

- SUBJECT:** Protecting higher education students' social security numbers
- COMMITTEE:** Higher Education — committee substitute recommended
- VOTE:** 7 ayes — Morrison, F. Brown, Giddings, J. Jones, Mercer, Nixon
0 nays
2 absent — Chavez, Smithee
- WITNESSES:** For — Brian Bodine, Young Conservatives of Texas; MerryLynn Gerstenschlager, Texas Eagle Forum
Against — None
On — Frank Elder, Texas Department of Public Safety; Patricia Hayes, Independent Colleges and Universities of Texas; Luke Metzger, Texas Public Interest Research Group.
- BACKGROUND:** Title 3 of the Education Code governs higher education. Education Code, ch. 51, subch. Z contains miscellaneous provisions governing higher education.

The Toward Excellence, Access, and Success (TEXAS) grant program was created by the 76th Legislature with enactment of HB 713 by Cuellar to provide grants for eligible students to attend public and private institutions of higher education in Texas. Students apply for awards directly from the financial aid offices of their colleges and universities, which have received state money to fund the grants and are responsible for determining which students, among the eligible population, will be offered awards.
- DIGEST:** CSHB 1026 would prohibit public and private institutions of higher learning from:
- using social security numbers as primary student identification numbers;
 - printing or including a social security number on an identification card, library card, or other document required to access services, information, or facilities;

- requiring transmission of a social security number over the telephone or Internet unless the connection was secure or the number was encrypted;
- posting a social security number in any manner accessible to the public; and
- mailing information that included a social security number.

Institutions still would be able to require students and applicants to disclose their social security numbers. They also would be permitted to maintain confidential records of social security numbers in secure storage facilities with access limited to approved personnel. Further, they could use social security numbers to comply with state or federal law and could disclose a social security number, with the student's consent, to another person who required it for the student's participation in some program or activity.

The bill would authorize the Higher Education Coordinating Board to adopt rules to administer these provisions. The board also could, by rule, permit institutions of higher learning to use social security numbers in a manner prohibited under this bill if doing so would be necessary for the institution to carry out its mission or programs effectively. The board would be directed to minimize risk of disclosing social security numbers to unauthorized persons under such rules.

Institutions would have to comply with these provisions and any rules adopted by September 1, 2007. An institution that did not comply would not receive additional TEXAS grant funding through reallocation for that year and would receive half of their TEXAS grant funding for the following academic year. Presidents of institutions found to be noncompliant could request a hearing within 30 days of receiving written notice of their noncompliance. The hearing would be an opportunity for the president to justify why sanctions should not be imposed on his or her institution and would be conducted by the commissioner of higher education. The commissioner's decision could not be appealed.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

A recent security breach at the University of Texas (UT), in which social security numbers of 55,000 people were stolen, has heightened awareness

about students' vulnerability to identity theft, since the majority of public and private institutions in Texas use social security numbers for identification purposes. This bill would protect students and reduce the risk of identity theft by restricting public availability of social security numbers.

Though social security numbers originally were intended solely for the federal government to track workers' earnings and pay, they now are used for all manner of personal information, including bank accounts, health insurance, and academic records. This reality has made the crime of identity theft relatively easy to commit, and it is the fastest growing crime in the nation. A criminal in possession of someone's social security number can get credit cards, rent an apartment, write checks, or buy a car, all at the expense of the victim. On average, it takes a victim two years, \$800 out of pocket, and 175 hours to clear his or her record, in addition to the risk of being denied housing, loans, and jobs in the interim.

This bill would not prohibit institutions from using social security numbers. To the contrary, it would affirm their right to do so for internal and administrative purposes, and to conform with state and local laws. It rightly would prohibit the public display of social security numbers in a manner that would not affect the ability of institutions to operate efficiently. The Higher Education Coordinating Board also could make exceptions to the bill's prohibitions if necessary for institutions to carry out their missions and programs. Without this clause, CSHB 1026 could have unforeseen consequences that severely might compromise the state's higher education system.

This bill does not directly protect the social security numbers of an institution's employees, but it is a first step in making social security numbers more secure. SB 405 by Hinojosa would complement this bill by prohibiting governmental entities, including public institutions of higher learning, from disclosing any individual's social security in certain circumstances.

Though CSHB 1026 carries a fiscal note, it would address a fundamental problem that needs to be solved. The benefits clearly outweigh the costs, and the longer term costs of not protecting students' social security numbers would be much greater than funding the cost to institutions of implementing this important bill.

OPPONENTS
SAY:

The Legislative Budget Board estimates that this bill would cost the state \$2.9 million per biennium through fiscal 2007. Protecting social security numbers is important, but not as important as some of the other vital programs slated for funding cuts, such as children's health insurance and child protective services.

Allowing the board to adopt exceptions to the prohibitions established by this bill would create a loophole that potentially could undermine the bill's impact and leave students unprotected. Identity theft is a serious, immediate problem that deserves a more stringent response than this exception could provide.

OTHER
OPPONENTS
SAY:

This bill would address only students' social security numbers. However, in the breach of the UT computer system, social security numbers of university employees also were stolen. CSHB 1026 should be expanded to protect all social security numbers within an institution's purview. Though SB 405 would protect all social security numbers held by a governmental entity, employees of private universities would still be vulnerable to identity theft.

NOTES:

The committee substitute differs from the bill as introduced by extending the compliance date from 2005 to 2007 and allowing existing documents to be maintained if kept in a secure facility with limited access. The substitute deleted a provision that private university students would be ineligible for tuition equalization grants if their school was noncompliant and stipulate instead that public and private institutions would be penalized for noncompliance through reduced TEXAS grant funding. It also would include language governing a finding of noncompliance and its resolution.

CSHB 1053 by Rodriguez et al. which would restrict private persons from using social security numbers in a public display, over the Internet, on access cards, or in the mail, passed the House on May 5 and would require institutions of higher education to comply with its provisions by September 1, 2007, if CSHB 1026 was not enacted. HB 1015 by Miller, which would prohibit a governmental body from disclosing a person's social security number in certain circumstances, was reported favorably, as substituted, by the House State Affairs Committee on April 10.

SB 405 by Hinojosa, which would prohibit governmental entities, including public institutions of higher learning, from disclosing any individual's social security in certain circumstances, passed the Senate by voice vote on April 2 and is scheduled for a public hearing in the House Criminal Jurisprudence Committee today.