ("Federal Case Registry of Child Support Orders") containing certain information including the SSNs of individuals who owe or are owed support. 42 U.S.C. § 653(h).
	Section 317 of the same Act, P. L. 104-193, requires that the state plan for child and spousal support include state procedures requiring that the SSN of any applicant for a professional license, commercial driver's license, occupational license, or marriage license be recorded on the application. If, however, a state allows the use of a number other than the SSN, the state shall so advise applicants. The SSN of any person subject to a divorce decree, support order, or paternity determination or acknowledgment must be placed in the appropriate records, and death certificates must include the SSNs of individuals who have died. 42 U.S.C. 666(a)(13). (see 1997 amendment, P. L. 105-33).
	Section 372 of the same Act, P. L. 104-193, requires that the state plan for child and spousal support include procedures for data matches with financial institutions using the SSNs of non-custodial parents owing past-due support. 42 U.S.C. § 666(a)(17).
	Section 903 of the same Act, P. L. 104-193, provides that public housing agencies with contracts for federal housing assistance shall furnish state or federal law enforcement officers certain information, including the SSN of any recipient of federal housing assistance, if the request is made in the exercise of the officer's official duties concerning the commission of a crime. 42 U.S.C. § 1437z.
	Section 2422 of the Consumer Credit Reporting Reform Act of 1996, Subtitle D of P. L. 104-208, requires a study by the Board of Governors of the Federal Reserve System and the FTC of whether private organizations (excluding those subject the Fair Credit Reporting Act) make sensitive consumer identification information, including SSNs, available to the general public. 15 U.S.C. § 1681a note.

	Section 414(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P. L. 104-208, requires the Commissioner of Social Security to provide the Attorney General with certain information on aliens whose SSN's have earnings reported (after January 1, 1997), but who are not authorized to work in the United States. 8 U.S.C. § 1360(c)(2).
	Section 414(b) of the same Act, P. L. 104-208, directs the Commissioner of Social Security to issue a report to the Attorney General on the extent to which SSNs and cards are used by aliens for fraudulent purposes. 8 U.S.C. § 1360 note.
	Section 415 of the same Act, P. L. 104-208, authorizes the Attorney General to require any alien to provide the alien's SSN for inclusion in any record of the alien maintained by the Attorney General or the Immigration and Naturalization Service. *8 U.S.C. § 1304(f).*
	Section 551(a) of the same Act, P. L. 104-208, requires the SSN of sponsors agreeing to supply financial support to certain aliens working in the United States. 8 U.S.C. § 1183a.
	Section 656 of the same Act, P. L. 104-208 provides federal standards for state driver's licenses and birth certificates when used as identification-related documents. Driver's licenses must contain a SSN that can be read visually or electronically, except *that if a state does not require SSNs on a driver's license,* the state must still require applicants to submit their SSNs which must be verified with the Social Security Administration. The Secretary of HHS is to submit a report to Congress on ways to reduce the fraudulent use of birth certificates to obtain SSNs and other identifying information. 5 U.S.C. § 301 note. (see 1999 amendment, P. L. 106-69, repealing this section).
	Section 1 of the Medicare and Medicaid Coverage Data Bank, Repeal Act, P. L. 104-226 repeals the Medicare and Medicaid coverage data bank, formerly at 42 U.S.C. § 1320b-14.
	Section 6(b)(1) of the Professional Boxing Safety Act of 1996, P. L. 104-272, requires boxers to register with state boxing commissions and receive an identification card containing certain information, including the SSNs of the boxers. 15 U.S.C. § 6305.

1997	Section *4313* of the Balanced Budget Act of *1997, P. L. 105-33,* requires providers under Medicare, Medicaid and certain other health care programs to supply identifying information (including *SSNs). The same information must be provided for entities in* which medical providers under such programs have an ownership or control interest. Before the Secretary of HHS implements these requirements, a report is to be sent to Congress on steps taken to assure confidentiality of SSNs to be collected. 42 U.S.C. § 1320a-3.
	Section 5536 of the same Act, P. L. 105-33, changes state requirements for child and spousal support enforcement to require the SSN on any application for a professional license, driver's license, occupational license, recreational license, or marriage license. A state may use a number other than the social security number on the face of such documents while the SSN is *kept on file at the state agency. 42 U.S.C. § 666(a)(13).*
	Section 1090 of the Taxpayer Relief Act of 1997, P. L. 105-34, requires an applicant for an SSN under age 18 to provide his or her parents' SSNs in addition to other required evidence of age, identity and citizenship. 42 U.S.C. § 405(c)(2)(B)(ii).
	Section *1090*(a)(1) and (2) of the same Act, *P. L. 105-34,* requires that each record in the state case registry for child support enforcement include, after October 1, 1999, the SSN of any child *for whom support has been ordered. Such information shall also* be included in the Federal Case Registry of Child Support Orders. 42 U.S.C. § 654a(e)(4)(D) and 653(h).
	Section 2 of the Census of Agriculture Act of 1997, P. L. 105-113, authorizes the Secretary of Agriculture to conduct a census of agriculture every five years. A person may refuse to disclose his or her SSN in response to census questions and no penalty will be assessed for such refusal. 7 U.S.C. § 2204g.
	Section 211 of the Food and Drug Administration Modernization Act of 1997, P. L. 105-115, requires manufacturers to track certain devices implanted in the human body. Patients may refuse to release, or refuse permission to release, identifying information, including SSNs, used for tracking such devices. 21 U.S.C. § 360i(e)(2).
1998	Section 419 of the Higher Education Amendments of 1998, P. L. 105-244, requires that the SSN of a parent applying for higher education federal PLUS loan be verified. 20 U.S.C. § 1078-2.

	Section 482(a)(5) of the same Act, P. L. 105-244, authorizes the Secretary of the Department of Education to include, on the financial reporting form, space for the SSNs of parents of dependent students applying for financial assistance. 20 U.S.C. § 1090(a)(7).
	Section 127 of the Department of Justice Appropriations Act, 1999, P. L. 105-277, provides that certain personal information, including SSNs, of correctional facility employees involved in lawsuits brought by prisoners, may not be disclosed without written consent of the employee or pursuant to a court order, unless a verdict of liability has been entered against the employee. (set out as a note to 42 U.S.C. § 1997e, and applicable to fiscal year 2000, and thereafter, pursuant to P. L. 106-113, Div. B, § 1000(a)(1), Title I, § 109).
	Section 1302(8) of the Children's Online Privacy Protection Act of 1998, P. L. 105-277, prohibits commercial internet websites or online services from collecting or disclosing personal identifying information (including SSNs) of children under the age of 13, except under certain circumstances. 15 U.S.C. §6501(8).
	Section 101(a) of the Protection of Children from Sexual Predators Act of 1998, P. L. 105-314, makes it a federal crime for a person to transmit in interstate commerce certain identifying information (including SSNs) of minors under the age of 16, with the intent of soliciting sexual activity. 18 U.S.C. § 2425.
	Section 3 of the Identity Theft and Assumption Deterrence Act of 1998, P. L. 105-318, adds a new federal crime, "identity theft" to Title 18 of the United States Code. This provision makes it a felony to steal another person's personal identification information (including a person's SSN) with the intent to commit an unlawful act. 18 U.S.C. § 1028.
1999	Section 350 of the Department of Transportation and Related Agencies Appropriations Act, 2000, P. L. 106-69, provides, as a condition of receipt of funds under this Act, that states use an affirmative "opt-in" system for obtaining consent by drivers to disclose driver's personal information for use in surveys, marketing, solicitations and certain other purposes. (not codified; but see 2000 permanent provision, P.L. 106-346).
	Section 355 of the same Act, P. L. 106-69, repeals Section 656(b) of P.L. 104-208, which required federal standards for driver's licenses for purposes of identification for federal programs. 5 U.S.C. §301 note.

	Section 251(a) of the Foster Care Independence Act of 1999, P. L. 106-169, requires the Commissioner of Social Security to verify the SSNs of persons applying to be representative payees for certain World War II veterans receiving special benefits. 42 U.S.C. § 1007(b)(2)(B).
2000	Section 309 of the Department of Transportation and Related Agencies Appropriations Act, 2001, P. L. 106-346, amends the Driver's Privacy Protection Act to require states to obtain express consent of drivers before sharing or selling drivers' "highly restricted personal information" including SSNs, except under limited circumstances. 18 U.S.C. § 2721(a).
	Section 3650 (Div. C., Title XXXVI of the Depts. of Defense and Energy Appropriations Act), of the Energy Employees Occupational Illness Compensation Program Act of 2000, P. L. 106-398, directs federal or state agencies to provide SSNs of certain incarcerated felons to the President if requested, for forfeiture of benefits under the energy employees occupational illness compensation program. 42 U.S.C. § 7385i(b).
	Section 2 of the Social Security Number Confidentiality Act of 2000, P. L. 106-433, provides that SSNs not be visible on or through unopened mailings of checks issued by the Department of the Treasury. 31 U.S.C. § 3327.
	Section 635 of the District of Columbia Appropriations Act for FY 2001, P.L. 106-553, would have prohibited the sale or display of SSNs ("Amy Boyer's Law"), but was rescinded on the same day by Section 213(a)(6) of the Consolidated Appropriations Act, P. L. 106-554.
2001	Section 431 of the Economic Growth and Tax Relief Reconciliation Act of 2001, P. L. 107-16, requires the SSN of a student on a taxpayer's income tax form in order to claim a deduction for qualified tuition expenses. 26 U.S.C. § 222(d)(2).
2002	Section 602 of the No Child Left Behind Act of 2001, P. L. 107-110, amends the National Education Statistics Act of 1994 to prohibit the maintenance of any system of records by the Center for Education Statistics containing a student's personally identifiable information, including SSNs. 20 U.S.C. § 9010(c)(3)(B).

	The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act for FY 2002, P. L. 107-116, provides that the Secretary of Labor may require the SSN of any person filing a claim for benefits under the Federal Employees' Compensation Act (5 U.S.C. §§ 8101 *et seq.*), the Energy Employees Occupational Illness Compensation Act (42 U.S.C. §§ 7384 *et seq.*), or the Longshore and Harbor Workers' Compensation Act (33 U.S.C. §§ 901 *et seq.*). (not codified).
	Section 303 of the Help America Vote Act of 2002, P.L. 107-252, requires that states obtain certain information from persons registering to vote in federal elections, including the applicant's driver's license number or the last 4 digits of the applicant's SSN. If an applicant has neither, the state shall assign a number to identify the applicant for voter registration purposes. 42 U.S.C. §15483.
2003	Section 115 of the Fair and Accurate Credit Transactions Act of 2003, P.L. 108-159, requires, upon request, the truncation of social security numbers on credit reports provided to a consumer. (15 U.S.C. §1681g(a)(1)(A)).
2004	Section 7213 Of the Intelligence Reform and Terrorism Prevention Act of 2004, P.L. 108-458, restricts replacement social security number cards to 3 per year and 10 for the life of the individual, establishes minimum standards for verification of documents for an SSN card, and requires independent verification of birth records for obtaining SSN cards. This section also provides for improvements to the enumeration at birth program for the issuance of SSNs to newborns.
	Section 7214 of the same Act, P.L. 108-458, prohibits states from displaying a SSN on any driver's license, motor vehicle registration, or personal identification card, effective for licenses, registrations, and identification cards issued or reissued one year after enactment. (42 U.S.C. § 405(c)(2)(C)(vi)(I)).