

HOUSE No. 316

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to identity theft in the commonwealth..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 266 of the General Laws is hereby amended by adding the
2 following section:-

3 Section 37F. Identity Theft Investigation

4 A person who has learned or reasonably suspects that his or hers personal identifying
5 information has been unlawfully used by another, as described in section 37E of Chapter 266,
6 may initiate a law enforcement investigation by contacting the local law enforcement that has
7 jurisdiction over his or her actual residence, which shall take an identity theft police report of the
8 matter, provide the complainant with a copy of that report, and begin an investigation of the
9 facts. If the suspected crime was committed in a different jurisdiction, the local law enforcement
10 agency must refer the matter to the jurisdiction’s local law enforcement agency where the
11 suspected crime was committed for further investigation of the facts.

12 b) Any city, town, or district police department which requires an investigating
13 police officer to make a report concerning an incident, offense or alleged offense investigated, or

14 any arrest made, on a form provided by the department shall include on said form a space to
15 indicate whether said incident, offense, alleged offense or arrest involved identity fraud as
16 defined in section 37E of chapter 266. Said officer shall also provide any victim, as defined in
17 section 37E of chapter 266, a copy of said report and may be redacted by the investigating police
18 officer.

19 Section 2. Chapter 24A of the General Laws is hereby amended by inserting the
20 following new section:- Section 6. (a) There shall be in the office a division of Privacy
21 Protection whose primary purpose shall be protecting the privacy of individuals' personal
22 information by identifying consumer problems in the privacy area and facilitating development
23 of fair information practices. (b) The office shall inform the public of potential options for
24 protecting the privacy of, and avoiding the misuse of, personal information. (c) The office shall
25 make recommendations to organizations for privacy policies and practices that promote and
26 protect the interests of consumers. (d) The office may promote voluntary and mutually agreed
27 upon non-binding arbitration and mediation of privacy related disputes where appropriate. (e)
28 The Director of the Consumer Affairs and Business Regulation shall do all of the following: (1)
29 Receive complaints from individuals concerning any persons obtaining, compiling, maintaining,
30 using, disclosing or disposing of personal information in a manner that may be potentially
31 unlawful or violate a stated privacy policy relating to that individual, and provide advice,
32 information, and referral where available. (2) Provide information to consumers on effective
33 ways of handling complaints that involve violations of privacy related laws, including identity
34 theft and identity fraud. Where appropriate local, state, or federal agencies are available to assist
35 consumers with those complaints, the director shall refer those complaints to those agencies. (3)
36 Develop information and educational programs and materials to foster public understanding and

37 recognition of the purposes of this article. (4) Investigate and assist in the prosecution of identity
38 theft and other privacy related crimes, and, as necessary, coordinate with local, state, and federal
39 law enforcement agencies in the investigation of similar crimes. (5) Assist and coordinate in the
40 training of local, state, and federal law enforcement agencies regarding identity theft and other
41 privacy related crimes, as appropriate. (6) The authority of the office or the director, to adopt
42 regulations under this article shall be limited exclusively to those regulations necessary and
43 appropriate to implement paragraphs (b), (c), (d), and (e). (f) Commencing in 2010, the director
44 shall report to the Legislature on an annual basis, on or before January 31, detailing the activities
45 engaged in by the department under this article.

46 Section 3. Chapter 93 of The Massachusetts General Laws, as appearing in the 2006
47 Official Edition, is hereby amended by inserting after section 55 the following section:-

48 Section 55A. (a) No person or entity, including a state or local agency may not do any of
49 the following:

50 (1) intentionally communicate or otherwise make available to the general public an
51 individual's Social Security number;

52 (2) print an individual's Social Security number on any card required for the individual to
53 access products or services provided by the person or data collector;

54 (3) require an individual to transmit his or her Social Security number over the Internet,
55 unless the connection is secure or the Social Security number is encrypted;

56 (4) require an individual to use his or her Social Security number to access an Internet
57 Web site, unless a password or unique personal identification number or other authentication
58 device is also required to access the Internet Web site;

59 (5) print an individual's Social Security number on any materials that are mailed to the
60 individual, unless required by law;

61 (6) sell, lease, loan, trade, rent, or otherwise disclose an individual's Social Security
62 number to a third party for any purpose without written consent to the disclosure from the
63 individual.

64 Nothing in this section shall apply to medical information or documents that are recorded
65 or required to be open to the public pursuant to section 7 of chapter 4.

66 (b) Violations of any provision of this section shall constitute an unfair and deceptive
67 trade practice pursuant to the provisions of chapter ninety-three A.

68 SECTION 4. Each state department and state agency shall enact and maintain a
69 permanent privacy policy that includes, but is not limited to, the following principles: (a)
70 Personally identifiable information is only obtained through lawful means. (b) The purposes for
71 which personally identifiable data are collected are specified at or prior to the time of collection,
72 and any subsequent use is limited to the fulfillment of purposes not inconsistent with those
73 purposes previously specified. (c) Personal data shall not be disclosed, made available, or
74 otherwise used for purposes other than those specified, except with the consent of the subject of
75 the data, or as authorized by law or regulation. (d) Personal data collected must be relevant to the
76 purpose for which it is collected. (e) The general means by which personal data is protected
77 against loss, unauthorized access, use modification or disclosure shall be posted, unless such

78 disclosure of general means would compromise legitimate state department or state agency
79 objectives or law enforcement purposes. (f) Each state department or state agency shall designate
80 a position within the department or agency, the duties of which shall include, but not be limited
81 to, responsibility for the privacy policy within that department or agency.