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The Honorable John Cornyn
Attorney General
Opinions Committee
209 W. 14th Street
Austin, TX 78701

RECEIVED
JAN 31 2001
OPINION COMMITTEE

FILE # ml-41866-00
I.D. # 41866

Dear General Cornyn,

I would like to take this opportunity to request a formal Attorney General's Opinion on the following issue:

In August 1996, President Clinton signed a law the Personal Responsibility and Work Opportunity Reconciliation Act. This legislation stated the social security number of any applicant for a professional license, driver's license, occupational license or marriage license be recorded on the application (42 USC, Sec. 666(a)(13)(A).

In July 1999, the Office of Child Support Enforcement, U.S. Department of Health and Human Services, interpreted the statute to require states to have procedures to require a social security number that the applicant may have. Furthermore, the interpretation stated the Act does not require that an individual have a social security number as a condition of receiving the license.

It was recommended in this interpretation that states require persons not possessing a social security number to submit a sworn affidavit under penalty of perjury stating they do not have a social security number.

I would like an Attorney General's opinion on whether or not social security numbers are required by the State of Texas as a condition to apply for a Texas driver's license.

Following this letter is a copy of the interpretation issued by U.S. Department of Health and Human Services.

Thank you for your prompt attention to this matter.

Sincerely,

Jim Solis
Chairman, House Committee on Economic Development

U.S. Department of Health and Human Services
Administration for Children & Families
Office of Child Support Enforcement

PIQ-99-05

DATE: July 14, 1999

TO: State IV-D Directors and Regional Program Managers

FROM: David Gray Ross
Commissioner
Office of Child Support Enforcement

RE: Inclusion of Social Security Numbers on License Applications and Other Documents

It has come to our attention that there is some confusion regarding the issue of inclusion of social security numbers on license applications and other documents.

Section 466(a)(13) of the Social Security Act (Act) requires States to implement procedures requiring that the social security number(s) of any applicant for a professional, driver's, occupational, recreational or marriage license be recorded on the application. In addition, section 466(a)(13) of the Act requires procedures requiring that the social security number(s) of any individual subject to a divorce decree, support order or paternity determination or acknowledgment be placed in the records relating to the matter and that the social security number(s) of any individual who has died be placed in the death records and recorded on the death certificate. Some States have asked how this requirement applies to those applicants or individuals that do not have social security numbers.

We interpret the statutory language in section 466(a)(13) of the Act to require that States have procedures which require an individual to furnish any social security number that he or she may have. Section 466(a)(13) of the Act does not require that an individual have a social security number as a condition of receiving a license, etc. We would advise States to require persons who wish to apply for a license who do not have social security numbers to submit a sworn affidavit, under penalty of perjury, along with their application stating that they do not have a social security number. Such an affidavit should also be required for divorce, support or paternity matters where an individual indicates that he or she does not have a social security number or in death cases where a family member, next of kin indicates that the deceased did not have a social security number.

This is consistent with the position we took in PIQ-97-04 regarding the requirement for inclusion of social security numbers on voluntary paternity acknowledgement affidavits. In PIQ-97-04 we stated that, although section 452(a)(7) of the Act specified that the social security number of each parent is one of the minimum requirements of an affidavit to be used for the voluntary acknowledgment of paternity, the omission of one or both of the social security numbers would not invalidate the acknowledgment.

If you have questions regarding this subject, please contact Jan Rothstein of my staff at (202) 401-5073.