

HOUSE BILL ANALYSIS

HB 1881

Title: An act relating to protecting privacy by restricting the use of social security account numbers.

Brief Description: Protecting privacy by restricting use of social security numbers.

Sponsors: Representatives Lambert, Edwards, Carrell, Koster, Sump, Campbell, Dunn and Thomas.

Brief Summary of Bill

- Prohibits public and private entities from collecting or distributing Social Security numbers subject to certain exceptions.
- Provides a mechanism for individuals to bring a court action when their Social Security numbers have been improperly collected or distributed.
- Prohibits licensing agencies from collecting Social Security numbers until ordered to do so by federal law.
- Requires the Governor to apply for a waiver from the federal law requiring licensing agencies to collect Social Security numbers.
- Requires the Office of the Administrator for the Courts to conduct a study on methods to operate the courts without the use of Social Security numbers.

HOUSE COMMITTEE ON JUDICIARY

Staff: Jim Morishima (786-7191).

Background:

Federal law (the Privacy Act of 1974) requires all federal and state agencies requesting the disclosure of an individual's Social Security number to notify the individual of the following: (1) whether disclosure of the number is required or optional; (2) which law or regulation permits the agency to request disclosure of the number; and (3) how the number will be used. The Privacy Act of 1974 also prohibits federal and state agencies from denying any right, benefit, or privilege to an individual because of the individual's refusal to disclose his or her Social Security number unless the disclosure is required by federal statute.

In order to qualify for federal welfare funds, a state must collect the Social Security numbers of any applicant for a professional license, a commercial driver's license, an occupational license, a recreational license, or a marriage license. Beginning on October 1, 2000, the state will have to collect the Social Security number of any applicant for a driver's license (commercial or otherwise). The state can obtain a waiver of this requirement if it either (1) demonstrates that collecting the Social Security numbers will not increase the efficiency of the state's child support enforcement program, or (2) is already using a similar procedure and demonstrates that collecting the Social Security numbers will not increase the efficiency of the state's child support enforcement program.

Summary of Bill:

Generally, a person may not (1) use or retain an individual's Social Security number for purposes of identification or (2) buy, sell, or trade an individual's Social Security number. Person— is defined as a natural person, government agency, corporation, trust, unincorporated association, partnership, or other commercial agency located or doing business in Washington. The general rule above is subject to three exceptions.

First, a person may use an individual's Social Security number for credit data collection, credit maintenance, credit data reporting, or, in the case of a bank, for conducting financial transactions authorized by law, as long as the individual gives his or her informed consent to the usage in writing. Second, a consumer reporting agency may provide a person with a consumer report containing an individual's Social Security number only if the individual gives his or her informed written consent. Third, financial institutions, employers, and state and local government agencies may use an individual's Social Security number as explicitly required by state or federal law.

An individual who has had his or her Social Security number improperly collected or distributed may bring an action in superior court. The action must be brought no more than three years after the individual discovered or should have discovered the violation. The court may grant the individual preliminary and equitable relief as well as the greater of actual damages or \$25,000. If the violations constitute a general business practice, the court may grant damages of \$500,000. If the individual substantially prevails in the action, the court may award the individual reasonable costs and attorney fees.

Licensing agencies may not collect Social Security numbers from applicants for professional licenses, drivers' licenses, occupational licenses, or recreational licenses until the date specified by federal law or unless the state obtains a waiver from the federal requirements. The Governor via the Department of Social and Health Services must conduct a study on the efficiency and effectiveness of the state's

alternative to the federal requirements and request a waiver from the federal requirements before October 1, 2000.

The Office of the Administrator for the Courts (OAC) must study the options and feasibility of operating the judicial information system without the use and retention of Social Security numbers. The OAC must also examine the options and feasibility of a case tracking and identification system that does not require Social Security numbers. The OAC must report its findings to the Legislature by January 1, 2000.

Fiscal Note: Requested February 19, 1999.

Effective Date: Ninety days after adjournment of session in which bill is passed, except that the provisions of the bill relating to collecting Social Security numbers for professional, drivers', occupational, or recreational licenses and requesting a waiver from the federal requirements (section 9) take effect immediately after the bill becomes law.

Office of Program Research