

History of enactment of requirement to furnish social security number on recreational license application.

On August 22, 1996 the President signed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), P.L. 104-193. The bill was commonly known as the federal welfare reform bill. In addition to substantial revisions of the federal/state welfare program, the bill contained many amendments to Title IV-D of the federal Social Security Act concerning child support enforcement, 42 USC 651 et seq. Title IV-D requires each state, in exchange for receipt of federal public assistance and child support enforcement funds, have in effect a child support enforcement program and state laws that comply with Title IV-D.

Among the new requirements of federal law were that each state have in effect a law requiring the provision of a social security number on an application for a professional or occupational license, commercial driver's license and marriage license. This requirement was codified as 42 USC 666(a)(13)(A).¹ Montana did not have these provisions in effect.

As a consequence of the child support enforcement provisions of PRWORA, SB 374 was drafted and presented to the 1997 Montana Legislature by the Department of Public Health and Human Services, Child Support Enforcement Division. The bill contained provisions to require social security numbers on applications for marriage, professional and occupational, and commercial driver's licenses. SB 374 passed and the social security number provisions were codified into Montana law. However, SB 374 contained a number of contingent termination clauses, one of which was that all of the requirements in the new law for provision of social security numbers on certain documents would sunset July 1, 1999.

Then, on August 5, 1997, the President signed the Balanced Budget Act of 1997, P.L. 105-33. Among many other provisions, this Act contained technical amendments to the child support provisions of PRWORA. P.L. 105-33 required a social security number be provided on a recreational license application and expanded the requirement to all driver's license applications, not just commercial driver's licenses.² Montana's next opportunity to comply with these provisions of federal law came in 1999.

SB 76 was offered in 1999 to comply with these and one other technical amendment required by P.L. 105-33. SB 76 proposed to amend MCA 87-2-106 and 87-2-202 to include a social security number among the information an applicant must provide for hunting, fishing and wildlife conservation licenses. Confidentiality provisions were added to ensure that the social security number, once received, was used only by the Department of Public Health and Human Services for child support enforcement purposes. Another provision required the number to be deleted from the Department of Fish, Wildlife and Parks electronic database five years after the last

¹ The requirement is found at Section 317 of Title III, Subtitle B, H.R. 3734, P.L. 104-193.

² The requirement is found at Section 5536 of Title V, Subtitle F, Chapter 3 of H.R. 2015, P.L. 105-33.

license application. This bill passed. The recreational license application provisions were effective July 1, 1999 for the license year beginning March 1, 2000.

During the 1999 session the Montana legislature also passed SB 30, removing the July 1, 1999 sunset from the previously passed social security number requirements.

Fiscal impact of state repeal of requirement to furnish social security number on recreational license applications.

Title IV-D of the federal Social Security Act, 42 USC 651 et seq., established the federal and state child support enforcement program. 42 USC 654 sets out the conditions for an approved state plan and 42 USC 666 contains many of the required state laws. The repeal of any law required as a condition of an approved state plan for Title IV- D services subjects the plan to disapproval by the federal Office of Child Support Enforcement. Disapproval of the Title IV-D state plan results in the immediate suspension of all federal payments for the state's child support enforcement program. In Montana, this would result in the loss of approximately \$13 million per year.

In addition, in order to be eligible for a block grant for Temporary Assistance for Needy Families under Title IV-A of the Social Security Act, the state must certify as part of its Title IV-A state plan that it has an approved Title IV-D state plan. Upon disapproval of a Title IV-D state plan, the Title IV-A state plan is also subject to disapproval. Upon disapproval of a Title IV-A state plan, the state loses approximately \$45 million in federal funding for TANF per year.

Therefore, the total amount of federal funding at risk for these two programs is approximately \$116 million for the biennium.

The requirement to furnish social security number on recreational license application does not violate the federal Privacy Act of 1974.

Generally, the Privacy Act of 1974, 5 USC 552a, applies to federal government agencies, not private business or state or local government. However, a particular section of the Act cited by those arguing that the requirement violates the Privacy Act is known as 5 USC 552a (note). It was enacted as Section 7 of P.L. 93-579 in 1974, but was never codified. Section 7 stated:

- Sec. 7. (a)(1) It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.
- (2) the provisions of paragraph (1) of this subsection shall not apply with respect to -
- (A) any disclosure which is required by Federal statute, or
- (B) the disclosure of a social security number to any Federal, State , or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to

such date to verify the identity of an individual.

(b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

As is seen from subsection (2)(A), subsection (1) does not apply when there is a specific federal statute requiring disclosure of a social security number. As stated above, 42 USC 666(a)(13) specifically requires an applicant for a recreational license to supply his or her social security number on the application. In press related to this issue before the new license year began on March 1, 2000, the Department of Fish, Wildlife and Parks advised the public of the new requirement for a social security number, that it is required by Montana SB 76 which was enacted to comply with federal child support law, and that it will be used for child support enforcement purposes.