



H.B. 201

123rd General Assembly
(As Introduced)

Reps. Jacobson, Clancy, Bateman, Callender, Carey, Corbin, DePiero, Evans, Haines, Jerse, Jones, Maier, Metelsky, O'Brien, Olman, Opfer, Perz, Pringle, Schuler, Sullivan, Taylor, Terwilleger, Willamowski, Young

BILL SUMMARY

- Generally provides that specified "peace officer residential and familial information" that is part of the personnel record of a peace officer is confidential and is not a public record.
- Specifies procedures by which persons or entities may obtain the release of a peace officer's otherwise confidential residential address.
- Continues existing law's general prohibition against a law enforcement agency, court, or court clerk's office disclosure, during the pendency of any criminal case, of the residential address of a peace officer who is a witness or arresting officer in the case.

CONTENT AND OPERATION

Peace officers: confidential information in personnel records

General rule

The bill provides that specified "peace officer residential and familial information" that is kept by a peace officer's employer as part of the peace officer's personnel record *generally* is confidential and *generally* is not a public record under the Public Records Law for as long as the employer keeps that information, even if the peace officer ceases to be employed by the employer (secs. 149.43(A)(1)(p) and 149.432(A)). (See **COMMENT 1** and **2**.)

The bill defines the "peace officer residential and familial information" covered by the general rule as information that discloses any of the following (sec. 149.432(D)):

(1) The address of a peace officer's actual personal residence, except for the applicable state or political subdivision;

(2) A peace officer's Social Security number, residential telephone number, bank account number, emergency telephone number, or medical information;

(3) The name of any beneficiary of employment benefits (e.g., life insurance benefits) provided to a peace officer or other designated beneficiary by a peace officer's employer;

(4) The name, residential address, employer name, employer address, Social Security number, residential telephone number, bank account number, or emergency telephone number of a peace officer's spouse, former spouse, or child.

Exceptions

There are two exceptions to the "peace officer residential and familial information" confidentiality--nonpublic record provisions. The first exception is the continued operation of existing law's "home address of a peace officer disclosure prohibition and court order exception" provisions that apply when a peace officer is a witness or arresting officer in a pending criminal case (secs. 149.432(C) and 2921.24(D)). If that circumstance is not involved, a second exception may apply: namely, any person or entity may bring an action in a court of common pleas, or may file a written request with the chief or highest-ranking officer of the law enforcement agency that employs a peace officer, to obtain the release of *specified* information when the release of that information is in the public interest. The only information that the bill permits to be released in the court action, or to be requested from and released by the chief or highest-ranking officer, is *a peace officer's actual personal residence address*; thus, the other types of confidential information listed in (2) through (4) under "**General rule**," above, may not be released by court order and may not be requested from or released by the chief or highest-ranking officer. If the person or entity seeking to obtain the release of the peace officer's actual personal residence address proves to the satisfaction of the court or the chief or highest-ranking officer that the release of that information is in the public interest, that information must be released to that person or entity. When the peace officer's actual personal residence address must be so released, it no longer is considered to be confidential and is a public record for purposes of the Public Records Law. (Secs. 149.43(A)(1)(p) and 149.432(A) and (B).)

Peace officers as witnesses or arresting officers in pending criminal cases

Existing law generally prohibits any officer or employee of a law enforcement agency, a court, or a court clerk's office from disclosing during the pendency of any criminal case the *home address* of any peace officer who is a witness or arresting officer in the case. (See **COMMENT 3**.) Two exceptions to this general prohibition are (1) that a peace officer may disclose the peace officer's own home address and (2) that any person may disclose a peace officer's home address pursuant to a disclosure order of the court in which a criminal case is pending. The court may enter the disclosure order if the peace officer is a witness or arresting officer in the pending criminal case and if the court determines, after a written request for the disclosure, that good cause exists for disclosing the peace officer's home address. An individual who violates the prohibition commits the criminal offense of "disclosure of confidential information," which is a misdemeanor of the fourth degree. (Sec. 2921.24.)

The bill refers to this general prohibition and its exceptions, but it does not affect the operation of the prohibition, its exceptions, or the associated criminal penalties (secs. 149.432(C) and 2921.24(D)).

COMMENT

1. In connection with its "peace officer residential and familial information" confidentiality--nonpublic record provisions, the bill uses a different and *broader* definition of a "peace officer" than that contained in section 2935.01 of the Revised Code (see **COMMENT 3**). The bill defines a "peace officer" for purposes of those provisions to include the persons listed as peace officers in section 109.71 of the Revised Code (see **COMMENT 2**), state troopers appointed in accordance with section 5503.01 of the Revised Code, and employees of the Department of Rehabilitation and Correction and the Department of Youth Services. The bill's definition of a "peace officer" does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff. (Sec. 149.432(D)(2).)

2. Existing section 109.71(A) of the Revised Code, a section in the Ohio Peace Officer Training Council Law, defines a "peace officer" to include the types of individuals covered by section 2935.01's definition of a "peace officer" (see **COMMENT 3**) plus the following: police officers employed by a railroad company and appointed and commissioned by the Governor; certain Department of Taxation employees engaged in the enforcement of the Cigarette Tax Law; undercover drug agents; Department of Natural Resources' park officers, forest

officers, preserve officers, wildlife officers, and state watercraft officers; certain park district or conservancy district employees; police officers who are employed by a hospital that employs and maintains its own proprietary police department or security department and who are appointed and commissioned by the Governor; police officers who are employed by a qualified nonprofit corporation police department; special police officers employed by the Department of Mental Health or Department of Mental Retardation and Developmental Disabilities; members of a campus police department; certain investigators appointed by the Auditor of State; and certain special police officers designated by the Superintendent of the State Highway Patrol.

3. For purposes of existing law's offense of disclosure of confidential information, a "peace officer" generally means any of the following (sec. 2935.01(B)):

... a sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of any municipal corporation, ... member of a police force employed by a metropolitan housing authority ... , member of a police force employed by a regional transit authority ... , state university law enforcement officer ... , liquor control investigator or food stamp trafficking agent of the department of public safety, Ohio veterans' home policeman ... , police constable of any township, and police officer of a township or joint township police district, and ... the superintendent and troopers of the state highway patrol.

HISTORY

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