

SOCIAL SECURITY FRAUD PREVENTION ACT OF 2017

MAY 23, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CHAFFETZ, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

[To accompany H.R. 624]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 624) to restrict the inclusion of social security account numbers on documents sent by mail by the Federal Government, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Social Security Fraud Prevention Act of 2017”.

**SEC. 2. RESTRICTIONS OF SSNS ON DOCUMENTS SENT BY MAIL.**

(a) **IN GENERAL.**—No department or agency of the Federal Government may include the social security account number of any individual on any document sent by mail unless the head of such department or agency determines that the inclusion of such social security number on such document is necessary.

(b) **REGULATIONS.**—Not later than 5 years after the date of the enactment of this Act, the head of each department and agency of the Federal Government shall issue regulations specifying the circumstances under which inclusion of a social security account number on a document sent by mail is necessary. Such regulations shall include—

(1) instructions for the partial redaction of social security account numbers whenever feasible; and

(2) a requirement that social security account numbers not be visible on the outside of any package sent by mail.

(c) **EFFECTIVE DATE.**—This Act shall apply with respect to documents sent by mail on or after the date that is 5 years after the date of the enactment of this Act.

**COMMITTEE STATEMENT AND VIEWS****PURPOSE AND SUMMARY**

H.R. 624, the Social Security Fraud Prevention Act of 2017, as amended, prohibits federal agencies from including an individual's Social Security number (SSN) on any document sent through the mail unless the head of the agency determines including an SSN is necessary and the agency takes precautions outlined in the bill to protect the SSN.

**BACKGROUND AND NEED FOR LEGISLATION**

Identity theft is a major concern for all Americans. According to the Federal Trade Commission, instances of identity theft have steadily risen from a reported 290,102 cases in 2013, to a reported 490,220 cases in 2015.<sup>1</sup> A primary cause of identity theft is the fraudulent acquisition of an SSN. SSNs are widely used to collect Social Security benefits, receive government services, and apply for services in the private sector, including bank accounts and credit cards.<sup>2</sup> The theft and misuse of an SSN can cause significant disruptions for an individual, and the Social Security Administration recommends that individuals treat the SSN as confidential.<sup>3</sup>

Many federal agencies,<sup>4</sup> including the 24 agencies subject to the Chief Financial Officers Act,<sup>5</sup> require SSNs for various purposes, including to verify the identity of individuals requesting services.<sup>6</sup> In 2007, the Office of Management and Budget (OMB) sent a memorandum to federal agencies ordering them to review and eliminate the unnecessary use of SSNs.<sup>7</sup> Further, a majority staff

<sup>1</sup> Fed. Trade Comm'n, *Consumer Sentinel Network Data Book for January–December 2015*, at 79 (February 2016).

<sup>2</sup> Social Sec. Admin., *Your Social Security Number and Card*, at 2 (January 2016—Publication No. EN-05-10002).

<sup>3</sup> *Id.*, at 11.

<sup>4</sup> The term federal agency in this bill applies only to those found at title 40, United States Code, Section 102(5) and does not apply to any agency of any state or territory.

<sup>5</sup> The 24 agencies are as follows: the Departments of Agric., Commerce, Def., Educ., Energy, Health & Human Serv., Homeland Sec., Hous. & Urban Dev., the Interior, Justice, Labor, State, Transp., the Treasury, and Veterans Affairs, in addition to the U.S. Agency for Int'l Dev., EPA, General Serv. Admin., Nat'l Aeronautics & Space Admin., Nat'l Science Foundation, Nuclear Regulatory Comm'n, Office of Personnel Mgmt., SBA, & the Social Sec. Admin.

<sup>6</sup> Briefing by John de Ferrari, et. al., Gov't Accountability Office, to H. Comm. on Oversight & Gov't Reform and H. Comm. on Ways & Means Majority Staff (Sept. 7, 2016 and April 27, 2017).

<sup>7</sup> Memorandum from Clay Johnson III, Deputy Director for Mgmt., Office of Mgmt. & Budget, to Heads of Exec. Dep'ts & Agencies, *Safeguarding Against and Responding to the Breach of Personally Identifiable Information* (May 22, 2007).

report by the House Committee on Oversight and Government Reform (Committee) on data breaches at the Office of Personnel Management recommended that all agencies reduce the use of SSNs to mitigate the risk of identity theft.<sup>8</sup> The U.S. Government Accountability Office (GAO) is studying the extent to which agencies have complied with the OMB memorandum. GAO's preliminary review revealed that agencies' plans to reduce the use of SSNs vary widely across the government.<sup>9</sup>

Currently, agencies are not barred from including SSNs in correspondence sent to individuals by mail. Including SSNs in printed correspondence can increase the risk that an SSN will be stolen, and this risk is amplified by the high volume of SSNs collected by federal departments and agencies. H.R. 624, as amended, prohibits sending an SSN by mail unless the agency head determines it is necessary. If the agency head determines that including an SSN is necessary, then the agency must consider using partial redactions and ensure that the SSN is not visible on the outside of any package sent by mail.

Under certain circumstances, federal agencies must include SSNs in mailed items, including correspondence with states and private employers regarding unemployment insurance adjudication for employees. In such instances, the heads of agencies may continue sending SSNs through the mail with the requirement that they consider partial redactions and ensure the SSN is not visible on the outside of any package.

#### LEGISLATIVE HISTORY

H.R. 624 was introduced on January 24, 2017, by Representative David Valadao (R-CA) and referred to the Committee on Oversight and Government Reform. On February 14, 2017, the Committee ordered H.R. 624, as amended, favorably reported by voice vote.

A substantially similar bill, H.R. 3779, was ordered favorably reported by unanimous consent from the Committee during the 114th Congress. It passed the House of Representatives by voice vote.

#### SECTION-BY-SECTION

##### *Section 1. Short title*

This section designates the short title of the bill as the "Social Security Fraud Prevention Act of 2017."

##### *Section 2. Restriction of SSNs on documents sent by mail*

Subsection (a) prohibits departments and agencies of the federal government from including the Social Security number (SSN) of any individual on any document sent by mail unless the head of such department or agency determines that the inclusion of the SSN is necessary.

Subsection (b), as amended, requires the head of each federal department or agency to issue regulations within five years of the bill's enactment that specify the circumstances under which it is necessary to send SSNs by mail. The regulations must provide instructions for the partial redaction of SSNs whenever feasible and

<sup>8</sup>H. Comm. on Oversight & Gov't Reform, *Staff Report: The OPM Data Breach: How the Gov't Jeopardized Our National Security for More than a Generation*, at 21 (Sept. 7, 2016).

<sup>9</sup>John de Ferrari, et. al., *supra* note 6.

a prohibition on including SSNs visible from the outside of any package sent by mail. It is not the intention of the Committee that agencies which have already promulgated regulations that meet the criteria for those required by the bill to have to reissue new regulations.

Subsection (c), as amended, provides that the prohibition on federal agencies mailing documents with SSNs take effect five years after the bill's enactment.

#### EXPLANATION OF AMENDMENTS

During Full Committee consideration of the bill, Chairman Jason Chaffetz (R-UT) offered an amendment in the nature of a substitute (ANS) to the bill that would extend the implementation date from one year to five years after enactment. It would also give agencies five years, instead of one, to promulgate regulations specifying the circumstances under which it is necessary to send SSNs by mail. The ANS was adopted by voice vote.

#### COMMITTEE CONSIDERATION

On February 14, 2017, the Committee met in open session and ordered favorably reported H.R. 624, as amended, by voice vote, a quorum being present.

#### ROLL CALL VOTES

No roll call votes were requested or conducted during Full Committee consideration of the bill.

#### APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill prohibits federal agencies from sending an individual's Social Security number (SSN) on any document through the mail unless the head of the agency determines that including an SSN is necessary and the agency takes precautions outlined in the bill to protect the SSN. As such, this bill does not relate to employment or access to public services and accommodations.

#### STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals or objective of this bill is to restrict the inclusion of Social Security numbers on documents sent by mail by the Federal Government, and for other purposes.

#### DUPLICATION OF FEDERAL PROGRAMS

No provision of this bill establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting this bill does direct the completion of specific rule makings within the meaning of 5 U.S.C. 551. H.R. 624, as amended, directs all federal agencies and departments to issue regulations within five years of the enacting date specifying the circumstances under which inclusion of a Social Security number (SSN) on a document sent by mail is necessary. Such regulations must include instructions for the partial redaction of SSNs whenever feasible and a requirement that SSNs not be visible on the outside of any package sent by mail.

#### FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

#### UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104–4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement, the Committee has received a letter from the Congressional Budget Office included herein.

#### earmark identification

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

#### COMMITTEE ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

#### BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements

of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of Congressional Budget Office:

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H.R. 624 would prohibit federal agencies from including social security account numbers on any documents sent by mail unless the agency determines that inclusion of the number is necessary. There are many federal laws and regulations that deal with the protection of sensitive information including the Federal Information Security Management Act, the Privacy Act of 1974, and a 2007 memorandum from the Office of Management and Budget on safeguarding against and responding to the breach of personally identifiable information. Because of those laws and rules, CBO expects that most agencies are working to limit the amount of personally identifiable information that they collect and disseminate. As a consequence, CBO estimates that implementing H.R. 624 would have no significant cost over the next five years.

Enacting the legislation could affect direct spending by agencies not funded through annual appropriations; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any net increase in spending by those agencies would be negligible. Enacting H.R. 624 would not affect revenues.

CBO estimates that enacting H.R. 624 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 624 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.