

109TH CONGRESS
2^D SESSION

H. R. 6109

To amend title 38, United States Code, to provide for enhanced protection of sensitive personal information processed or maintained by the Secretary of Veterans Affairs.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 2006

Mr. MURPHY (for himself, Mr. GERLACH, Mr. PLATTS, Mr. SALAZAR, Ms. HART, Mrs. BLACKBURN, Mr. BRADLEY of New Hampshire, Mr. McCOTTER, Mr. HOEKSTRA, and Mr. LAHOOD) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to provide for enhanced protection of sensitive personal information processed or maintained by the Secretary of Veterans Affairs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stop Endangering the
5 Records of Veterans (SERVE) Act of 2006”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

1 (1) Identity theft remains a critical problem for
2 consumers. In May 2006, the Federal Trade Com-
3 mission revealed that 10,000,000 individuals are
4 subjected to theft of their personal identification li-
5 censes and records each year.

6 (2) Recent thefts of computer hardware con-
7 taining sensitive personal information from the De-
8 partment of Veterans Affairs and its contractors
9 have made millions of veterans vulnerable to identity
10 theft and fraud.

11 (3) On May 22, 2006, the Department of Vet-
12 erans Affairs announced an employee laptop con-
13 taining personal records of nearly 26,500,000 mil-
14 lion veterans and spouses had been stolen.

15 (4) On August 7, 2006, a desktop computer
16 containing personal information of more than
17 38,000 veterans was stolen from a subcontractor
18 hired to assist in insurance collections for medical
19 centers of the Department of Veterans Affairs in
20 Pittsburgh and Philadelphia, Pennsylvania.

21 (5) In August 2006, in response to the loss of
22 these records, the Secretary of Veterans Affairs cre-
23 ated the office of Special Advisor to the Secretary
24 for Information Security.

1 (6) On August 14, 2006, the Secretary an-
2 nounced the award of a \$3,700,000 contract to a
3 service-disabled, veteran-owned small business to up-
4 grade all Department computers with enhanced data
5 security encryption systems.

6 (7) In order to prevent the Nation’s veterans
7 from being exposed to identity theft and fraud, addi-
8 tional Federal safeguards, including those provided
9 by this Act, must be applied to increase account-
10 ability of those who handle veterans’ records in
11 order to prevent future losses of sensitive personal
12 information.

13 **SEC. 3. DEPARTMENT OF VETERANS AFFAIRS INFORMA-**
14 **TION SECURITY.**

15 (a) INFORMATION SECURITY.—Chapter 57 of title
16 38, United States Code, is amended by adding at the end
17 the following new subchapter:

18 “SUBCHAPTER III—INFORMATION SECURITY

19 “**§ 5721. Definitions**

20 “For the purposes of this subchapter:

21 “(1) The term ‘sensitive personal information’
22 means the name, address, or telephone number of an
23 individual, in combination with any of the following:

24 “(A) The social security number of the in-
25 dividual.

1 “(B) The date of birth of the individual.

2 “(C) Any information not available as part
3 of the public record regarding the individual’s
4 military service or health.

5 “(D) Any financial account or other finan-
6 cial information relating to the individual.

7 “(E) The driver’s license number of the in-
8 dividual.

9 “(2) The term ‘encrypt’ means to use software
10 to obscure electronic information to make that infor-
11 mation unreadable for unauthorized employees and
12 contractors of the Department.

13 **“§ 5722. Physical security of sensitive personal infor-**
14 **mation processed or maintained by the**
15 **Secretary**

16 “The Secretary shall physically secure all sensitive
17 personal information processed or maintained by the Sec-
18 retary and all equipment of the Department containing
19 such sensitive personal information.

20 **“§ 5723. Encryption of sensitive personal information**
21 **processed or maintained by the Secretary**

22 “The Secretary shall encrypt all sensitive personal in-
23 formation processed or maintained by the Secretary.

1 **“§ 5724. Contracts for the processing or maintenance**
2 **of sensitive personal information**

3 “(a) CONTRACT REQUIREMENTS.—If the Secretary
4 enters into a contract for the performance of any Depart-
5 ment function that requires access to sensitive personal
6 information, the Secretary shall require as a condition of
7 the contract that—

8 “(1) the contractor ensures that it will—

9 “(A) encrypt or encode any such informa-
10 tion to which the contractor has access; and

11 “(B) physically secure all such information
12 that it processes or maintains and all equip-
13 ment containing such information; and

14 “(2) the contractor agrees to reimburse the
15 Secretary for any amount paid by the Secretary to
16 any person as a result of the contractor’s unauthor-
17 ized disclosure of any sensitive personal information
18 to which the contractor has access under the con-
19 tract.

20 “(b) PENALTY FOR VIOLATIONS.—Any contractor
21 who violates any requirement of this subtitle shall be
22 debarred from contracting with the Department for a pe-
23 riod of one year.

1 **“§ 5725. Criminal penalty for unauthorized disclosure**
 2 **of sensitive personal information**

3 “Any person who engages in the unauthorized disclo-
 4 sure of sensitive personal information processed or main-
 5 tained by the Secretary or by a contractor performing a
 6 function on behalf of the Secretary shall be fined in ac-
 7 cordance with title 18, imprisoned for not more than one
 8 year, or both.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
 10 at the beginning of such chapter is amended by adding
 11 at the end the following new items:

“SUBCHAPTER III—INFORMATION SECURITY

“5721. Definitions.

“5722. Physical security of sensitive personal information processed or main-
 tained by the Secretary.

“5723. Encryption of sensitive personal information processed or maintained by
 the Secretary.

“5724. Contracts for the processing or maintenance of sensitive personal infor-
 mation.

“5725. Criminal penalty for unauthorized disclosure of sensitive personal infor-
 mation.”.

12 (c) IMPLEMENTATION.—The requirement of section
 13 5723 of title 38, United States Code, as added by sub-
 14 section (a), shall be implemented not later than 90 days
 15 after the date of the enactment of this Act.

16 **SEC. 4. DIRECTOR OF OFFICE OF MANAGEMENT AND BUDG-**
 17 **ET STUDY AND REPORT.**

18 Not later than 180 days after the date of the enact-
 19 ment of this Act, the Director of the Office of Manage-
 20 ment and Budget shall complete a study of the security

1 of personal information maintained or processed by the
2 Secretary of Veterans Affairs and shall submit to the
3 Committees on Veterans' Affairs of the Senate and House
4 of Representatives a report containing the findings of that
5 study and any recommendations of the Director.

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