

SENATE BILL REPORT

EHB 1864

As Reported By Senate Committee On:
Judiciary, March 27, 2001

Title: An act relating to information requirements in family law court files.

Brief Description: Revising information requirements in family law court files.

Sponsors: By Representatives Dickerson, Casada and McIntire.

Brief History:

Committee Activity: Judiciary: 3/19/01, 3/27/01 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Constantine, Vice Chair; Costa, Hargrove, Kastama, Long, Thibaudeau and Zarelli.

Staff: Aldo Melchiori (786-7439)

Background: Federal law requires the Social Security number in the record for any individual who is subject to a divorce decree, support order, or paternity declaration or acknowledgment. Family law records are generally open for public viewing. Federal law also requires safeguards designed to protect the privacy rights of the parties. At any time, a party may bring a motion to seal the records and files in a civil proceeding, but this provision is not used by the parties in most family law cases. There is concern that unscrupulous persons may be using these files for identity theft.

Summary of Bill: A petition for dissolution must include the last known state of residence of each party and if the last known state is Washington, the last known county of residence. The addresses of the children are not required on the dissolution petition. All petitioners in dissolution, nonparental, family court, child support, parentage, and child custody court actions must complete a confidential information form. Parties to administrative support orders are also required to complete and update a confidential information form. In this case, the Division of Child Support may adopt rules governing the collection of the data in the confidential information form, as well as collection of the names of the children, their Social Security numbers, and dates of birth.

The confidential information form includes: the parties' current residence and mailing addresses, telephone numbers, dates of birth, Social Security numbers, driver's license numbers, and the names, addresses, and telephone numbers of the parties' employers. The clerk of the court does not accept petitions, except in state initiated parentage actions, orders of child support, decrees of dissolution, or paternity orders for filing such actions, unless the confidential information form is filed. The clerk may collect the information electronically.

The clerk of the court must transmit the confidential information form or data to the Division of Child Support with a copy of the child support order and may provide copies to the state administrative agency that administers Title IV of the federal Social Security Act. An additional court rule, that clarifies the circumstances under which the confidential information form may be accessed and by whom, is currently under consideration.

The delegation of authority to the Division of Child Support is limited to the minimum necessary to administer the act's clear and unambiguous objectives and to the administration of circumstances and behaviors foreseeable at the time of enactment. Upon judicial review, the agency bears the burden of demonstrating that the agency action was authorized by law and was valid in circumstances when the interest of the party arises from agency action imposing a penalty on the party. The party challenging the validity of the rule may petition any superior court in the state for a declaratory judgment.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: We need to be much more sensitive to what confidential information is contained in family court files and how it could be misused. Family court files are now sometimes used to commit identity theft.

Testimony Against: Information in these files is sometimes used to find the addresses of people for other legitimate purposes. The bill will make it more difficult to locate persons for service in other cases.

Testified: PRO: Representative Dickerson, prime sponsor; Betty Gould, Washington State Association of County Clerks; Debbie Wilke, Washington Association of County Officials; David Stillman, Division of Child Support; Mary McQueen, Office for the Administrator of the Courts; CON: Bill Harrington, American Father Alliance.