

STAFF ANALYSIS: ACA 51 (Cory), as introduced March 13, 1972

SUBJECT: Adds privacy to inalienable rights....makes technical changes

SUMMARY: Amends existing Art. I (Declaration of Rights) to include the pursuing and obtaining "privacy" among the State Constitution's inalienable rights.

Changes masculine words such as "he", "his", and "males" to persons and adds the word Assemblywomen to the existing sections where the word "Assemblymen" is presently used.

BACKGROUND: The right to privacy does not exist per se in the Federal Constitution or any other state Constitutions....the courts, however, have articulated a right to be free from certain kinds of intrusion of governmental acts...the Courts' work in the privacy field is defining the right solely by the wrong...(libel, unlawful search and seizure, telephone tapping, fair credit reporting act, etc.).

Author carried a similar measure last session as a companion to his personal data bill, regulating use of and access of personal data by public agencies.

FEDERAL DECISIONS: Best known of so called "right to privacy" cases is Griswold v. Conn. 381 U.S. 479 (1965), in which the Supreme Court struck down Connecticut's anti-contraceptive statute on ground that it violated a couple's right to privacy...the court articulated that the fear of governmental voyeurism was thought to be almost as destructive of personality as would be a physical intrusion. However, to date no definition has been formulated of a constitutional right of privacy...it appears, that the court draws from the entire Bill of Rights and various amendments, but it is not clear from case law who is protected and from what.

COMMENT:

"Persons," according to sec. 17 of Code of Civil Procedure, includes a corporation as well as a natural person. Does the author wish to extend inalienable rights to the corporate person?

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