

Legislative Analysis



PROHIBIT PERSONAL IDENTIFYING INFORMATION IN ELIGIBLE DOMESTIC RELATIONS ORDERS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6189 as enrolled

Public Act 348 of 2008

Sponsor: Rep. Barb Byrum

House Committee: Intergovernmental, Urban, and Regional Affairs

Senate Committee: Judiciary

Second Analysis (12-30-08)

BRIEF SUMMARY: The bill prohibits the inclusion of personal identifying information in court filings that concern eligible domestic relations orders.

FISCAL IMPACT: The bill would have no identifiable fiscal impact on state or local government.

THE APPARENT PROBLEM:

Often the documents officially recorded by courts, including court orders that concern divorce, child support, paternity, and domestic relations, contain the signatures and Social Security numbers of those who file them, and also of those about whom they are filed.

As electronic records have proliferated, and access to records made easier on the Internet, those people whose Social Security numbers and other personal identifying information are available on the Internet risk the theft of their identity by unscrupulous people who violate the law. According to earlier committee testimony, there have been some 7,000 cases of identity fraud in Michigan.

In some instances, state agencies require personal identifying information on the public records that are filed in court. For example, in the case of Domestic Relations Orders--those orders used (among other things) to address pension rights during divorce proceedings--the Michigan Office of Retirement Services requires that the divorcing parties' Social Security numbers be included in the body of the order, rather than as an attachment. The Office of Retirement Services has continued this practice under the advice of the Office of the Attorney General, despite the fact that the State Court Administrative Office has, since its 2004 directive, sanctioned all attorneys who file records with the court having Social Security numbers. According to the Attorney General, the Social Security numbers must be included in the orders because the law governing Eligible Domestic Relations Orders requires them.

To protect citizens' identities and their right to privacy, legislation has been introduced that would prohibit courts from entering an eligible domestic relations order that contains personal identifying information; or to file the personal identifying information in an attachment.

THE CONTENT OF THE BILL:

The bill would prohibit the inclusion of certain personal identifying information in court filings that concern eligible domestic relations orders. A more detailed explanation follows.

House Bill 6189 would amend the Eligible Domestic Relations Order Act (MCL 38.1702) to remove, from the definition of the term "eligible domestic relations order," the requirement that Social Security numbers be included in a court's order. Instead, the bill requires that the Social Security numbers of the participant and the alternate payee be sent to the retirement system in an attachment to the order. The bill specifies that the attachment is *not* to be filed with the court, but instead must be attached to the domestic relations order when it is sent to the plan administrator for approval.

The bill also revises the definition of "eligible domestic relations order" to require that an order contain names and last known addresses of the participant and alternate payee, and eliminating the requirement that an order contain the names, addresses, *and Social Security numbers* of the participant and alternate payee.

ARGUMENTS:

For:

House Bill 6189 would require that Social Security numbers on Eligible Domestic Relations Orders be filed with the Michigan Office of Retirement Services as attachments, rather than entered in the body of the orders. According to the Family Law Section of the Michigan Bar Association (whose members helped to draft House Bill 6189), the bill eliminates what has been a "catch 22" for attorneys who have been caught between the conflicting requirements of the Eligible Domestic Relations Orders Act and a directive of the State Court Administrative Office which has, since 2004, sanctioned attorneys who file documents with the courts having Social Security numbers.

Legislative Analyst: J. Hunault
Fiscal Analyst: Ben Gielczyk
Bethany Wicksall

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.