

125th Legislature L.D. 506 HP0399

An Act To Prevent the Disclosure of Student Social Security Numbers. **Presented by** Representative PETERSON of Rumford. **Public Hearing** 04/25/11. OTP-AM Accepted 05/23/11. **Amended by:** CA H-292. **Final Disposition:** Enacted, Signed 06/06/11, PUBLIC LAWS, Chapter 223.

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 28, 2011

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2011

Sec. 1. 12 MRSA §10103, sub-§2, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

2. Administration and enforcement. Except as provided by statute, the commissioner has general supervision of the administration and enforcement of the inland fisheries and wildlife laws and has the responsibility for the management of all inland fish and wildlife in the State. The commissioner has responsibility for investigations carried out on behalf of the State in matters related to the status and needs of any inland fisheries and wildlife species and is the representative of the State in providing information associated with the status and needs of these natural resources to municipalities, political subdivisions of the State and the Federal Government. The commissioner is authorized to enter into an interstate wildlife violator compact to promote compliance with the laws, regulations and rules that relate to the management of wildlife resources in the respective member states and may adopt rules necessary to implement certain provisions of the compact.

See title page for effective date.

CHAPTER 221

H.P. 964 - L.D. 1318

An Act To Repeal the Law Regarding DNA Collection

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 25 MRSA §1574-A, as enacted by PL 2007, c. 294, §1, is repealed.

See title page for effective date.

CHAPTER 222

H.P. 1106 - L.D. 1505

An Act To Clarify the Scope of Practice of Licensed Alcohol and Drug Counselors Regarding Tobacco Use

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, tobacco use continues to take a significant and yet largely preventable toll on the health of Maine residents and drains the economic resources of the State; and

Whereas, tobacco addiction affects a large proportion of Maine residents; and

Whereas, licensed alcohol and drug counselors are available to provide assistance to Maine residents, and there is evidence to suggest that providing tobacco addiction counseling services concurrently with other addiction counseling services is effective; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 32 MRSA §6203-A, sub-§3, as enacted by PL 2007, c. 402, Pt. U, §2, is amended to read:

3. Alcohol and drug counseling services. "Alcohol and drug counseling services" are those counseling services offered for a fee, monetary or otherwise, as part of the treatment and rehabilitation of persons abusing alcohol or other drugs. The purpose of alcohol and drug counseling services is to help individuals, families and groups confront and resolve problems caused by the abuse of alcohol or other drugs. Alcohol and drug counseling services are the 12 core functions defined by rule of the board. "Alcohol and drug counseling services" includes nicotine addiction counseling and treatment services.

Sec. 2. 32 MRSA §6206, sub-§6 is enacted to read:

6. Nicotine addiction counseling. Nothing in this chapter may be construed to require a person engaged in providing nicotine addiction counseling or treatment services to be licensed as an alcohol and drug counselor.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 3, 2011.

CHAPTER 223

H.P. 399 - L.D. 506

An Act To Prevent the Disclosure of Student Social Security Numbers

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §6005, as enacted by PL 2009, c. 448, §1, is amended to read:

§6005. Maine Statewide Longitudinal Data System

The department shall develop and maintain the Maine Statewide Longitudinal Data System, a continuing program of information management, the purpose of which is to compile, maintain and disseminate information concerning the educational histories, placement, employment and other measures of success of participants in state educational programs. ~~The commissioner may require a school administrative unit to collect and report individual student social security numbers to implement the Maine Statewide Longitudinal Data System only if additional federal funding is received to expand the department's kindergarten to grade 12 longitudinal data system existing as of the effective date of this section to a statewide system.~~

1. Placement information. A project conducted by the department that requires placement information must use information provided through the Maine Statewide Longitudinal Data System. The department shall implement an automated system that matches the social security numbers of former participants in state educational and training programs with information in the files of state and federal agencies that maintain educational, employment and United States armed services records and shall implement procedures to identify the occupations of those former participants whose social security numbers are found in employment records.

2. Dissemination of education records. The Maine Statewide Longitudinal Data System may not make public any information that could identify an individual or the individual's employer. The department must ensure that the purpose of obtaining placement information is to evaluate and improve education programs or to conduct research for the purpose of improving education services. Education records must be managed in compliance with the federal Family Educational Rights and Privacy Act of 1974, 20 United States Code, Section 1232g, referred to in this section as "FERPA." Personally identifiable information in an education record that is not directory information may be released to other agencies within State Government, including postsecondary institutions, only under a signed memorandum of understanding requiring compliance with FERPA.

~~**3. Notification and consent.** If the commissioner requires a school administrative unit to collect and report individual social security numbers pursuant to section 15689-B, subsection 7, the school administrative unit must notify parents in the annual notice required under FERPA that the data is being collected and used for longitudinal data purposes and must request the parent to provide written consent to use the child's social security number for the collection of longitudinal data. The parental notification must include an explanation of the parent's right that the child's social security number is not required as a con-~~

~~dition of enrollment and that the child's social security number may not be used for longitudinal data purposes unless the parent provides prior written consent. When a student attains 18 years of age, the written consent must be obtained from the student, and the rights accorded to the parent before the student attained 18 years of age are then accorded to the student.~~

Sec. 2. 20-A MRSA §15689-B, sub-§7, as amended by PL 2009, c. 448, §2, is further amended to read:

7. Required data; subsidy payments withheld. A school administrative unit shall provide the commissioner with information that the commissioner requests to carry out the purposes of this chapter, according to time schedules that the commissioner establishes. ~~For the purposes of the Maine Statewide Longitudinal Data System established pursuant to section 6005, the commissioner may require a school administrative unit to collect and report individual student social security numbers.~~ The commissioner may withhold monthly subsidy payments from a school administrative unit when information is not filed in the specified format and with specific content and within the specified time schedules. If the school administrative unit files the information in the specified format, the department shall include the payment of the withheld subsidy in the next regularly scheduled monthly subsidy payment.

See title page for effective date.

CHAPTER 224

H.P. 398 - L.D. 505

An Act To Align State Standards Pertaining to Food and Beverages outside of the School Lunch Program to Federal Standards

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §6662, sub-§2, as enacted by PL 2005, c. 435, §1, is amended to read:

2. Food and beverages outside school lunch programs. The department shall adopt rules to establish standards for food and beverages sold or distributed on school grounds but outside of school meal programs. These standards must include maximum portion sizes, except for portion sizes for milk, that are consistent with single-serving standards established by the United States Food and Drug Administration federal school nutrition standards. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 506

H.P. 399

House of Representatives, February 14, 2011

**An Act To Prevent the Disclosure of Student Social Security
Numbers**

Reference to the Committee on Education and Cultural Affairs suggested and ordered
printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative PETERSON of Rumford.

Cosponsored by Representatives: KNAPP of Gorham, MARTIN of Eagle Lake, O'CONNOR
of Berwick, Senator GOODALL of Sagadahoc, Senator COURTNEY of York and
Representatives: CROCKETT of Bethel, DAVIS of Sangerville, GOODE of Bangor,
HARVELL of Farmington, McFADDEN of Dennysville, NELSON of Falmouth.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 20-A MRSA §6005**, as enacted by PL 2009, c. 448, §1, is amended to
3 read:

4 **§6005. Maine Statewide Longitudinal Data System**

5 The department shall develop and maintain the Maine Statewide Longitudinal Data
6 System, a continuing program of information management, the purpose of which is to
7 compile, maintain and disseminate information concerning the educational histories,
8 placement, employment and other measures of success of participants in state educational
9 programs. ~~The commissioner may require a school administrative unit to collect and
10 report individual student social security numbers to implement the Maine Statewide
11 Longitudinal Data System only if additional federal funding is received to expand the
12 department's kindergarten to grade 12 longitudinal data system existing as of the effective
13 date of this section to a statewide system.~~

14 **1. Placement information.** A project conducted by the department that requires
15 placement information must use information provided through the Maine Statewide
16 Longitudinal Data System. The department shall implement an automated system that
17 matches ~~the social security numbers~~ of former participants in state educational and
18 training programs with information in the files of state and federal agencies that maintain
19 educational, employment and United States armed services records and shall implement
20 procedures to identify the occupations of those former participants ~~whose social security
21 numbers are found in employment records.~~

22 **2. Dissemination of education records.** The Maine Statewide Longitudinal Data
23 System may not make public any information that could identify an individual or the
24 individual's employer. The department must ensure that the purpose of obtaining
25 placement information is to evaluate and improve education programs or to conduct
26 research for the purpose of improving education services. Education records must be
27 managed in compliance with the federal Family Educational Rights and Privacy Act of
28 1974, 20 United States Code, Section 1232g, referred to in this section as "FERPA."
29 Personally identifiable information in an education record that is not directory
30 information may be released to other agencies within State Government, including
31 postsecondary institutions, only under a signed memorandum of understanding requiring
32 compliance with FERPA.

33 ~~**3. Notification and consent.** If the commissioner requires a school administrative
34 unit to collect and report individual social security numbers pursuant to section 15689-B,
35 subsection 7, the school administrative unit must notify parents in the annual notice
36 required under FERPA that the data is being collected and used for longitudinal data
37 purposes and must request the parent to provide written consent to use the child's social
38 security number for the collection of longitudinal data. The parental notification must
39 include an explanation of the parent's right that the child's social security number is not
40 required as a condition of enrollment and that the child's social security number may not
41 be used for longitudinal data purposes unless the parent provides prior written consent.
42 When a student attains 18 years of age, the written consent must be obtained from the~~

1 student, and the rights accorded to the parent before the student attained 18 years of age
2 are then accorded to the student.

3 **Sec. 2. 20-A MRSA §15689-B, sub-§7**, as amended by PL 2009, c. 448, §2, is
4 further amended to read:

5 **7. Required data; subsidy payments withheld.** A school administrative unit shall
6 provide the commissioner with information that the commissioner requests to carry out
7 the purposes of this chapter, according to time schedules that the commissioner
8 establishes. ~~For the purposes of the Maine Statewide Longitudinal Data System~~
9 ~~established pursuant to section 6005, the commissioner may require a school~~
10 ~~administrative unit to collect and report individual student social security numbers.~~ The
11 commissioner may withhold monthly subsidy payments from a school administrative unit
12 when information is not filed in the specified format and with specific content and within
13 the specified time schedules. If the school administrative unit files the information in the
14 specified format, the department shall include the payment of the withheld subsidy in the
15 next regularly scheduled monthly subsidy payment.

16 SUMMARY

17 This bill repeals the provisions authorizing the Commissioner of Education to require
18 local school units to request and report student social security numbers to the Department
19 of Education.

SMC
R. 23.

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Date: 5/18/11

L.D. 506
(Filing No. H-292)

EDUCATION AND CULTURAL AFFAIRS

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 399, L.D. 506, Bill, "An Act To Prevent the Disclosure of Student Social Security Numbers"

Amend the bill by incorporating the attached fiscal note.

SUMMARY

This amendment incorporates a fiscal note.

COMMITTEE AMENDMENT



Approved: 05/12/11 *MAC*

125th MAINE LEGISLATURE

LD 506

LR 147(02)

An Act To Prevent the Disclosure of Student Social Security Numbers

Fiscal Note for Bill as Amended by Committee Amendment "A"
Committee: Education and Cultural Affairs

Fiscal Note Required: Yes

Fiscal Note

No state fiscal impact

Fiscal Detail and Notes

Repealing the provisions of law that require local school units to request and report student social security numbers to the Department of Education may result in savings to local school units statewide. The Department of Education has indicated that this legislation will not jeopardize the development of the federal or grant funding for the Maine Statewide Longitudinal Data System.

OFFICE OF POLICY AND LEGAL ANALYSIS

May 5, 2011

To: Members, Joint Standing Committee on Education and Cultural Affairs

From: Carolyn Russo, Esq., Legislative Analyst

Subj: **LD 506, An Act To Prevent the Disclosure of Student Social Security Numbers**
(Peterson)

SUMMARY

This bill repeals the provisions authorizing the Commissioner of Education to require local school units to request and report student social security numbers to the Department of Education. It also repeals the provision giving the Department of Education the authority to withhold subsidy payments from a school administrative unit who does not comply with the collection and reporting of student social security numbers.

TESTIMONY

Support

- ⊕ The value of this data is questionable, especially if the data sets are not comprehensive. In order for the data to be valuable nearly 100% participation would be necessary.
- ⊕ When students/parents choose not to "opt-in" in significant numbers, and especially if entire districts refuse to comply, the data set becomes increasingly less comprehensive and less reliable.
- ⊕ When data sets are unreliable, other methods, like random sampling of participants, become more reliable to measure real outcomes for policy formation because you can control variations in the sampling.
- ⊕ Collecting social security numbers raises the potential for compromising people's personal information.
- ⊕ Collecting this data and building a data base means that the state is liable in perpetuity to maintain the integrity and protect the data.
- ⊕ Although there may be clarity as to the use of this data today, we have no idea of how it will be used in the future.
- ⊕ It is the Legislature's duty to protect our citizens' right to privacy and the safety that comes with having personal information secure.
- ⊕ This could become an expensive and unnecessary burden for the state in the future.
- ⊕ The security of this information is of great concern, especially since there was a breach in the DOE computer system discovered in September 2010.
- ⊕ The collection of student social security numbers opens the door to intrusions upon personal freedoms before people have the legal and emotional capacity to give consent to such intrusions.
- ⊕ A 2010 audit report from the U.S. Office of the Inspector General said that the privacy protection of many states that use social security numbers to track students was inadequate: "Each time a student provides his/her SSN, the potential for a dishonest individual to unlawfully gain access to, and misuse, the SSN increases. Identity thieves often target children because they have clean credit histories, and their records may be used for years before they realize their identity has been used for criminal activities. Since 2005, 40 school-related breaches of children's personally identifiable information (including SSNs) have been reported."
- ⊕ The Director of Marketing for Infinite Campus (the informational portal used by DOE) has stated that the system does not require the use of social security numbers to operate or to transfer student data between Maine school districts, and that generally it has found the use of social security numbers to be unreliable and that the state or system assigned numbers are more effective.

Opposition

- ⊕ The longitudinal data system that is being developed will provide data which is broken down in many categories, such as level of training and education, starting pay, career ladder and others – allowing the opportunity long range plans for the future of Maine's workforce.
- ⊕ Workforce training can become part of a master plan that reduces duplication because of the longitudinal system.
- ⊕ States that use social security numbers are able to provide information that clearly shows the connection between preparation and earnings.
- ⊕ At a time when we need to invest scarce education and training resources wisely, we must have the capability to assess the efficacy of these investments and provide critical feedback to students, teachers, school boards, employers, and legislators. The most cost effective way to obtain this data is through the use of student social security numbers.

Neither For Nor Against (MDOE)

- ⊕ Social security numbers serve as an important link in State agency data sharing. The University of Maine System, Community Colleges and the Department of Labor each maintain their own separate data systems and, unlike the MDOE, all store the social security number in their databases.
- ⊕ The longitudinal data system complies with the State Office of Information Technology security policies and is prohibited from releasing any individually identifiable student data protected by the Family Educational Rights and Privacy Act (FERPA).
- ⊕ This bill may impact ARRA funds and other initiatives that may require DOE to integrate an educational attainment database that permits integration with labor market data systems.

POTENTIAL ISSUES OR TECHNICAL PROBLEMS:

- ⊕ MDOE has proposed a change in the collection of the social security numbers, yet schools can still collect as long as it is allowed in statute.

FISCAL IMPACT:

- ⊕ No fiscal information available at this time.



HOUSE OF REPRESENTATIVES

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April 25, 2011

Testimony of Rep. Matt Peterson
Before the Joint Standing Committee on Education and Cultural Affairs
L.D. 506 An Act To Prevent the Disclosure of Student Social Security Numbers

Good afternoon, Senator Langley, Representative Richardson and distinguished members of the Joint Standing Committee on Education and Cultural Affairs. I am Matt Peterson and I represent District 92 which includes the Oxford County towns of Andover, Byron, Roxbury, and Rumford, as well as the Franklin County communities of Weld and plantations of Rangeley and Sandy River plus the unorganized territories of West Central Franklin and Madrid Township. I am here today to present L.D. 506 An Act To Prevent the Disclosure of Student Social Security Numbers.

It is a pleasure for me to present this very straight forward bill for your consideration today. A constituent who is also a leader of the School Committee for SAD 44 brought these concerns to my attention and after a discussion, I committed to submit this initiative for your consideration.

This proposal amends a law that was passed in the first session of the 124th Legislature. That bill created a Statewide Longitudinal Data System with the purpose of tracking student activities and linking that information over time to employment history as a means of testing the outcomes of our state educational and training programs; starting with K-12 and continuing forward.

The intent of that initial legislation was sound. Being able to measure outcomes from our educational system in terms of real world results -- employment history and earning potential -- seems to be the type of "real world" check that could assist policy makers and those who develop curriculum in measuring the success of approaches in the constantly changing landscape of public education.

I voted for the initiative in the 124th, and it was not a very controversial measure. In addition, it was brought forward by my colleague on the Health and Human Services Committee, Senator Peter Mills, someone whose intelligence and judgment I deeply respect. This was one of those initiatives that flew under the radar -- a seemingly reasonable request from the administration -- that had broad bi-partisan support.

District 92 Andover, Byron, Roxbury, Rumford, Weld and Plantations of Rangeley and Sandy River, plus the unorganized territories of West Central Franklin and Madrid Township

Printed on recycled paper

The statute contains provisions that seek consent from parents, and ultimately students who have attained majority while in the system, to collect and use the information. It also gives the authority to the Commissioner of Education to sanction school systems that do not comply by withholding the state subsidy payment -- a pretty large stick to discourage non-compliance by local districts.

It was only after the initiative moved forward to implementation at the local level that issues and concerns began to be raised. While the parental notification / opt in provision seemed to be an adequate protection, this notification coming usually at the beginning of the school year, and often included with other parental notifications and permissions -- often combined to achieve administrative efficiencies -- may blunt the thoughtful consideration of the issue by parents. I live in a household with four public school students -- and I understand the welter of paperwork that faces even the most conscientious parents, so careful consideration of the implications of such requests can be daunting.

In researching this initiative I had the opportunity to have some discussion with people familiar with research methodologies, longitudinal studies and privacy issues before I made the determination to introduce this measure. Those discussions helped me shape this bill and informed my support for this initiative. I want to share some of the insights I gained from those conversations.

First, the value of this data is questionable, especially if the data sets are not comprehensive. One experienced researcher told me that collection of such longitudinal data sets is valuable only if it is truly comprehensive. In other words, only if we have 100 percent or close to it participation, could conclusions from the analysis of this data be truly useful. When students / parents choose not to "opt-in" in significant numbers, and especially when entire districts refuse to comply, the data sets become increasingly less comprehensive and therefore less reliable.

When data sets like this are unreliable, other methods -- like random sampling of participants -- become a more reliable means to measure real outcomes for policy formation because you can control variations in the sampling. Working from partial and self-selected data sets such as those produced by an opt in system has limited value. The researcher indicated that the value of the data is better than an internet poll or a call-in poll / vote -- but not that much better without a careful, ongoing and expensive analysis of the underlying data. Random sampling may produce more reliable outcomes and have no greater cost than validating the collected data.

If the value of the underlying data is questionable, what are the potential downsides to collecting this information? It turns out there are many downsides. The most obvious is the potential for compromising people's personal information -- especially social security numbers. Correlating a social security number with a name and address is the foundation for identity theft. This is the information that criminals seek when they want to steal an identity as part of a larger criminal enterprise.

Collecting this data and building the data base means that the state is liable in perpetuity to maintain the integrity and protect the data. I am sure we will receive assurances about the safety of this data -- but we have already heard too much about data systems that are likely more secure

than this one will ever be that have been compromised. Is it really worth the risk? Are the rewards great enough to offset that potential downside? My answer is no, and that is why I have proposed this legislation.

Another colleague whose career has been based in research was dismissive of this data collection effort. Here is how he described this -- collecting a big set of information like this without very clear ideas of exactly how the information will be used is what he called a "joy of data" enterprise. As he put it -- if you are a researcher and you can obtain a big pile of information that someone else collects and deposits with you -- it is a winner. You can use that information whenever you want to go fishing. He told me that a common refrain in the research community was -- "You know, I was just wondering ..." and the fishing expedition starts.

There may be clarity about the intent for collecting this data today -- but what about 20 years from now? We don't have any idea who will be able to access the information or for what reasons. I won't spell out some of the more chilling implications of that train of thought -- but let's remember that data bases, once built are enduring structures. If they aren't built to endure, then they are even more likely to be compromised. If they are built to endure, then the data integrity must be maintained in perpetuity, or at least for the life of the participants. For that six-year-old who goes into the data base today, we will need to insure the privacy and safety for at least 90 years or more. Is it worth the expense? Are we getting value for the investment. If we cannot be sure, we shouldn't pursue such a "joy of data" project.

In the end -- this is a simple cost benefit analysis. There is no doubt this information may have some value. The value may be limited based on the comprehensiveness of the information. In addition, there are other ways to gather comparable information that may not pose the same risks. It is our duty to protect our citizen's right to privacy and the safety that comes with having personal information secure. Gathering this information is a big responsibility that will not go away and will become increasingly more difficult and expensive to maintain as people who seek this information for the wrong reasons become more sophisticated and determined. If that is the case, and I believe it is -- is this initiative worth it? Will our research outcomes be worth the investment and the potential risks? I think not.

I commend this issue to you and ask that you apply your common sense to eliminate this statutory language now before it becomes an expensive and unnecessary burden for our state in the future.

Thank you for your attention and your support of this initiative. I look forward to continuing to work with you on this and other important matters. I am happy to answer any questions, and I would be pleased to join you at the work session.



MAINE SCHOOL MANAGEMENT ASSOCIATION

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TESTIMONY IN SUPPORT OF

L.D. 506

AN ACT TO PREVENT THE DISCLOSURE OF STUDENT SOCIAL SECURITY NUMBERS

Senator Langley, Representative Richardson and members of the Education and Cultural Affairs Committee, I am Sandra MacArthur, deputy executive director of the Maine School Management Association. I am here to testify on behalf of the legislative committees of the Maine School Superintendents Association and Maine School Boards Association in support of L.D. 506

Our associations support this proposal to protect our children's privacy and from the real threat of identity theft or other criminal activity.

The Maine School Boards Association at its annual Delegate Assembly adopted a resolution calling for this legislation, and a number of districts around the state have adopted similar, local resolutions.

There is ample evidence to show that using Social Security numbers to track students is a bad idea.

A July 2010 audit report from the U.S. Office of Inspector General said that while 26 states already use Social Security numbers on some level to track students, privacy protections for many of these databases are inadequate.

"Each time a student provides his/her SSN, the potential for a dishonest individual to unlawfully gain access to, and misuse, the SSN increases. Identity thieves often target children because they have clean credit histories, and their records may be used for years before they realize their identity has been used for criminal activities. Since 2005, 40 school-related breaches of children's personally identifiable information (including SSNs) have been reported," according to the Inspector General's report.

Executive Director
Dale A. Douglass

Deputy Executive Director
Sandra J. MacArthur

Associate Executive Director
Terry D. McCabe

The Maine Department of Education had its own breach of security last September, when a technology director in one school system was able to see the Social Security numbers for school staff in other systems in the state because of an error in the DOE's data system.

It also is important to understand it is not necessary to use Social Security numbers to track a student's progress in school. Students already are assigned unique student identifiers that are currently used while a student is in public school in Maine. These identifiers can be used to keep track of students through high school graduation in the Department of Education's longitudinal data system. There is time to find a safer way than Social Security numbers to track students once they leave our system.



MAINE CIVIL LIBERTIES UNION

TESTIMONY OF SHENNA BELLOWS

LD 506-- Ought to Pass

An Act To Prevent the Disclosure of Student Social Security Numbers

Submitted to the

Joint Standing Committee On Education

April 25, 2011

Senator Langley, Representative Richardson and members of the Joint Standing Committee on Education, my name is Shenna Bellows and I am the Executive Director of the Maine Civil Liberties Union, a state-wide organization committed to advancing and preserving civil liberties in Maine through advocacy, education, and litigation. On behalf of our over 3,300 members, I am here before you today to express our support for LD 506, An Act To Prevent the Disclosure of Student Social Security Numbers.

The MCLU testified in opposition to the collection and use of student social security numbers for a longitudinal data study, when the idea was originally proposed in the 124th Legislature. We expressed our concern at the time that, despite the best efforts and strong assurances of the Department of Education and the state information technology experts, personal data would not be secure.

We were therefore very concerned, but not surprised, when a breach in the Department of Education computer system was discovered in September 2010, on the eve of the student social security number collection program's commencement. According to the Department of Education (Information Letter 32, dated September 28, 2010), that error allowed computer users access to information that should have been restricted. To its credit, the Department addressed the problem as soon as it learned of it and delayed the start of the social security number program.

All Mainers, and none more than the members of this committee, want to provide the best education possible for Maine students. The longitudinal data collection program has an admirable purpose: facilitating the evaluation and improvement of education programs in the State of Maine. But using student social security numbers is the wrong way to approach this challenge because it exposes students to threats to their privacy and risk of identity theft.

Justice Louis Brandeis wrote almost a century ago that the right to be left alone is the right most prized by a free people. The collection of student social security numbers opens the door to intrusions into that right, beginning before people have the legal and emotional capacity to give consent to such intrusions.

Once the Social Security number was used for social security accounts, tax collection, and benefit payments. Today, chances are you have been asked for your Social Security number if you opened a bank account, signed up for a credit card, joined a gym, opened a rental account at a video store, or any number of other transactions. And your Social Security number links all of these entities back to you, providing access to all sorts of personal information, such as your address, your financial history, medical history, shopping habits, household income, use of prescription drugs, just to name a few. You would not want to have only one key that opened your house, your office, your safe deposit box, and your car, because if someone with bad intentions got a hold of that key, they would have access to everything. Social Security numbers are that key for your personal information, and current Maine law gives many more people access to those numbers. LD 506 is necessary to restore some measure of security over private information.

The Social Security Administration itself advises careful consideration before sharing a social security number. In particular, the SSA advises asking whether a social security number is really needed.¹ We believe that student social security numbers are not needed in order to assess whether Maine schools are doing a good job.

On behalf of the Maine Civil Liberties Union, I urge you to vote "Ought To Pass" on LD 509.

¹ "You should be careful about sharing your number, even when you are asked for it. You should ask why your number is needed, how it will be used and what will happen if you refuse. The answers to these questions can help you decide if you want to give out your Social Security number." *Identity Theft And Your Social Security Number*, SSA Publication No. 05-10064, October 2007, ICN 463270. (last accessed on May 5, 2009, at <http://www.ssa.gov/pubs/10064.html>).

Chair Senator Langley , Chair Representative Richardson and members of the Joint Standing Committee on Education and Cultural Affairs my name is Phil Dionne, I am from Brunswick, and I have come here today to testify against LD 506.

In the last few years the importance of education and training beyond high school has increased exponentially, while the resources to meet these needs have at best stayed level. This has forced us to prioritize more closely how we invest our precious dollars. Reliable and timely data is a critical element when making these decisions.

The longitudinal data system that is being developed will provide data which is broken down in many categories, such as level of training and education, starting pay, career ladder and others. This will allow making long range plans for the future of Maine's work force. Career coaches in the PK -12 system; articulation agreements between secondary schools, community colleges and universities; adult education; Workforce training; will all be better able to be part of a master plan that reduces duplication because of the longitudinal system.

The ability to use Social Security Numbers to connect an individual's education/training with their earnings has been shown to be the best method. States (9) that have used Social Security Numbers, such as Florida, are able to provide information that clearly shows the connection between preparation and earnings. While others (24) that have tried some form of student ID have had lower rates of connecting pre employment and post employment data. Social Security Numbers allow the inclusion of data from out of state higher education, military, out of state earnings, etc to be included.

I have included several reports that come from Florida's (FETPIP- Florida's Education & Training Placement Information Program) system. They are a small example of the data that can be accessed from FETPIP, and you will notice there

are no names or Social Security Numbers. The disc I have has over 13,000 pages of reports and data. This disc was made in 2003 you can find up to date information at WWW.fldoe.org/fetpip/reports.asp. They have been using this system since 1989, Use of Social Security Numbers became law in 1990.

As you become more familiar with the data that can be available it will be obvious how powerful a tool this is for long range planning. The use of Social Security Numbers allows for a more complete set of data.

Maine is taking security of Social Security Numbers very seriously and will continue to make adjustments and corrections as are warranted. In today's world there is no such thing as complete security on personal information.

Thank you and are there questions?

Testimony
In Opposition to LD 506
An Act To Prevent the Disclosure of Student Social Security Numbers
Before
Joint Standing Committee
On Education and Cultural Affairs

Prepared By

John Dorrer
Jobs for the Future
Boston, MA.

Formerly
Acting Commissioner
and
Director,
Center for Workforce Research and Information
Maine Department of Labor

Senator Langley, Representative Richardson, members of the Joint Standing Committee on Education and Cultural Affairs, I am here today in opposition to LD 506, An Act to Prevent the Disclosure of Social Security Numbers.

I am most appreciative about preserving the privacy of individuals and to place limits on the disclosure of personal data. I am equally passionate however about effectively aligning our education and training systems with the needs of the economy.

This legislative proposal, if passed, will certainly eliminate our ability to effectively map the pathways that students take into Maine workplaces as well as our ability to assess the efficacy of our education and training investments in meeting individual and employer needs.

During a time when we will need to invest scarce education and training resources wisely, we must have the capability to assess the efficacy of these investments and provide critical feedback to students, teachers, school boards, employers and legislators.

You see, our economic system relies exclusively on social security numbers to keep track of where we work and what we earn. Without this accounting system, income taxes, social security payments and unemployment insurance benefits could not be

administered. No one can go to work in Maine without providing a social security number. The most cost effective way for identifying where Maine students go to work and what they earn upon completing their program of studies is to link student data maintained by schools with wage records maintained by the Maine Department of Labor. The social security number remains the critical means to link these equally important data sets. Without the social security number as the student identifier, linking student data to wage records will be eliminated as a method for evaluating the important transition from school to work.

I want to emphasize that the purpose of linking student data and wage records is not to report on the experiences of an individual, but instead, to focus on the experiences of aggregates, such as a graduating class or numbers of students in a particular course of study. The Maine Department of Labor, Center for Workforce Research and Information has conducted a number of such studies including evaluations of the Jobs for Maine Graduates program, Southern Maine Community College and the University of Maine. Data security and confidentiality protection have been vigorously and successfully maintained in performing this work.

To have our educational system use unique identifiers while our economic system relies on social security numbers sends the wrong message. I urge you to retain the use of social security numbers as personal identifiers and remain committed to the effective alignment of our education and training systems with the needs of Maine's changing economy.

State of Maine
DEPARTMENT OF EDUCATION

Testimony of Jim Rier, Deputy Commissioner of the Department of Education

Neither For Nor Against: L.D. 506

An Act To Prevent the Disclosure of Student Social Security Numbers

Before the Joint Standing Committee on Education and Cultural Affairs

Sponsored by: Representative Peterson

Cosponsored by: Senators Courtney and Goodall, and Representatives Crockett, Davis, Goode, Harvell, Knapp, Martin, McFadden, Nelson, and O'Connor

Date: April 25, 2011

Senator Langley, Representative Richardson, and Members of the Joint Standing Committee on Education and Cultural Affairs:

My name is Jim Rier, Deputy Commissioner, and I am representing the Department of Education and the State Board of Education speaking neither for nor against L.D. 506 An Act To Prevent the Disclosure of Student Social Security Numbers.

The intent of PL 2009, Chapter 448 was to improve the ability of the Department of Education to conduct longitudinal data studies by permitting the use of social security numbers for the tracking of individual student enrollment history, achievement data and outcomes over time.

While the Department of Education and the State Board of Education understand the concerns about the confidentiality of the social security number, it does serve as an important link in State agency data sharing. The University of Maine System, Community Colleges and Department of Labor each maintain their own separate data systems and, unlike the Department of Education, all store the social security number in their databases. The social security number is not used as a student's unique identifier, but would only be used as a common link between secondary, postsecondary and labor data. These data are essential for evaluating the effectiveness of education programs and curriculum in impacting postsecondary and labor market outcomes.

The Department has taken steps to protect student social security numbers by eliminating the need for districts to collect and store them. The social security numbers will be directly entered by parents into an encrypted secure database separate from the Department's student data system. There is no requirement that the parent provide the student's social security number.

The secure database will only include the State Student Identifier and not student names. The longitudinal data system complies with the State Office of Information Technology security policies and is prohibited from releasing any individually identifiable student data protected by

the Family Educational Rights and Privacy Act (FERPA). Access to the secure database will be restricted to authorized personnel and the social security number will only be used for linking to postsecondary and workforce data in support of education research.

In addition LD 506 may impact the following initiatives:

- *American Recovery and Reinvestment Act (ARRA)* areas of reform - “Gathering information to improve student learning, teacher performance, and college and career-readiness through enhanced data systems that track progress” and accounts for over \$300 million in PreK-20 federal funds.
- Initiatives which may require the Department of Education to integrate an educational attainment database that permits integration with labor market data systems.

Creating a fully integrated longitudinal PreK-20 database is a goal of the Department of Education. The Department is currently in the first year of a three-year \$7.3 million federally funded ARRA project to create an early childhood through workforce longitudinal data system.

For these reasons, the Department and the State Board of Education are neither for nor against L.D. 506 An Act To Prevent the Disclosure of Student Social Security Numbers. I would be happy to answer any questions the Committee may have, and I will be available for work sessions on this bill.