

BILL NUMBER: AB 2299 AMENDED BILL TEXT

AMENDED IN ASSEMBLY APRIL 9, 2012

INTRODUCED BY Assembly Member Feuer

FEBRUARY 24, 2012

An act to amend Section 6254.1 of, and to add Sections 27279.5 and 27279.7 to, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2299, as amended, Feuer. Local government: public safety officials: confidentiality.

Existing law sets forth the duties and powers of the board of supervisors of a county and the county recorder and county assessor of each county. Existing law requires the county recorder to, upon payment of proper fees and taxes, accept for recordation, any instrument, paper, or notice that is authorized or required by statute or court order to be recorded, as specified. Existing law allows any instrument or judgment affecting the title to, or possession of, real property to be recorded. Existing law requires a document that effects or evidences a transfer or encumbrance of an interest in real property to include the name or names in which the interest appears of record. Existing law requires the county recorder of each county to establish a social security truncation program for the redaction of social security numbers to create a public record version of official records.

~~Existing law, the California Public Records Act, requires state and local agencies to make public records available upon receipt of a request that reasonably describes an identifiable record not otherwise exempt from disclosure, and upon payment of fees covering direct costs of duplication.~~

This bill would authorize the board of supervisors of a county to establish a program that requires the names of *certain* public safety officials to be redacted from any property record of principal residence that is disclosed to the public by that county, except as specified. The bill would authorize a county to charge a fee for participation in the program. The bill would set forth requirements that would apply to the sale of aggregate data.

*Existing law, the California Public Records Act, requires state and local agencies to make public records available upon receipt of a request that reasonably describes an identifiable record not otherwise exempt from disclosure, and upon payment of fees covering direct costs of duplication.*

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

*SECTION 1. It is the intent of the Legislature in enacting this act to authorize the board of supervisors of any county to establish a county program to redact the name of a public safety official from a property record that contains the address of the principal residence of the public safety official. A public safety official is defined for purposes of this act as an official employed by a public agency responsible for law enforcement, the justice system, or corrections.*

~~SECTION 1.~~ *SEC. 2.* Section 6254.1 of the Government Code is amended to read:

6254.1. (a) Except as provided in Section 6254.7, this chapter shall not require disclosure of records that are the residence address of any person contained in the records of the Department of Housing and Community Development, if the person has requested confidentiality of that information, in accordance with Section 18081 of the Health and Safety Code.

(b) This chapter shall not require the disclosure of the residence or mailing address of any person in any record of the Department of Motor Vehicles except in accordance with Section 1808.21 of the Vehicle Code.

(c) This chapter shall not require the disclosure of the results of a test undertaken pursuant to Section 12804.8 of the Vehicle Code.

(d) This chapter shall not require disclosure of the name of any public safety official contained in any property record of a county that is disclosed to the public, if the public safety official has requested confidentiality of that information, in accordance with Section 27279.5, and the county maintains a program that redacts that information from property records pursuant to Section 27279.5.

~~SEC. 2.~~ *SEC. 3.* Section 27279.5 is added to the Government Code, to read:

27279.5. (a) The board of supervisors of a county may establish a program that requires the name of a public safety official to be redacted from any property record that is disclosed to the public by that county.

(b) Subdivision (a) shall apply only to a public safety official described in Section 27279.7 who has requested that his or her name be redacted from a property record that is disclosed to the public by that county. The county may prescribe the form or application by which a request of confidentiality shall be submitted pursuant to this subdivision.

(c) Notwithstanding subdivisions (a) and (b), this section shall not preclude a county from using or maintaining records internally that include the name of a public safety official who has requested redaction under the program.

(d) The county may charge a fee for participation in the program, provided the fee is reasonable and charged to cover only the costs of the program.

(e) (1) A county that chooses to establish a program pursuant to this section that sells aggregate data shall further require that the names of program participants remain confidential and not be posted on any Internet Web site or solicited, sold, or traded.

(2) A public safety official whose name is made public as a result of a violation of paragraph (1) may bring an action seeking

injunctive or declarative relief in any court of competent jurisdiction. If a court finds that a violation has occurred, it may grant injunctive or declarative relief and shall award the official court costs and reasonable attorney's fees. A fine not exceeding one thousand dollars (\$1,000) may be imposed for a violation of the court's order for an injunction or declarative relief obtained pursuant to this paragraph.

(3) A public safety official whose name is solicited, sold, or traded in violation of paragraph (1) may bring an action in any court of competent jurisdiction. If a jury or court finds that a violation has occurred, it shall award damages to that public safety official in an amount up to a maximum of three times the actual damages but in no case less than four thousand dollars (\$4,000).

(f) *Notwithstanding any other provision of this section, the following shall apply:*

(1) *A county that exercises reasonable care shall not be held civilly liable for the unintentional disclosure of the name of a public safety official.*

(2) *The name of a public safety official shall be released upon request of the public safety official.*

(g) For purposes of this section and Section 27279.7, the following definitions shall ~~apply~~ have the following meanings :

(1) "Post" means to intentionally communicate or otherwise make available to the general public.

(2) "Property record" means a property record that contains the address of principal residence of the public safety official.

(3) "Public safety official" means a person listed in Section 27279.7 who is eligible for , or participates in, the program.

~~SEC. 3.— Section 27279.7 is added to the Government Code, to read:~~

~~27279.7. (a) The name of any of the following public safety officials shall be redacted from a property record pursuant to Section 27279.5 if the public safety official requests the confidentiality of that information:~~

~~(1) A peace officer as defined in Sections 830 to 830.65, inclusive, of the Penal Code, or a person who is not a peace officer, but who may exercise the powers of arrest during the course and within the scope of his or her employment pursuant to Section 830.7 of the Penal Code.~~

~~(2) A public officer or other person listed in Sections 1808.2 and 1808.6 of the Vehicle Code.~~

~~(3) An "elected or appointed official" as defined in subdivision (f) of Section 6254.21.~~

~~(4) An attorney employed by the Department of Justice, the State Public Defender, or a county office of the district attorney or public defender, the United States Attorney, or the Federal Public Defender.~~

~~(5) A city attorney or an attorney who represent cities in criminal matters.~~

~~(6) An employee of the Department of Corrections and Rehabilitation who supervises inmates or is required to have a prisoner in his or her care or custody.~~

~~(7) A sworn or nonsworn employee who supervises inmates in a city police department, a county sheriff's office, the Department of the California Highway Patrol, federal, state, or a local detention~~

facility, or a local juvenile hall, camp, ranch, or home, or a probation officer as defined in Section 830.5 of the Penal Code.

~~—(8) A federal prosecutor, a federal criminal investigator, or a National Park Service Ranger working in California.~~

~~—(9) The surviving spouse or child of a peace officer defined in Section 830 of the Penal Code, if the peace officer died in the line of duty.~~

~~—(10) A state or federal judge or a court commissioner.~~

~~—(11) An employee of the Attorney General, a district attorney, or a public defender who submits verification from the Attorney General, district attorney, or public defender that the employee represents the Attorney General, district attorney, or public defender in matters that routinely place that employee in personal contact with persons under investigation for, charged with, or convicted of, committing criminal acts.~~

~~—(12) A nonsworn employee of the Department of Justice or a police department or sheriff's office that, in the course of his or her employment, is responsible for collecting, documenting, and preserving physical evidence at crime scenes, testifying in court as an expert witness, and other technical duties, or a nonsworn employee that, in the course of his or her employment, performs a variety of standardized and advanced laboratory procedures in the examination of physical crime evidence, determines the results, and provides expert testimony in court.~~

~~—(b) The name of a public safety official listed in subdivision (a) shall not be disclosed, except to any of the following:~~

~~—(1) A court.~~

~~—(2) A law enforcement agency.~~

~~—(3) The State Board of Equalization.~~

~~—(4) An attorney in a civil or criminal action that demonstrates to a court the need for the name, if the disclosure is made pursuant to a subpoena.~~

~~—(5) A governmental agency to which, under any law, information is required to be furnished from records maintained by the department.~~

*SEC. 4. Section 27279.7 is added to the Government Code , to read:*

*27279.7. (a) The name of any of the following public safety officials, whether active or retired, shall be redacted from a property record pursuant to Section 27279.5 if the public safety official requests the confidentiality of that information:*

*(1) An employee of a federal, state, or local law enforcement agency, not under suspension or otherwise lacking in good standing, except an employee whose principal duties are clerical or who is not engaged in law enforcement operations.*

*(2) A judge, federal magistrate, court commissioner, or referee who has statutory authority to preside in criminal proceedings.*

*(3) An attorney of a federal, state, or local prosecutorial or defense agency who represents that office in criminal matters.*

*(4) An employee of a federal, state, or local prosecutorial or defense agency whose responsibilities routinely place that employee in personal contact with persons under investigation for, charged with, or convicted of, committing criminal acts.*

*(5) An employee of a federal, state, or local agency who supervises inmates or is required to have a prisoner in his or her care or custody, or a probation officer or parole agent.*

*(b) Notwithstanding subdivision (a), Section 27279.5 and this*

*section shall not apply to an elected official in an elected office, or to a person who has been appointed on a temporary basis to fill a vacancy in an elected office, when that elected office is the attorney general, district attorney, sheriff, public defender, or city attorney or prosecutor.*

*(c) The name of a public safety official listed in subdivision (a) shall not be disclosed pursuant to Section 27279.5, except to any of the following:*

*(1) A court.*

*(2) A law enforcement agency.*

*(3) The State Board of Equalization.*

*(4) An attorney in a civil or criminal action that demonstrates to a court the need for the name, if the disclosure is made pursuant to a subpoena.*

*(5) A governmental agency to which, under any law, information is required to be furnished from records maintained by the county.*

~~SEC. 4.~~ SEC. 5. The Legislature finds and declares that this act imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to prevent crimes against public safety officials and their families, it is necessary that this act take effect.