

BILL ANALYSIS

Senate Research Center
77R6396 JRD-D

S.B. 867
By: Nelson
Business & Commerce
3/5/2001
As Filed

DIGEST AND PURPOSE

As the means by which the collection and use of personal information swiftly evolves in areas such as medicine, government services, financial businesses and retail commerce, public concern about privacy of personal information grows. Corresponding rapid changes are occurring in federal and other states' efforts to address privacy concerns, particularly in the medical, financial, and government information sectors. Further, Texas' move toward electronic provision of government services carries with it new privacy implications along with the promise of increased efficiency and effectiveness. Yet, though the state has in place laws that deal in varying fashion with privacy, it lacks a consistent or comprehensive personal information privacy policy. As proposed, S.B. 867 establishes an interim privacy task force to make a focused assessment of the effect of Texas laws on individuals, commerce, and government operation in relation to personal information privacy concerns.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. TASK FORCE ON PERSONAL PRIVACY. Requires the lieutenant governor and the speaker of the house of representatives to establish a joint interim task force to study issues identified by this Act that affect personal privacy. Requires the lieutenant governor and the speaker to each appoint five members to the task force. Requires the task force to elect a presiding officer and assistant presiding officer from among its members. Requires the task force to meet at the times and places within the state that the task force designates. Requires the task force to develop and implement policies that provide the public with a reasonable opportunity to appear before the task force and to speak on any issue being studied by the task force. Requires a legislative entity to assist the task force at the request of the lieutenant governor or the speaker and a state agency in the executive branch of state government to assist the task force at the request of the task force. Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the size or composition of the task force or of the advisory committee created under Section 2 of this Act.

SECTION 2. ADVISORY COMMITTEE. Requires the task force to appoint an advisory committee to assist it in performing its duties. Provides that the advisory committee consists of the number of members that the task force considers advisable. Requires the task force to appoint an approximately equal number from the public and private sectors. Requires the public-sector appointments to include certain representatives from state agencies. Requires private-sector appointments to include individuals involved in certain fields. Requires the advisory committee to include members who understand the implications that advances in information technology have for personal privacy.

SECTION 3. ANALYSIS OF EXISTING AND PROPOSED LAW. Requires the task force to identify and analyze existing and proposed privacy statutes and rules of this state, other states, and the federal government. Requires the task force, in performing an analysis, to address the extent to which the existing or proposed privacy statutes and rules benefit individuals; impose financial, efficiency, or

lost opportunity costs on governmental entities or private businesses; and benefit commerce or benefit governmental effectiveness or efficiency by creating an environment in which individuals are more likely to willingly divulge information about themselves. Requires the task force to identify and analyze other existing and proposed statutes and rules of this state, other states, and the federal government with respect to the manner in which the statutes and rules affect individual privacy. Requires the task force, in performing an analysis, to address the extent to which existing or proposed statutes and rules that affect individual privacy impose burdens on individuals, adversely affect individuals' lives, or contravene commonly held expectations of individual privacy; benefit governmental entities or private businesses with respect to increased revenues or financial gain, increased efficiency, or increased opportunities; and affect commerce or affect governmental effectiveness by creating an environment in which individuals become less likely to willingly divulge information about themselves. Requires the office of the attorney general to coordinate with and assist the task force in performing legal analyses.

SECTION 4. STUDY REGARDING CONSENT TO DISCLOSURE. Defines "personal information." Requires the task force to conduct a study regarding the advantages, disadvantages, and feasibility of requiring by law in various circumstances that certain personal information is authorized to be released by a governmental entity or a private business only with the prior informed consent of the individual.

SECTION 5. Requires the task force to report the results of its study and its recommendations to the lieutenant governor and the speaker by November 1, 2002. Requires the task force to include in its report its conclusions regarding the advisability of enacting legislation with respect to each of the topics that the task force studied.

SECTION 6. Provides that the task force and advisory committee are abolished and this Act expires September 1, 2003.

SECTION 7. Effective date: upon passage or September 1, 2001.