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Texas governor signs law that exempts clerks from privacy laws

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April 02, 2007 (Computerworld) Texas Gov. Rick Perry has signed into law a bill that allows the state's county and court clerks to disclose "in the ordinary course of business" Social Security numbers contained in documents held by their offices.

Under the bill signed last week, Social Security numbers would no longer be considered protected data if they exist in public records held by clerks in the state. Before passage of the bill, Social Security numbers were considered protected data, as they are elsewhere in the country.

The swift passage of House Bill 2061 through both houses of the Texas legislature and its approval by the governor are likely to come as a blow to those who see it is a serious privacy threat.

Just a week before the bill's approval, the Texas State Republican Executive Committee (SREC) had submitted a resolution to the governor urging him to veto the measure. The SREC's resolution urged the governor to instead support several newly proposed bills that would ban the unauthorized distribution of Social Security numbers, driver's license numbers as well as demographic and health data collected and used by government entities in Texas.

The governor's decision to sign the bill is "disappointing," said Terese Raia, SREC committeewoman for Senate District 17. "I have never in my entire political life seen a bill written and passed in a week," she said. "This is unheard of."

Perry's approval put an end -- at least temporarily -- to a controversy involving the distribution of public documents containing personal data, such as mortgage records and tax liens, by the state's court and county clerks. Many clerks, including those in Texas, have been making such records -- including ones with personal data such as Social Security numbers -- available online to anyone with an Internet connection. Several counties sell the unredacted information at bulk prices to data aggregators, financial institutions, list brokers and others.

A [ruling by Texas Attorney General Greg Abbott](#) on Feb. 23 held such disclosures to be a violation of both state and federal privacy laws. In his ruling, Abbott said that disclosing personal data in public records was a criminal offense punishable by jail times and fines. The ruling was in response to an inquiry by Fort Bend's district attorney in 2005 about how its county clerk was expected to deal with Social Security numbers when they are present in public records.

Abbott's ruling provoked an immediate outcry among county and court clerks in the state who were panicked at the prospect of being held criminally liable for actions they said were part of their normal business. Many shut down or limited access to court records while they sought help from state legislators to mitigate the fallout from Abbott's ruling.



In early March, HB 2061 was rushed through both the House and the Senate in about a week, essentially absolving county and court clerks from any criminal or civil liability for distributing public documents containing personal data. The bill also declared that Social Security numbers would no longer be considered protected data if they were included in public records held by clerks.

One reason the bill may have passed so quickly was because of the enormous pressure put on legislators by businesses in the state after county and court clerks largely shut down access to public records following Abbott's ruling, Raia said.

Texas is not the only state grappling with the issue of how to deal with Social Security numbers and other personal data in public records online. Privacy advocates have raised alarms that the posting of records has turned county and state government Web sites into virtual treasure troves for identity thieves. Prompted by those concerns, some states such as Florida have passed laws that require clerks to redact personal data from public records before posting them.

Perry himself appeared to have similar concerns despite his approval of HB 2061.

"The bill instructs county and district clerks not to obtain or maintain Social Security Numbers on documents filed in the future and additionally allows individuals to request redaction of a Social Security Number found in specific documents," Perry said in a statement announcing his approval of the bill. "It does not, however, fully address the need for greater privacy protection for Texas citizens to avoid identity theft and fraud. I look forward to legislation to fully address this concern," he said.