



Sub. H.B. 539*

123rd General Assembly

(As Reported by S. State & Local Government & Veterans Affairs)

Reps. Goodman, Corbin, Carey, Van Vyven, Evans, R. Miller, Jolivette, Vesper, Jacobson, Williams, Pringle, Redfern, Flannery, O'Brien, DePiero, Allen, Hartnett, A. Core, Ferderber, Buehrer, J. Beatty, Salerno, Verich, Barnes, Roman, Stevens, Winkler, D. Miller, Metelsky, Schuler, Harris, Brading, Clancy, Barrett, Britton, Mottley, Terwilleger, Gooding, Smith, Jones

BILL SUMMARY

- Excludes from inspection and copying under the Public Records Law information pertaining to the recreational activities of a minor.
- Provides that peace officer residential and familial information "when maintained in a personnel record" of a peace officer is excluded from the definition of a public record, and also excludes from that definition records identifying a person's occupation as a peace officer other than campaign finance statements.
- Expands the definition of a peace officer for purposes of the Public Records Law's peace officer residential and familial information exemption to include the Superintendent and troopers of the State Highway Patrol.
- Declares an emergency.

* *This analysis was prepared before the report of the Senate State and Local Government and Veterans Affairs Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

CONTENT AND OPERATION

Exemption for information pertaining to recreational activities of a minor

The Public Records Law requires that "public records" be promptly prepared and made available for inspection and copying in accordance with specified rules and procedures (see **COMMENT**). The bill adds to the list of items that are *excluded* from the definition of a "public record" and, therefore, from that inspection and copying, information pertaining to the recreational activities of a person under the age of 18 (minor). The bill defines that information as information that is kept in the ordinary course of business by a public office (see **COMMENT**), that pertains to the recreational activities of a minor, and that discloses the address or telephone number of the minor or the minor's parent, guardian, custodian, or emergency contact person; the minor's Social Security number, birth date, or photograph; any medical record, history, or information pertaining to the minor; or any other information that had to be provided in order for the minor to participate in a recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to a recreational facility owned or operated by a public office. (Sec. 149.43(A)(1)(r) and (8).)

Changes in public records exemption for peace officer residential and familial information

Under current law, peace officer residential and familial information is excluded from the definition of a "public record" and, therefore, from inspection or copying under the Public Records Law. The Law defines this type of information as any information that discloses any of the following: (1) the address of the peace officer's personal residence except for the state or political subdivision of the residence, (2) information compiled from referral to or participation in an employee assistance program, (3) the Social Security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, the officer, (4) the name of any beneficiary of employment benefits provided to the officer by the officer's employer, (5) the identity and amount of any charitable or employment benefit deduction made by the employer from the officer's compensation unless the amount of the deduction is required by state or federal law, and (6) the name, the residential address, the name of the employer, the address of the employer, the Social Security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of the officer. (Sec. 149.43(A)(1)(p) and (7).) "Peace officer," as used in the exemption, generally means any of the peace officers

subject to the Peace Officer Training Commission Law (sec. 109.71, not in the bill), but does not include a county sheriff 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. 149.43(A)(7)).

The bill provides that the information listed above, when maintained in a *personnel record* of a peace officer, is excluded from the definition of a "public record." Similarly, *any record* that identifies a person's *occupation as a peace officer*, other than statements required to include the disclosure of occupation under the Campaign Finance Law, is exempt from the inspection and copying requirements of the Public Records Law as peace officer residential and familial information. (Sec. 149.43(A)(7)(a) and (b).)

The bill also changes the definition of a "peace officer" for purposes of the peace officer residential and familial information exemption to include the Superintendent and troopers of the State Highway Patrol (sec. 149.43(A)(7)).

COMMENT

1. "***Public record***" ***definition***. Existing law generally defines a "public record" as any record that is kept by any *public office* (see **COMMENT 5**), including, but not limited to, state, county, city, village, township, and school district units. "Public record" *does not include any of the following*: medical records; records pertaining to probation and parole proceedings; records pertaining to "judicial bypass" proceedings under the existing Abortion Notification Law or the existing Abortion Informed Consent Law and to related appeals; records pertaining to adoption proceedings, including the contents of an adoption file maintained by the Department of Health; information in a record contained in the putative father registry; certain other adoption-related records; trial preparation records; confidential law enforcement investigatory records; mediation-related or Ohio Civil Rights Commission-related records containing information that is confidential; DNA records stored in the DNA database; inmate records released by the Department of Rehabilitation and Correction (DRC) to the Department of Youth Services (DYS) or a court of record; records maintained by DHS pertaining to children in its custody released by DHS to DRC; intellectual property records; donor profile records; child support-related records maintained by the Department of Human Services; *peace officer residential and familial information*; trade secret information of a country hospital; or records the release of which is prohibited by state or federal law. The bill expands this list of items excluded from the definition of a "public record" and modifies the exemption for peace officer residential and familial information, both as explained in the body of this analysis. (Sec. 149.43(A)(1).)

2. **General right of access to public records.** The Public Records Law imposes the following duties upon entities that exercise governmental functions regarding their records: all covered public records must be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours; upon request, *a public office or person responsible for public records* is required to make copies available at cost, within a reasonable period of time; and, in order to facilitate broader access to public records, public offices are required to maintain public records in a manner by which they can be made available for inspection in accordance with the provisions described above. (Sec. 149.43(B)(1).)

3. **Choice of medium for copy of public record to be provided.** If any person chooses to obtain a copy of a public record, the public office or person responsible for the record must permit that person to choose to have the record duplicated upon paper, upon the same medium upon which the public office or person responsible keeps the record, or upon any other medium upon which the public office or person responsible reasonably can duplicate the record as an integral part of the normal operations of the public office or person responsible. When the person seeking the copy makes a choice under this provision, the public office or person responsible must provide a copy of the public record in accordance with the choice made by the person seeking the copy. (Sec. 149.43(B)(2).)

4. **Mailing of copy of public record.** Upon request, a public office or person responsible for public records must transmit a copy of a public record to any person by United States mail within a reasonable time after receiving the request for the copy. The public office or person responsible may require the person making the request to pay in advance the cost of postage and other supplies used in the mailing. Any public office may adopt a policy and procedures that it will follow in transmitting copies of public records by United States mail. That policy and procedures must allow for transmittal of a public record within a reasonable period of time after the request for it is made and may limit the number of records to ten per month that a person may request and be transmitted by mail for commercial purposes. (Sec. 149.43(B)(3).)

5. **"Public office" definition.** Existing law defines a "public office" as any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by Ohio law for the exercise of any governmental function (sec. 149.011(A)).

HISTORY

ACTION

DATE

JOURNAL ENTRY



Introduced	01-11-00	p.	1494
Reported, H. Ethics & Standards	01-27-00	pp.	1577-1578
Passed House (95-0)	03-15-00	pp.	1646-1648
Reported, S. State & Local Gov't & Veterans Affairs	---	---	---

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