Bill as Introduced

HB 383 - AS INTRODUCED

2003 SESSION

03-0245
05/10

HOUSE BILL ***383***

AN ACT limiting the disclosure of personal information on government Internet sites and amending the information practices act.

SPONSORS: Rep. Kurk, Hills 48; Rep. M. Smith, Straf 72

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill requires that an individual consent to having his or her personal information available to the public on an Internet site maintained by a state agency or local political subdivision. The bill also updates RSA 7-A, the information practices act, by amending the definition of personal information, removing the definition of machine-accessible, clarifying the biennial reporting requirement, and expanding the reporting requirement to include the legislature, courts, and political subdivisions.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

03-0245
05/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT limiting the disclosure of personal information on government Internet sites and amending the information practices act.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Information Practices Act; Definition of Personal Information Amended. Amend RSA 7-A:1 to read as follows:

7-A:1 Definitions. In this chapter:

I. "Agency" means each state board, commission, department, institution, officer or other state official or group [~~other than~~] ***, including*** the legislature [~~or~~] ***and*** the courts***, established in the state constitution, statutes, session laws, or executive orders, other than the university system of New Hampshire.***

II. "File" means the point of collection of personal identifiable information.

III. [~~"Machine-accessible" means recorded on magnetic tape, magnetic disk, magnetic drum, punched card, optically scannable paper or film, punched paper tape or any other medium by means of which information can be communicated to data processing machines.~~

~~IV.~~] "Personal information" means any information that [~~by some specific means of identification, including but not limited to any name, number, description, and including any combination of such characters, it is possible to identify with reasonable certainty the person to whom such information pertains~~] ***identifies an individual including an individual's name, address, telephone number, social security number, photograph, or computerized image.***

[~~V.~~] ***IV.*** "Personal information system" means any method by which personal information is collected, stored or disseminated by any agency of the state.

V. "Publicly available" means any access to personal information on an Internet site maintained by or on behalf of an agency or political subdivision, other than:

(a) By an individual with respect to personal information relating to that individual to the extent determined by the agency or political subdivision.

(b) By the agency or political subdivision or its employees but only in connection with its Internet site.

(c) By the employees of an organization under contract with the agency or political subdivision, but only for purposes of fulfilling contractual obligations.

VI. "Responsible authority" means the head of any governmental agency which is responsible for the collection and use of any data on persons or summary data.

2 Information Practices Act; File with Secretary of State; Report Date Amended and Political Subdivisions Added. Amend the introductory paragraph of RSA 7-A:2 to read as follows:

On or before July 1, [~~1976~~] ***of each even-numbered year***, all state agencies ***and political subdivisions*** shall file with the secretary of state the following information with respect to all personal information systems, except those consisting of criminal investigation files, maintained by said agency ***or political subdivision***:

3 Information Practices Act; File with Secretary of State; Computer-Accessible. Amend RSA 7-A:2, VIII to read as follows:

VIII. Practices regarding the place and method of personal information storage in the system including but not limited to whether [~~or not~~] the personal information is [~~machine accessible~~] ***accessible by computer, whether it is publicly available on the Internet, and if it is publicly available on the Internet, the procedure for obtaining an individual's consent prior to posting personal information on the Internet***.

4 Information Practices Act; Report Change in Purpose; Political Subdivisions Added. Amend RSA 7-A:3 to read as follows:

7-A:3 Changes in Purposes, Uses, etc. The agency ***or political subdivision*** shall immediately file with the secretary of state any changes in the information required to be filed with the secretary of state by RSA 7-A:2, except RSA 7-A:2, III, and the secretary of state shall annex said changes to the original filing and preserve all filings. Any changes in the information required by RSA 7-A:2, III shall be filed with the secretary of state no less often than annually.

5 New Section; Information Practices Act; Government Internet Sites; Restriction on Access to Personal Information. Amend RSA 7-A by inserting after section 3 the following new section:

7-A:3-a Government Internet Sites; Restriction on Access to Personal Information.

I. Notwithstanding RSA 91-A, an agency or political subdivision that maintains an Internet site or for which an Internet site is maintained shall obtain an individual's consent prior to making any personal information about that individual publicly available on the Internet site.

II. This section shall not apply to the criminal offenders' registry available to the public under RSA 651-B:7 or to an elected official or an employee of an agency or political subdivision.

6 Information Practices Act; Report to General Court; Political Subdivisions and Information Technology Management Advisory Board Added. Amend RSA 7-A:5 to read as follows:

7-A:5 Report to General Court. The secretary of state shall provide to the president of the senate [~~and~~], ***the*** speaker of the house ***of representatives, and the information technology management advisory board*** on October 1 of each even-numbered year a list of all state agencies that have filed information [~~with him~~] pursuant to RSA 7-A.

7 Effective Date. This act shall take effect 60 days after its passage.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 383 Date March 4, 2003

Committee EDTA

** Please Print All Information **

Name	Address	Phone	Representing	(check one) Pro	Con
Rep. Anne Prestley	4 Bluff ST		Member		against
Kathy Sculer					
Michael Fechele, Assessor	City of Concord	225-8550	Concord		+
LINDA GRIEBSCH	Concord	224-8894	NHCADSV	X	
James R Howard	City of Concord	225-8560	City		X

Hearing Minutes

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 383

BILL TITLE: limiting the disclosure of personal information on government Internet sites and amending the information practices act.

DATE: March 4, 2003

LOB ROOM: 100 SH **Time Public Hearing Called to Order:** 3:25 PM

Time Adjourned: 4:15 PM

(please circle if present)

Committee Members: Reps. O'Neil, Hamel, Langer, Goulet, Zolla, N. Allan, Dexter, Hall, C. Robertson, Bergin, LaFlamme, Milligan, W. Field, Fitzgerald, Maybeck, Clayton, Schulze, DeJoie, Irwin, Pilotte and F. Sullivan.

Bill Sponsors: Rep. Kurk, Hills 48; Rep. M. Smith, Straf 72

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Kurk, sponsor. 91A requires that a great deal of information be available but that was written long ago and now we have more information available on the Internet. This is a problem that has to be faced and the bill should be retained and reviewed by a committee that will come up in 2004.
Maura Carroll, PO Box 617, Concord, 224-7447. Representing NH Municipal Assn. There is a right to know study committee. She agrees that these bill presents a problem that needs to be studied. Doesn't say the NHMA agrees with bill or doesn't. HB 606 covers a similar problem.
Michael Fedele, Assessor, representing City of Concord, 225-8550. Opposes bill. Puts business organizations at a disadvantage.
Atty. Peggy Rossing for Atty. John L. Williams, representing Dept. of Health & Human Services. 271-4759. Opposes bill. Did not speak
*Kathi L. Guay, Registrar of Deeds, Merrimack County, 228-0101. Opposes bill
Leo Lessard, PO Box 980, Milton, 652-9668. Representing Strafford County Registry. . Opposes bill
Pink card submitted.

Respectfully submitted,

Ray L. Langer

Rep. Ray Langer, Clerk

Testimony

Merrimack County Registry of Deeds

CONCORD, NH

KATHI L. GUAY
Register

OFFICE 603-228-0101
FAX 603-226-0868

163 N. MAIN STREET
PO BOX 248
CONCORD, NH 03302-0248

Executive Departments & Education
LOB Room 100
Concord, NH 03301

Dear Representatives: **Mar. 3, 2002**

I am writing today in opposition to HB 383 limiting the disclosure of personal information on government Internet sites and amending the information practices act.

I have several concerns relative to this legislation, first, as a Register of Deeds, my function and responsibility is to accept legal documents and to maintain them in the public domain.

The provision in this bill to require an individuals' consent prior to making any personal information about that individual publicly available on the internet site is an impossible demand.

First you need to understand when a document is brought to the Registry to be recorded, once accepted it is a public record. Secondly, the Registry rarely deals with the individuals' involved in the transactions; most are brought to the Registry by Title abstractors, attorneys, banks and by mail.

The reality of this section requiring consent is it abolishes and eliminates the ability of any governmental entity from making access to our public records more efficient and easily accessible to the public.

Making public records accessible to citizens via computer networks is a powerful way to arm people with the tools to keep government accountable. I believe public records promote government accountability.

It also provides notice of the "official" status of individuals and property. This is an extremely vital service to the constituents as well as the property records industry. Banks, Financial institutions, title companies, attorneys and credit bureaus, just to name a few, all rely on this public information in performing their functions.

But I also understand that some public records contain information that is personal in nature, such as social security numbers, mothers' maiden name and dates of birth. These records reside in our Registries in paper form and also reside on internet sites.

It is important to note, that many of the Registries in NH have sold these public records in bulk to title companies, law firms and other interested parties. There is nothing in this legislation to stop these parties from starting their own internet site with this information, as some have already done.

I am also concerned over the impact of this bill to limit the ability of government to serve the public in more efficient ways, such as using the internet. In these busy and hectic times, it is often detrimental to only conduct government business on a Monday to Friday, 9-5 atmosphere. This bill could possibly cost us more in new buildings, additional space and parking requirements if we do not have the internet to use as a tool to ease the overcrowding we are experiencing now.

We would be doing our public a disservice by not using technology to reduce physical building space, making government more efficient and more accessible to the people we serve.

I do however agree that there are types of personal information that are sensitive in nature and should not appear on public documents, but if they do, then the ability to redact or remove that personal information from an internet site may be necessary.

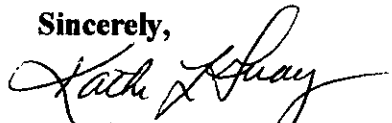
The first step in removing this type of information from appearing in public documents would be to require those preparing the document not to include personal information such as social security numbers or other personal identifying information on documents that they know are going to become a public record. This would include such things as death certificates, DD-214 forms, mortgages that have social security numbers and any other document that would be placed on the public record.

The Federal Government is working diligently on legislation to address privacy issues. Senate Bill 228 addresses in particular public records on the internet. I think it is imperative that before all of the States enact what can be knee-jerk legislation to privacy issues and the internet that we wait and see what transpires from the work of the US House and Senate.

Privacy issues relative to any document, be it public or private that contain personal identifying information need to be addressed. They are real issues and they aren't going to go away. However we are also seeing the promise of increased access to government records through computerization and the internet. The challenge is to develop policies regarding the personal information but still maintain the openness of public records.

I thank you for your time and attention to this matter and hope for a solution that is beneficial to all parties involved while still maintaining the integrity and value of public records.

Sincerely,



Kathi L. Guay, CPO, Register
Merrimack County Registry of Deeds

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	Contents Display	

S.228

Social Security Number Misuse Prevention Act (Placed on Calendar in Senate)

SEC. 4. APPLICATION OF PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS TO PUBLIC RECORDS.

(a) PUBLIC RECORDS EXCEPTION-

(1) IN GENERAL- Chapter 47 of title 18, United States Code (as amended by section 3(a)(1)), is amended by inserting after section 1028A the following:

`Sec. 1028B. Display, sale, or purchase of public records containing social security numbers

`(a) DEFINITION- In this section, the term `public record' means any governmental record that is made available to the general public.

`(b) IN GENERAL- Except as provided in subsections (c), (d), and (e), section 1028A shall not apply to a public record.

`(c) PUBLIC RECORDS ON THE INTERNET OR IN AN ELECTRONIC MEDIUM-

`(1) IN GENERAL- Section 1028A shall apply to any public record first posted onto the Internet or provided in an electronic medium by, or on behalf of a government entity after the date of enactment of this section, except as limited by the Attorney General in accordance with paragraph (2).

`(2) EXCEPTION FOR GOVERNMENT ENTITIES ALREADY PLACING PUBLIC RECORDS ON THE INTERNET OR IN ELECTRONIC FORM- Not later than 60 days after the date of enactment of this section, the Attorney General shall issue regulations regarding the applicability of section 1028A to any record of a category of public records first posted onto the Internet or provided in an electronic medium by, or on behalf of a government entity prior to the date of enactment of this section. The regulations will determine which individual records within categories of records of these government entities, if any, may continue to be posted on the Internet or in electronic form after the effective date of this section. In promulgating these regulations, the Attorney General may include in the regulations a set of procedures for implementing the regulations and shall consider the following:

`(A) The cost and availability of technology available to a governmental entity to redact social security numbers from public records first provided in electronic form after the effective date of this section.

`(B) The cost or burden to the general public, businesses, commercial enterprises, non-profit organizations, and to Federal, State, and local governments of complying with section 1028A with respect to such records.

`(C) The benefit to the general public, businesses, commercial enterprises, non-profit organizations, and to Federal, State, and local governments if the Attorney General were to determine that section 1028A should apply to such records.

Nothing in the regulation shall permit a public entity to post a category of public records on the Internet or in electronic form after the effective date of this section if such category had not been placed on the Internet or in electronic form prior to such effective date.

`(d) HARVESTED SOCIAL SECURITY NUMBERS- Section 1028A shall apply to any public record of a government entity which contains social security numbers extracted from other public records for the purpose of displaying or selling such numbers to the general public.

`(e) ATTORNEY GENERAL RULEMAKING ON PAPER RECORDS-

`(1) IN GENERAL- Not later than 60 days after the date of enactment of this section, the Attorney General shall determine the feasibility and advisability of applying section 1028A to the records listed in paragraph (2) when they appear on paper or on another nonelectronic medium. If the Attorney General deems it appropriate, the Attorney General may issue regulations applying section 1028A to such records.

`(2) LIST OF PAPER AND OTHER NONELECTRONIC RECORDS- The records listed in this paragraph are as follows:

`(A) Professional or occupational licenses.

`(B) Marriage licenses.

`(C) Birth certificates.

`(D) Death certificates.

`(E) Other short public documents that display a social security number in a routine and consistent manner on the face of the document.

`(3) CRITERIA FOR ATTORNEY GENERAL REVIEW- In determining whether section 1028A should apply to the records listed in paragraph (2), the Attorney General shall consider the following:

`(A) The cost or burden to the general public, businesses, commercial enterprises, non-profit organizations, and to Federal, State, and local governments of complying with section 1028A.

'(B) The benefit to the general public, businesses, commercial enterprises, non-profit organizations, and to Federal, State, and local governments if the Attorney General were to determine that section 1028A should apply to such records.'.

(2) CONFORMING AMENDMENT- The chapter analysis for chapter 47 of title 18, United States Code (as amended by section 3(a)(2)), is amended by inserting after the item relating to section 1028A the following:

'1028B. Display, sale, or purchase of public records containing social security numbers.'.

(b) STUDY AND REPORT ON SOCIAL SECURITY NUMBERS IN PUBLIC RECORDS-

(1) STUDY- The Comptroller General of the United States shall conduct a study and prepare a report on social security numbers in public records. In developing the report, the Comptroller General shall consult with the Administrative Office of the United States Courts, State and local governments that store, maintain, or disseminate public records, and other stakeholders, including members of the private sector who routinely use public records that contain social security numbers.

(2) REPORT- Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under paragraph (1). The report shall include a detailed description of the activities and results of the study and recommendations for such legislative action as the Comptroller General considers appropriate. The report, at a minimum, shall include--

(A) a review of the uses of social security numbers in non-federal public records;

(B) a review of the manner in which public records are stored (with separate reviews for both paper records and electronic records);

(C) a review of the advantages or utility of public records that contain social security numbers, including the utility for law enforcement, and for the promotion of homeland security;

(D) a review of the disadvantages or drawbacks of public records that contain social security numbers, including criminal activity, compromised personal privacy, or threats to homeland security;

(E) the costs and benefits for State and local governments of removing social security numbers from public records, including a review of current technologies and procedures for removing social security numbers from public records; and

(F) an assessment of the benefits and costs to businesses, their customers, and the general public of prohibiting the display of social security numbers on public records (with separate assessments for both paper records and electronic records).

(c) EFFECTIVE DATE- The prohibition with respect to electronic versions of new classes of public records under section 1028B(b) of title 18, United States Code (as added by subsection (a)(1)) shall not take effect until the date that is 60 days after the date of enactment of this Act.

Voting Sheets

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 383

BILL TITLE: **limiting the disclosure of personal information on government Internet sites and amending the information practices act.**

DATE: March 18, 2003

LOB ROOM: 100 SH

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Bergin

Seconded by Rep. Dexter

Vote: 14-2 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 16-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Ray F. Langer, Clerk

OFFICE OF THE HOUSE CLERK 2003 SESSION

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

Bill #: HB383 **Title:**

PH Date: 3/4/03 **Exec Session Date:** 3/18/03

Motion: ITL **Amendment #:**

MEMBER	YEAS	NAYS
O'Neil. Michael. Chairman	14	
Hamel. Albert W. V Chairman	1	
Langer. Ray F	2	
Goulet. Maurice E		1
Zolla. William R	3	
Allan. Nelson S	abs	
Dexter. Judson K	4	
Hall. Charles Q	5	
Robertson. Carl G	6	
Bergin. Peter F	7	
LaFlamme. Paul G	8	
Milligan. Robert H	abs	
Field. William D	9	
Fitzgerald. James M	10	
Mayhew. Margie	11	
Clayton. William K	abs	
Schulze. Joan H	12	
DeJoie. John	abs	
Irwin. Anne-Marie	13	
Pilotte. Maurice L		2
Sullivan. Francis B	abs	
	14/2	

TOTAL VOTE:
Printed: 1/6/2003

Committee Report

COMMITTEE REPORT

COMMITTEE: **Executive Departments and Administration**

BILL NUMBER: **HB 383**

TITLE: limiting the disclosure of personal information on government Internet sites and amending the information practices act.

DATE: March 18, 2003 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☒ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

The committee felt that the sponsors were will intended on the matters of privacy. However, in hearing testimony, a number of local cities and towns now use the Internet to post property appraisals. Such postings have saved localities a substantial amount of money. In addition, it has provided additional services to the citizens. If a citizen objects, they can register a complaint with the local municipality. In many cases, their name and information was eliminated. In the new age of the Internet, the committee realizes there are many advantages and disadvantages. However, the Internet reaches out beyond the bounds of New Hampshire.

Vote 14-2.

Rep. Peter F. Bergin
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Executive Departments and Administration

HB 383, limiting the disclosure of personal information on government Internet sites and amending the information practices act. **INEXPEDIENT TO LEGISLATE**

Rep. Peter F. Bergin for Executive Departments and Administration: The committee felt that the sponsors were will intended on the matters of privacy. However, in hearing testimony, a number of local cities and towns now use the Internet to post property appraisals. Such postings have saved localities a substantial amount of money. In addition, it has provided additional services to the citizens. If a citizen objects, they can register a complaint with the local municipality. In many cases, their name and information was eliminated. In the new age of the Internet, the committee realizes there are many advantages and disadvantages. However, the Internet reaches out beyond the bounds of New Hampshire. **Vote 14-2.**

3/4/03
1:15 pm

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~~There are many advantages and disadvantages. However, the~~ internet issues are beyond the bounds of HB

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

Rep Holden: present

Ben Frost: OSP opposes. Already ~~op~~

ITL: 14-2

HB 383, limiting the disclosure of personal information on governmental internet sites and attending the information practices act. The committee felt that the sponsors were well intended on the matters of privacy. However, in hearing testimony a number of local cities and towns now use the internet to post property appraisal. Such postings have saved localities a substantial amount of money. In addition it has provided additional services to the citizens. If a citizen objects, it can register its complaint with the local municipality. In many cases their name and information was eliminated. In the new age of the internet the committee realizes that