



OFFICE OF THE ATTORNEY GENERAL  
CONNECTICUT

WILLIAM TONG  
ATTORNEY GENERAL

December 21, 2022

*By U.S. Mail and Email*

Beth Bye  
Commissioner, Office of Early Childhood  
450 Columbus Boulevard, Suite 303  
Hartford, Connecticut 06103

*Re: Formal Opinion Request on Provision of Social Security Numbers in Childcare Licensing Applications*

Dear Commissioner Bye:

Connecticut law empowers the Office of Early Childhood (OEC) to regulate and license childcare providers. As part of the licensing process, OEC requires applicants to provide identifying information. By letter dated August 24, 2022, you asked “whether an Individual Taxpayer Identification Number (ITIN) may be utilized in lieu of a Social Security number (SSN) on childcare license applications under the statutory scheme applicable to the OEC.”

In this formal opinion, we conclude that OEC must request each applicant’s SSN. It must also record the SSN of any applicant who has one. But it need not reject a license application just because the applicant lacks an SSN.

### **Legal Background**

Your question calls for an interpretation of two statutes, Conn. Gen. Stat. §§ 4a-79 and 17b-137a, that concern the information the state seeks in granting licenses.

Section 4a-79 is the more general statute, aimed at ensuring efficient and accurate tax collection. It commands public agencies, “as part of any procedure for issuing any license,” to collect each applicant’s SSN, federal employer identification number (EIN), or both – if available. If the numbers are unavailable, the agency must require the applicant to provide “the reason or reasons for the unavailability.” On its face, then, § 4a-79 does not require rejecting applicants who lack an SSN.

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Next we turn to § 17b-137a, which supplements § 4a-79 and governs any “application for a license, certification or permit to engage in a profession or occupation regulated pursuant to the provisions of title 19a, 20 or 21.” OEC licenses childcare providers under title 19a.

The Connecticut General Assembly passed § 17b-137a in response to a federal mandate aimed at facilitating child support collection. Signed into law on August 22, 1996, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) conditioned the availability of some federal welfare funds on state compliance with uniform child support laws and procedures. Congress believed that states could use SSNs to identify, track down, and collect child support funds from parents seeking to evade their obligations. *See Michigan Dep’t of State v. United States*, 166 F. Supp. 2d 1228, 1231 (W.D. Mich. 2001) (explaining purpose of PRWORA’s provisions on collecting SSNs). So PRWORA’s § 317 directed states – on pain of losing some federal funding – to enact laws requiring that the SSNs of:

- (A) any applicant for a professional license, commercial driver’s license, occupational license, recreational license, or marriage license be recorded on the application;
- (B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and
- (C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate.

42 U.S.C § 666(13).<sup>1</sup>

Connecticut quickly took action. In a summer 1997 special session, the General Assembly passed Public Act 97-7 – now encoded at § 17b-137a – to conform our law with the federal mandate. *See* 40 Conn. H.R. Proc., pt. 19, 1997 Spec. Sess. (June 18, 1997) (remarks of Rep. Abrams) (“This and the bill that follows are responses to the recently enacted federal welfare reform acts.”). The new law provided:

- (a) The Social Security number of the applicant shall be recorded on each (1) application for a license, certification or permit to engage in a profession or

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<sup>1</sup> Under the federal Privacy Act of 1974, government cannot condition rights, benefits, or privileges on an individual’s disclosure of their SSN. But the Act carved out an exception – applicable here – where the disclosure is required by federal law.

occupation regulated pursuant to the provisions of title 19a, 20 or 21; (2) application for a commercial driver's license or commercial driver's instruction permit completed pursuant to subsection (a) of section 14-44c; and (3) application for a marriage license made under section 46b-25.

(b) The Social Security number of any individual who is subject to a dissolution of marriage decree, support order or paternity determination or acknowledgment shall be placed in the records relating to the matter.

(c) The Social Security number of the deceased person shall be recorded on each death certificate completed in accordance with subsection (b) of section 7-62b.

(d) Any Social Security number of any individual on any record or document required pursuant to this section shall not be disclosed except as provided under section 17b-137.

Other states joined Connecticut in passing laws complying with the federal mandate. *See, e.g.*, La. R.S. § 37:23 (law responsive to PWRORA, requiring professional licensing boards to seek SSNs from applicants; Tex. Fam. Code § 231.302 (“[T]o assist in the administration of laws relating to child support enforcement... each licensing authority shall request and each applicant for a license shall provide the applicant’s social security number.”)).

So the question here is: Does § 17b-137a – like § 4a-79 – merely require OEC to record the SSN of any applicant who has one? Or does it go farther, demanding that OEC reject a childcare license applicant who lacks an SSN? To answer that question, we look to the plain meaning of the statute; to its context within the statutory scheme; and to indicia of legislative intent. We are guided by the interpretations of similar statutes by the federal government and other states.

And there is a clear answer. Section 17b-137a commands OEC to request and record the SSN of any applicant who has one. But it does not condition licensure on having an SSN.

### **The Plain Meaning and Context of § 17b-137a Do Not Require Applicants to Provide a Nonexistent SSN as a Condition of Licensing**

We begin with the plain meaning of the text. Conn. Gen. Stat. § 1-2z (“The meaning of a statute shall, in the first instance, be ascertained from the text of the statute itself and its relationship to other statutes.”).

Section 17b-137a(a) does not command an applicant to provide an SSN. Its requirement is not directed to the applicant at all. Nor does it command agencies to deny licenses to applicants who lack an SSN. On its face, then, the statute cannot be read to control the issuance or nonissuance of licenses. It controls only what must be recorded on applications.

Context is helpful here. Reading § 17b-137a(a) to mandate an SSN as a precondition of licensure would require reading part of the same statute, § 17b-137a(c), to forbid issuing a death certificate if a decedent lacks an SSN. The legislature could not have intended that absurd result. *See Soto v. Bushmaster Firearms Int'l, LLC*, 331 Conn. 53, 134 (2019) (recognizing the canon of construction that dictates construing statutes to avoid absurd outcomes). Instead, the entire statute should be read as it is written – as a command to record available information.

### **Persuasive Authority and Indicia of Legislative Intent Confirm Our Reading**

The federal government interprets § 17b-137a's progenitor statute as allowing states to license applicants who lack SSNs. That interpretation of a mirroring federal law is persuasive authority, especially here, where the General Assembly specifically responded to Congress and showed no intent to go beyond the Congressional mandate. *See Woodrow Wilson of Middletown, LLC v. Conn. Hous. Fin. Auth.* 294 Conn. 639, 647(2010) (“When a state statute is ambiguous and in need of construction, this court has frequently looked to analogous federal statutes for guidance in the interpretation of our state act.”).

In a 1999 memorandum, the Commissioner of the U.S. Department of Health and Human Services' Office of Child Support Enforcement gave an authoritative gloss on 42 U.S.C. § 666(a)(13) – the statute whose passage as part of PWRORA led the Connecticut General Assembly to adopt § 17b-137a:

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.

PIQ-99-05 (July 14, 1999), <https://tinyurl.com/mvkmz2kn>.<sup>2</sup> So the agency with authority to enforce 42 U.S.C. § 666 does not read the law as regulating licensure – only as facilitating child support enforcement by collecting SSNs from applicants who have them.<sup>3</sup>

Our sister states have repeatedly relied on this federal authority in interpreting their own mirroring statutes as allowing licensure of applicants who lack SSNs. Thus, for instance, Louisiana’s Attorney General ruled that Louisiana’s law adopting 42 U.S.C. § 666 does not prohibit the state from granting architect licenses to applicants who lack an SSN. 2018 La. Op. Att’y Gen. No. 18-0083.<sup>4</sup> *And see, e.g.*, 2008 Tenn. Op. Att’y. Gen. No. 08-126 (applicant who lacks an SSN need not obtain and provide an SSN to receive a marriage license); 2005 Tex. Op. Att’y. Gen. No. GA-0289 (neither state nor federal law requires obtaining an SSN as a condition for commercial pesticide applicator licensing); 1999 Fla. Op. Att’y. Gen. No. 99-71 (intent of Florida’s law, passed in response to federal mandate, was not to limit who could obtain a professional license).

As Louisiana’s Attorney General concluded, these states’ reading also finds support in Congressional intent, which drove state legislative intent here. 42 U.S.C. § 666(a)(13), like its state descendants, was passed “exclusively for the purposes of child support enforcement.” 2018 La. Op. Att’y Gen. No. 18-0083. Neither the federal law nor the state cognates, including Connecticut’s law, were intended to dictate how state licensing authorities should exercise their discretion around granting or denying licenses. This child support enforcement purpose is why § 17b-137a(d) only allows disclosure of SSNs collected under the statute “as provided under section 17b-137” – a statute that controls how a state’s child support enforcement agencies can obtain information for collections.

## Conclusion

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<sup>2</sup> The memorandum also advises (but does not command) states to require applicants who lack an SSN to instead submit an affidavit attesting that they do not have an SSN.

<sup>3</sup> This reading is consistent with the federalism canon of statutory interpretation. Licensing childcare facilities is the historical responsibility and prerogative of the states – a core exercise of their traditional police power to protect public health and safety. Courts presume that Congress does not legislate to interfere with that state power absent “exceedingly clear language” *U.S. Forest Serv. v. Cowpasture River Pres. Ass’n*, 140 S. Ct. 1837, 1849–1850 (2020).

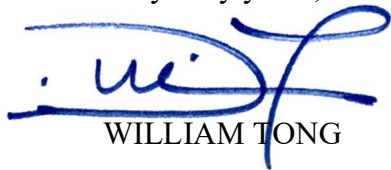
<sup>4</sup> “Based on the relevant federal office’s interpretation of 42 U.S.C. § 666(a)(13), we are persuaded that federal law does not require the states to insist on collecting social security numbers from professional license applicants as a prerequisite to licensure in situations where the applicant has not been issued a social security number. Given that the Louisiana Legislature enacted La. R.S. 37:23 to conform to federal law, Louisiana law ought to be interpreted to require no more than what federal law demands.”

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We conclude that OEC must comply with §§ 17b-137a and 4a-79 by seeking the social security number and the EIN of each applicant for a childcare license. It must also record the SSN and/or EIN of any applicant who has one. And it must seek reasons from applicants who lack those identifiers. But it need not precondition licensure on an applicant's providing an SSN – or EIN, or ITIN – that they do not have.<sup>5</sup>

I trust this opinion responds to your request.

Very truly yours,



WILLIAM TONG

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<sup>5</sup> This opinion does not affect OEC's obligation to verify the identity of applicants and to obtain and scrutinize applicants' criminal records. But we understand that OEC uses an appropriate fingerprinting process to check criminal records. An applicant's having an SSN has nothing to do with that process.