



Ohio Legislative Service Commission

Bill Analysis

Aida S. Montano

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BILL SUMMARY

ADDRESS CONFIDENTIALITY PROGRAM

- Establishes an address confidentiality program in the Office of the Secretary of State.
- Permits an adult, a parent, or a guardian acting on behalf of a minor, incompetent, or ward to apply with the assistance of an application assistant to the Secretary of State to have an address designated by the Secretary of State serve as the person's address or the address of the minor, incompetent, or ward.
- Requires the Secretary of State to approve an application if it is filed in the manner and on the form prescribed under the bill and contains all of the information specified in the bill, including a sworn statement that the applicant fears for the safety of the applicant, the applicant's children, or the minor, incompetent, or ward on whose behalf the application is made.
- States that no tier I, tier II, or tier III sex offender/child-victim offender is eligible to apply to the Secretary of State to have an address designated by the Secretary of State to serve as the person's address under the address confidentiality program.
- In a criminal action involving specified offenses or in a protection order or consent agreement proceeding requires the court to notify the victim of the offense or the petitioner for the protection order, whichever is applicable, of the person's right to apply with the assistance of an application assistant to the Secretary of State to have an address designated by the Secretary of State serve as the victim's address or the address of the person protected by the protection order.

- Prohibits any person from falsely attesting in an application that disclosure of the applicant's address would endanger the applicant's safety, the safety of the applicant's children, or the safety of the minor, incompetent, or ward on whose behalf the application is made or knowingly providing false or incorrect information upon making an application.
- Permits a program participant to request that a governmental entity use the address designated by the Secretary of State as the program participant's address and, with certain exceptions, requires the governmental entity to accept that address.
- Requires the Office of the Secretary of State to daily place all first class mail of a program participant received that day into an envelope or package and mail it to the program participant at the mailing address provided in the application.
- Generally authorizes a program participant who is a qualified elector to vote by absent voter's ballot, provides that such program participant must apply to the Secretary of State for an absent voter's ballot using the participant's confidential address, prescribes the procedures pursuant to which the ballot is transmitted, provides for the verification of the program participant's registration and eligibility to vote by bipartisan teams of employees of the Office of the Secretary of State, and generally prohibits the Secretary of State from disclosing or making a program participant's voter registration record available for public inspection or copying.
- Allows a person to petition the Franklin County Court of Common Pleas for a hearing to order the Secretary of State to make a program participant's confidential address available to the person and prescribes the procedures for the service of notice and hearing.
- Prohibits the Secretary of State from disclosing or making a program participant's confidential address available for inspection or copying subject to specified exceptions, excludes such an address and all records pertaining to the address confidentiality program from the definition of "public record" under the Public Records Law, and prohibits any person who obtains the confidential address of a program participant from the Office of the Secretary of State, with knowledge that the address is protected under the address confidentiality program, from knowingly disclosing that address to any person not authorized to receive it.
- Specifies the circumstances in which the Secretary of State must cancel a program participant's certification and the circumstances in which the Secretary of State may cancel the certification.

- Authorizes the Secretary of State to designate one or more employees or volunteers of shelters for victims of domestic violence or other agencies in a county that serve victims of abuse to serve as application assistants for the applicants for certification, and requires the Secretary of State to adopt rules to facilitate the administration of the bill's provisions.
- Grants to the state and the Office of the Secretary of State immunity from liability in damages for injury, death, or loss to person or property that allegedly arises from the performance of the Secretary of State's duties.

FEDERAL LAW ENFORCEMENT OFFICER RESIDENTIAL AND FAMILIAL INFORMATION

- In the Public Records Law, expands the exclusion from the definition of "public record" for "peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the Bureau of Criminal Identification and Investigation (BCII) residential and familial information" to include "federal law enforcement officer residential and familial information."
- In the Public Records Law, expands the definition of "peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the BCII residential and familial information" to include federal law enforcement officer residential and familial information.
- Allows journalists to obtain from public offices and persons responsible for public records the address of the actual personal residence of a federal law enforcement officer and the name and address of the employer of such an officer's spouse, former spouse, or child if employed by a public office to the same extent as they may obtain that information as it relates to peace officers, parole officers, prosecuting attorneys, assistant prosecuting attorneys, correctional employees, youth services employees, firefighters, EMTs, or BCII investigators.
- Expands the procedure set forth in the Public Records Law for a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or BCII investigator to request that a public office other than a county auditor or a person responsible for the public records of a public office other than a county auditor redact the address of that person from any record made available to the general public on the internet to also apply to a similar request by a federal law enforcement officer.

- Expands the procedure set forth in existing law for a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or BCII investigator to submit a written request to the county auditor requesting the county auditor to remove the name of the person from any record available to the public on the internet or publicly accessible database and the general tax list and general duplicate of real and public utility property and insert the initials of that person on that record, general tax list, and general duplicate to also apply to a similar written request made by a federal law enforcement officer.
- Expands the prohibition in current law against the county auditor charging a fee when a current owner on any record available to the public on the internet or publicly accessible database and the general tax list, and general duplicate, of real and public utility property is a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or BCII investigator and is changing the current owner name listed on that record, general tax list, and general duplicate to the current owner's initials, to also apply in regard to a current owner on that record, general tax list, and general duplicate who is a federal law enforcement officer.

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CONTENT AND OPERATION

ADDRESS CONFIDENTIALITY PROGRAM

Application for designated address

The bill permits an adult person, a "parent," or a "guardian" acting on behalf of a minor, "incompetent," or "ward" to apply with the assistance of an "application assistant" to the Secretary of State to have an "address" designated by the Secretary of State serve as the person's address or the address of the minor, incompetent, or ward. The bill, however, states that no tier I, II, or III sex offender/child-victim offender is eligible to apply to the Secretary of State for an address under the program. The Secretary of State is required to approve an application if it is filed in the manner and on the form prescribed under the bill and if it contains all of the following (terms in quotation marks are defined below in "**Definitions**") (R.C. 111.32(A) and (E)):

(1) A sworn statement by the applicant that the applicant fears for the safety of the applicant, the applicant's children, or the minor, incompetent, or ward on whose behalf the application is made and that one or more of the following apply:

(a) The applicant provides proof that the applicant, any of the applicant's children, or the minor, incompetent, or ward on whose behalf the application is made is a victim of a violation of R.C. 2903.11 (felonious assault), 2903.12 (aggravated assault), 2903.13 (assault), 2903.21 (aggravated menacing), 2903.211 (menacing by stalking), 2903.22 (menacing), 2907.02 (rape), 2907.03 (sexual battery), 2907.04 (unlawful sexual conduct with a minor), 2907.05 (gross sexual imposition), 2907.06 (sexual imposition), 2907.07 (importuning), 2907.08 (voyeurism), 2907.09 (public indecency), 2911.211 (aggravated trespass), 2919.22 (endangering children), or 2919.25 (domestic violence).

(b) The applicant provides proof that the applicant, any of the applicant's children, or the minor, incompetent, or ward on whose behalf the application is made has a protection order issued or consent agreement approved under R.C. 2903.213 (protection order as a pretrial condition of release of certain alleged offenders), 2903.214



(protection order in menacing by stalking cases), or 3113.31 (protection order in civil domestic violence cases) or a protection order issued by a court of another state that has been registered under R.C. 2919.272.

(c) The applicant reasonably fears that the applicant, any of the applicant's children, or the minor, incompetent, or ward on whose behalf the application is made is in danger of being threatened or physically harmed by another person.

(2) A designation of the Secretary of State as the agent for the purposes of receiving service of process and the receipt of mail;

(3) The mailing address at which the applicant may be contacted by the Secretary of State and the telephone number or numbers at which the applicant may be called by the Secretary of State;

(4) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk that the applicant, the applicant's children, or the minor, incompetent, or ward on whose behalf the application is made will be threatened or physically harmed by another person;

(5) The signature of the applicant, the name, work address, and signature of the application assistant who assisted the applicant in applying to become a "program participant," and the date on which the applicant and application assistant signed the application; and

(6) The name, occupation if known, and contact information if known of the person the applicant reasonably believes will threaten or physically harm the applicant, the applicant's children, or the minor, incompetent, or ward on whose behalf the application is made.

Filing of application and certification by Secretary of State

The bill requires any person who files an application as described above to file the application with the Office of the Secretary of State. Upon the filing of a properly completed application, the Secretary of State must certify the applicant or the minor, incompetent, or ward on whose behalf the application is filed as a program participant. The certification of a program participant is valid for four years after the date of the filing of the application for the program participant unless the certification is withdrawn or invalidated before the end of that four-year period. A program participant may renew the program participant's certification pursuant to the renewal procedure adopted by the Secretary of State as described below in "**Rules.**" (R.C. 111.32(B) and (C).)

Prohibition

The bill prohibits any person from falsely attesting in an application that disclosure of the applicant's address would endanger the applicant's safety, the safety of the applicant's children, or the safety of the minor, incompetent, or ward on whose behalf the application is made or knowingly providing false or incorrect information upon making an application. A violation of this prohibition constitutes grounds for removal from the address confidentiality program. (R.C. 111.32(D).)

Notification by a court of the right to apply to Secretary of State for designated address

The bill provides that in any criminal action involving a violation described in paragraph (1)(a) under "**Application for designated address**," above, upon the conviction or plea of guilty of the defendant, the court must notify in writing the victim of the offense if an adult person or a parent or guardian acting on behalf of the victim who is a minor, incompetent, or ward of the right of the person to apply with the assistance of an application assistant to the Secretary of State to have an address designated by the Secretary of State serve as the person's address or the address of the minor, incompetent, or ward. The person may apply with the assistance of an application assistant to the Secretary of State pursuant to the bill's provisions to have an address designated by the Secretary of State serve as the person's address or the address of the minor, incompetent, or ward. (R.C. 111.321(A) and 2901.44.)

The bill provides that in any proceeding under R.C. 2903.213 (protection order as a pretrial condition of release of certain alleged offenders), upon the issuance of a protection order, the court must notify in writing the person who filed the motion for the protection order of the right of the person to apply with the assistance of an application assistant to the Secretary of State to have an address designated by the Secretary of State serve as the person's address or the address of the person on whose behalf the protection order was issued. The person who filed the motion for the protection order may apply with the assistance of an application assistant to the Secretary of State pursuant to the bill's provisions to have an address designated by the Secretary of State serve as the person's address or the address of the person on whose behalf the protection order was issued. (R.C. 111.321(B) and 2903.213(J).)

Under the bill, in any proceeding under R.C. 2903.214 (protection order in menacing by stalking cases) or 3113.31 (protection order and consent agreement in civil domestic violence cases), upon the issuance of a protection order or the approval of a consent agreement, the court must notify in writing the petitioner in the proceeding of the right of the petitioner to apply with the assistance of an application assistant to the Secretary of State to have an address designated by the Secretary of State serve as the

petitioner's address or the address of the person on whose behalf the protection order was issued or the consent agreement was approved. The petitioner may apply with the assistance of an application assistant to the Secretary of State pursuant to the bill's provisions to have an address designated by the Secretary of State serve as the petitioner's address or the address of the person on whose behalf the protection order was issued or the consent agreement was approved. (R.C. 111.321(C), 2903.214(O), and 3113.31(O).)

Use of designated address by governmental entity

The bill permits a program participant to request that a "governmental entity" use the address designated by the Secretary of State as the program participant's address. If the program participant requests that a governmental entity use that address, the governmental entity must accept that address, except that this provision does not apply to a municipal-owned public utility. The "confidential addresses" of participants of the address confidentiality program that are maintained by a municipal-owned public utility are not a public record and cannot be released by a municipal-owned public utility or by any employee of a municipal-owned public utility.

The bill permits a program participant to use the address designated by the Secretary of State as the program participant's address at the program participant's place of employment (R.C. 111.33(B)).

Mailings to program participant

The bill requires the Office of the Secretary of State to daily place all first class mail of a program participant that the Secretary of State receives that day into an envelope or package and mail that envelope or package to the program participant at the mailing address of the program participant provided in the program participant's application. The Secretary of State may contract with the United States Postal Service to establish special postal rates for the envelopes or packages used in mailing a program participant's first class mail under this provision. (R.C. 111.33(C).)

Voting by program participant

Generally, the bill authorizes a program participant who is a qualified elector to vote by absent voter's ballots under R.C. Chapter 3509. (Absent Voter's Ballot Law). The program participant must apply to the Secretary of State for those ballots using the participant's confidential address. "Bipartisan teams" of employees (defined as two designated employees of the Office of the Secretary of State who are from different political parties) must determine the precinct in which the program participant resides and the ballot style that the program participant should receive and request the program participant absent voter's ballot from the board of elections. The board of

elections must send to the Secretary of State the ballots appropriate for the precinct where the participant's true residence is located. The Office of the Secretary of State must forward the ballot to the program participant and instruct the program participant to return the program participant's ballot to the Office of the Secretary of State. Bipartisan teams of employees of the Office must verify that the program participant is registered and eligible to vote using the Secretary of State's participant voter registration system and that the ballot envelope was properly completed before forwarding the ballot for tabulation to the board of elections in the county where the program participant voter resides. The absent voter's ballots provided to program participants must be referred to as "ACP absent voter's ballots." The board of elections must accept all ballots forwarded by the Secretary of State that are postmarked prior to election day for up to ten days after election day. The bill requires each employee of the Office of the Secretary of State who serves on a bipartisan team that handles program participants' absent voter's ballots to subscribe to an oath that the employee will faithfully execute the employee's duties to the best of the employee's ability. (R.C. 111.34(A), (B), and (D).)

The bill provides that the procedures described in the preceding paragraph are an exception to existing law's provision that requires an application for absent voter's ballots to be delivered to the director of the board of elections not earlier than the first day of January of the year of the elections for which the absent voter's ballots are requested or not earlier than 90 days before the day of the election at which the ballots are to be voted, whichever is earlier, and not later than 12 noon of the third day before the day of the election at which the ballots are to be voted, or not later than the close of regular business hours on the day before the day of the election at which the ballots are to be voted if the application is delivered in person to the office of the board (R.C. 3509.03).

Except as otherwise described below under "**Petition for inspection or copying of confidential address**" and "**Prohibitions against disclosure of confidential address**" and notwithstanding any provision of R.C. 3503.15 (statewide voter registration database) and 3503.26 (custody of registration forms, records, and lists) or any other section of the Revised Code to the contrary, the bill prohibits the Secretary of State from disclosing or making a program participant's voter registration record available for public inspection or copying. A program participant's voter registration record is subject to a mandatory audit every four years by the Auditor of State. The results of that audit are not a public record and must be kept only by the Auditor of State and the Secretary of State. (R.C. 111.34(C).)

Voter registration records

The bill provides that notwithstanding any other provision of R.C. Chapter 3503. (Voters' Qualifications and Registration Law), the Secretary of State must maintain the voter registration records for participants in the address confidentiality program who are registered or choose to register to vote. The Secretary of State must process new voter registration records and maintain existing voter registration records in the same manner as county boards of elections. (R.C. 3503.151.)

The bill expands existing law's requirement for the Secretary of State to adopt rules pertaining to the maintenance of voter registration records to include rules establishing a process to keep the voter registration record of a person who is a program participant under the bill's provisions confidential and not available for public inspection (R.C. 3503.15(D)(6)).

Petition for inspection or copying of confidential address

The bill allows a person to petition the Court of Common Pleas of Franklin County for a hearing to order the Secretary of State to make a program participant's confidential address available to the person. Upon the filing of such a petition, the Court must fix a date for a hearing on it and require the Clerk of the Court to serve a notice of the date, time, place, and purpose of the hearing upon the petitioner and the program participant. The Clerk must notify by electronic means the Secretary of State on behalf of the program participant and send the notice by certified mail, return receipt requested, to the participant. Upon receipt of that notice by the Secretary of State, the Secretary of State must forward by certified mail, return receipt requested, a copy of the individual notice to the program participant at the program participant's confidential address. The return receipt must be addressed to the Clerk of the applicable Court of Common Pleas. The Court may not hear the petition until the Clerk receives the return receipt containing proof of service of the notice upon the program participant. At a hearing under this provision, the program participant or the program participant's attorney may appear and be heard. After the hearing and considering the testimony, the Court must issue the requested order only if good cause is shown for the order and it appears to the Court by clear and convincing evidence that the disclosure of the program participant's confidential address will not increase the risk that the program participant will be threatened or harmed by another person. (R.C. 111.35.)

Prohibitions against disclosure of confidential address

Notwithstanding any provision of R.C. 3503.15 (statewide voter registration database) and 3503.26 (custody of registration forms, records, and lists) or any other section of the Revised Code to the contrary, the bill prohibits the Secretary of State from

disclosing or making a program participant's confidential address available for inspection or copying, except under the following circumstances (R.C. 111.36(A)):

(1) The Secretary of State must disclose a program participant's confidential address to a law enforcement officer, prosecuting attorney, city director of law, or similar chief legal officer, or their designees, acting pursuant to a search warrant, subpoena, or court order. A law enforcement officer may obtain the confidential address of a program participant from an electronic database maintained by the Secretary of State as described below in "**Program participant database**," and accessed through existing electronic databases regularly used by law enforcement officers if none of the following applies to the law enforcement officer: (a) the officer is the offender of a criminal offense described above in paragraph (1)(a) in "**Application for designated address**," (b) the officer is the person against whom a protection order is issued or a consent agreement is approved as described above in paragraph (1)(b) in "**Application for designated address**," or (c) the officer is the person an applicant reasonably fears as causing the danger of being threatened or physically harmed as described above in paragraph (1)(c) in "**Application for designated address**."

(2) If a court orders that a program participant's confidential address be made available to a person as described above in "**Petition for inspection or copying of confidential address**," the Secretary of State must make it available to the person named in the court order.

(3) If the Secretary of State has canceled a program participant's certification as described below in "**Cancellation of certification**," the Secretary of State may make the address available for inspection or copying under R.C. 3503.26 (see **COMMENT 1**).

The bill prohibits any person who obtains the confidential address of a program participant from the Office of the Secretary of State, with knowledge that the confidential address is protected in the address confidentiality program established by the bill, from knowingly disclosing the confidential address to any person not authorized to receive that confidential address. This prohibition does not apply to: (1) any disclosure of the confidential address of a program participant to a law enforcement officer acting within the scope of the officer's duties in the investigation or prosecution of a criminal offense, or (2) any disclosure of the confidential address of a program participant in any grand jury proceeding, any judicial proceeding, or any filing, notice, discovery, motion, or other process incident to a judicial proceeding. Whoever violates this prohibition is guilty of a felony of the fifth degree. (R.C. 111.36(B).)

Exclusion from Public Records Law

The Public Records Law governs the inspection and copying of public records and defines "public record" as records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in Ohio kept by the nonprofit or for-profit entity operating the alternative school pursuant to R.C. 3313.533. Several types of records are excluded from the definition of "public record." The bill adds the confidential address of a participant of the address confidentiality program, and all of the records pertaining to the program, established under its provisions, to the list of records excluded from the definition of "public record," subject to any provision in the bill pertaining to the program (R.C. 149.43(A)(1)(bb)).

Cancellation of certification

The bill requires the Secretary of State to immediately cancel the certification of a program participant if the program participant's application contained one or more false statements or the program participant requests to cease being a program participant. The bill permits the Secretary of State to cancel the certification of a program participant if the program participant's address changes from any address listed on the application, unless the program participant or the person who applied for the program on behalf of the program participant provides the Secretary of State with written notice of the change of address within five days after the change of address occurs. (R.C. 111.37.)

Application assistants

The bill authorizes the Secretary of State to designate one or more employees or volunteers of various "shelters for victims of domestic violence" (see definition below in "**Definitions**,") or other agencies within a county that serve victims of abuse to serve as application assistants for the applicants. Application assistants must comply with the requirements for training and certification adopted by the Secretary of State as described below in "**Rules**." (R.C. 111.38.)

Civil immunity

The bill provides that notwithstanding any provision of R.C. Chapter 2743. (Court of Claims Law) or any other section of the Revised Code to the contrary, the state and the Office of the Secretary of State are not liable in damages for injury, death, or loss to person or property that allegedly arises from the performance of the Secretary of State's duties under the bill. R.C. 9.86 (see **COMMENT 2**) applies to all officers and employees of the Office of the Secretary of State in relation to that performance. Any assistance or counseling rendered to program applicants or program participants by the

Office of the Secretary of State or by certified application assistants is not legal advice. (R.C. 111.39.)

Rules

The bill requires the Secretary of State to adopt rules under the Administrative Procedure Act to facilitate the administration of the bill's provisions and to establish the following (R.C. 111.40(A) and (B)):

- (1) Guidelines for maintaining the confidentiality of the voter registration records of program participants;
- (2) Requirements for the training and certification of application assistants;
- (3) The application for certification as a program participant;
- (4) The procedure for renewal of certification as a program participant.

The Secretary of State must prescribe forms necessary for the administration of the address confidentiality program, including, but not limited to, an address confidentiality program identification card. Application assistants and other persons involved in registering participants in the address confidentiality program must use the forms prescribed by the Secretary of State. (R.C. 111.40(C).)

Program participant database

The bill requires the Secretary of State to maintain an electronic database that contains the names and confidential addresses of participants in the address confidentiality program and any other information the Secretary of State considers appropriate regarding the participants. Except as otherwise described below, the database is not a public record open for inspection under the Public Records Law. Any law enforcement officer may access the database to obtain the confidential address of a program participant if the officer is not described in paragraph (1)(a), (b), or (c) in "**Prohibitions against disclosure of confidential address**," above. The bill requires the Secretary of State and the Attorney General to enter into a memorandum of understanding to make any data pertaining to participants in the address confidentiality program available in a secure manner to law enforcement officers while maintaining a high level of safety for program participants. (R.C. 111.40(D).)

Definitions

The bill defines the following terms as used in its provisions (R.C. 111.31):



"Address" means a residential street address, school address, or work address of a person as specified on an application to be a program participant under the bill.

"Application assistant" means a person who is designated by a court of common pleas, a municipal court, a county court, or the Secretary of State to help individuals complete applications to be program participants and who has received training and certification from the Secretary of State for that purpose.

"Confidential address" means an address that is required to be kept confidential once a program participant is certified by the Secretary of State under the bill.

"Governmental entity" means the state, a political subdivision of the state, or any department, agency, board, commission, or other instrumentality of the state or a political subdivision of the state.

"Guardian," "incompetent," "parent," and "ward" have the same meanings as in R.C. 2111.01 (see **COMMENT 3**).

"Program participant" means a person certified as a program participant under the bill.

"Shelter for victims of domestic violence" means a facility that provides temporary residential service or facilities to family or household members who are victims of domestic violence (by reference to R.C. 3113.33, not in the bill).

"Tier II sex offender/child-victim offender" means any of the following (by reference to R.C. 2950.01(F), not in the bill):

(1) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any of the following sexually oriented offenses: (a) a violation of R.C. 2907.21, 2907.321, or 2907.322, (b) a violation of R.C. 2907.04 when the offender is at least four years older than the other person with whom the offender engaged in sexual conduct, or when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of or pleaded guilty to a violation of R.C. 2907.02, 2907.03, or 2907.04 of the Revised Code or former R.C. 2907.12, (c) a violation of R.C. 2907.05(A)(4) or of R.C. 2907.323(A)(1) or (2), (d) a violation of R.C. 2905.01(A)(1), (2), (3), or (5) when the offense is committed with a sexual motivation, (e) a violation of R.C. 2905.01(A)(4) when the victim of the offense is 18 years of age or older, (f) a violation of R.C. 2905.02(B) or of R.C. 2919.22(B)(5), (g) a violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was

substantially equivalent to any offense listed in (a), (b), (c), (d), (e), or (f) in this paragraph, (h) any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in (a), (b), (c), (d), (e), (f), or (g) in this paragraph, or (i) any sexually oriented offense that is committed after the sex offender previously has been convicted of, pleaded guilty to, or has been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier I sex offender/child-victim offender.

(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any child-victim oriented offense when the child-victim oriented offense is committed after the child-victim offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier I sex offender/child-victim offender.

(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, classifies a tier II sex offender/child-victim offender relative to the offense.

(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and whom a juvenile court, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, classifies a tier II sex offender/child-victim offender relative to the current offense.

(5) A sex offender or child-victim offender who is not in any category of tier II sex offender/child-victim offender set forth in paragraph (1), (2), (3), or (4), above, who prior to January 1, 2008, was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense, and who prior to that date was determined to be a habitual sex offender or determined to be a habitual child-victim offender, unless either of the following applies: (a) the sex offender or child-victim offender is reclassified pursuant to R.C. 2950.031 or 2950.032 as a tier I sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the offense, or (b) a juvenile court, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, classifies the child a tier I sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the offense.

"Tier III sex offender/child-victim offender" means any of the following (by reference to R.C. 2950.01(G), not in the bill):

(1) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any of the following sexually oriented offenses: (a) a violation of R.C. 2907.02 or 2907.03, (b) a violation of R.C. 2907.05(B), (c) a violation of R.C. 2903.01, 2903.02, or 2903.11 when the violation was committed with a sexual motivation, (d) a violation of R.C. 2903.04(A) when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation, (e) a violation of R.C. 2905.01(A)(4) when the victim of the offense is under 18 years of age, (f) a violation of R.C. 2905.01(B) when the victim of the offense is under 18 years of age and the offender is not a parent of the victim of the offense, (g) a violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in (a), (b), (c), (d), (e), or (f) in this paragraph, (h) any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in (a), (b), (c), (d), (e), (f), or (g) in this paragraph, or (i) any sexually oriented offense that is committed after the sex offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier II sex offender/child-victim offender or a tier III sex offender/child-victim offender.

(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any child-victim oriented offense when the child-victim oriented offense is committed after the child-victim offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier II sex offender/child-victim offender or a tier III sex offender/child-victim offender.

(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, classifies a tier III sex offender/child-victim offender relative to the offense.

(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and whom a juvenile court, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, classifies a tier III sex offender/child-victim offender relative to the current offense.

(5) A sex offender or child-victim offender who is not in any category of tier III sex offender/child-victim offender set forth in paragraph (1), (2), (3), or (4), above, who

prior to January 1, 2008, was convicted of or pleaded guilty to a sexually oriented offense or child-victim oriented offense or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense and classified a juvenile offender registrant, and who prior to that date was adjudicated a sexual predator or adjudicated a child-victim predator, unless either of the following applies: (a) the sex offender or child-victim offender is reclassified pursuant to R.C. 2950.031 or 2950.032 as a tier I sex offender/child-victim offender or a tier II sex offender/child-victim offender relative to the offense, or (b) the sex offender or child-victim offender is a delinquent child, and a juvenile court, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, classifies the child a tier I sex offender/child-victim offender or a tier II sex offender/child-victim offender relative to the offense.

(6) A sex offender who is convicted of, pleads guilty to, was convicted of, or pleaded guilty to a sexually oriented offense, if the sexually oriented offense and the circumstances in which it was committed are such that R.C. 2971.03(F) automatically classifies the offender as a tier III sex offender/child-victim offender;

(7) A sex offender or child-victim offender who is convicted of, pleads guilty to, was convicted of, pleaded guilty to, is adjudicated a delinquent child for committing, or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim offense in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States if both of the following apply: (a) under the law of the jurisdiction in which the offender was convicted or pleaded guilty or the delinquent child was adjudicated, the offender or delinquent child is in a category substantially equivalent to a category of tier III sex offender/child-victim offender described in paragraph (1), (2), (3), (4), (5), or (6), above, and (b) subsequent to the conviction, plea of guilty, or adjudication in the other jurisdiction, the offender or delinquent child resides, has temporary domicile, attends school or an institution of higher education, is employed, or intends to reside in this state in any manner and for any period of time that subjects the offender or delinquent child to a duty to register or provide notice of intent to reside under R.C. 2950.04 or 2950.041.

FEDERAL LAW ENFORCEMENT RESIDENTIAL AND FAMILIAL INFORMATION

Public Records Law

Existing law

The Public Records Law generally requires that public records be promptly prepared and made available for public inspection at all reasonable times during regular business hours. The law defines "public record" as records (see **COMMENT 4**) kept by a public office (see **COMMENT 4**) and records pertaining to the delivery of

educational services by an alternative school in Ohio kept by a nonprofit or for profit entity operating the school, excluding specified types of records. Under the existing version of the law, the excluded types of records include "peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the Bureau of Criminal Identification and Investigation (hereafter BCII investigator) residential and familial information." (R.C. 149.43(A)(1)(p).)

"Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or BCII investigator residential and familial information" is defined as any information that discloses any of the following about a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or BCII investigator (R.C. 149.43(A)(7)):

(1) The address of the actual personal residence of a peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or BCII investigator, except for the state or political subdivision in which the peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or BCII investigator resides;

(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, a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or BCII investigator;

(4) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or BCII investigator by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, EMT's, or BCII investigator's employer;

(5) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, EMT's, or BCII investigator's employer from the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth

services employee's, firefighter's, EMT's, or BCII investigator's compensation unless the amount of the deduction is required by state or federal law;

(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 a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or BCII investigator;

(7) A photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace officer's appointing authority.

Notwithstanding the exclusion of peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or BCII investigator residential and familial information from the definition of public record, the Public Records Law requires that, upon written request made and signed by a journalist (see **COMMENT 5**), a public office (see **COMMENT 4**), or person responsible for public records, having custody of the records of an agency that employs a specified peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or BCII investigator must disclose to the journalist the address of the actual personal residence of the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or BCII investigator and, if the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, EMT's, or BCII investigator's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, EMT's, or BCII investigator's spouse, former spouse, or child. The request must include the journalist's name and title and the name and address of the journalist's employer and must state that disclosure of the information sought would be in the public interest. (R.C. 149.43(B)(9).)

Operation of the bill

The bill expands the Public Records Law exemption from the definition of "public record" for "peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the Bureau of Criminal Identification and Investigation residential

and familial information" so that the exemption also applies to federal law enforcement officer residential and familial information (R.C. 149.43(A)(1)(p)). Similarly, the bill renames the applicable definition for that exemption to definition of "peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, investigator of the Bureau of Criminal Identification and Investigation, or federal law enforcement officer residential and familial information." The bill modifies the listing of the types of information included within that definition (see (1) to (7) under "**Existing law**," above) so that the types of information listed also apply regarding federal law enforcement officers. (R.C. 149.41(A)(7).) The effect of these changes is that the information included in the definition as modified by the bill is exempt from disclosure under the Public Records Law.

The bill expands the journalist disclosure procedure set forth above in existing law to also allow journalists to use the procedure to obtain the address of the actual personal residence of a federal law enforcement officer and to obtain the name and address of the employer of such an officer's spouse, former spouse, or child if the officer's spouse, former spouse, or child is employed by a public office (R.C. 149.43(B)(9)).

For purposes of the provisions described above and the other provisions in the bill that are discussed below, the bill defines "federal law enforcement officer" as any officer of the United States who is authorized by federal law to conduct any investigation of, and make any arrest for, any offense against the United States in violation of federal law. It retains without change for purposes of those provisions the definitions of "peace officer," "correctional employee," "youth services employee," "firefighter," "EMT," and "investigator of the Bureau of Criminal Identification and Investigation." (R.C. 149.43(A)(7), 149.45(A)(4), 319.28(C), and 319.54(H).)

Redaction of a peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, EMT's, of BCII investigator's address; immunity from liability

Existing law

Existing law allows a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or BCII investigator (hereafter "protected individual") to request that a public office other than a county auditor or a person responsible for the public records of a public office other than a county auditor redact the address of the person making the request from any record made available to the general public on the internet that includes

"peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or BCII investigator residential or familial information" of the person making the request. A person who makes a request for a redaction must make the request in writing and on a form developed by the Attorney General. (R.C. 149.45(A)(2) and (D)(1).)

Upon receiving a written request for a redaction pursuant to the above-described provision, the public office or person responsible for the public records must act within five business days in accordance with the request to redact the address of the protected individual making the request from any record made available to the general public on the internet that includes "peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or BCII investigator residential and familial information" of the person making the request, if practicable. If a redaction is not practicable, the public office or person responsible for the public office's public records must verbally or in writing within five business days after receiving the written request explain to the protected individual why the redaction is impracticable.

Except as provided in the above-described provisions and R.C. 319.28 (see **"Request by protected individual to remove name from publicly accessible record and general tax list, and general duplicate, of real and public utility property,"** below), a public office other than an employer of a protected individual or a person responsible for the public records of the employer is not required to redact the residential and familial information of the protected individual from other records maintained by the public office.

The Attorney General must develop a form to be used by a protected individual to request a redaction. The form must include a place to provide any information that identifies the location of the address of a protected individual to be redacted. (R.C. 149.45(D)(2), (3), and (4).)

A public office or a person responsible for a public office's public records is not liable in damages in a civil action for any harm a protected individual sustains as a result of the inclusion of the address of the protected individual on any record made available to the general public on the internet in violation of the above-discussed provisions unless the public office or person responsible for the public office's public records acted with malicious purpose, in bad faith, or in a wanton or reckless manner, (the acts or omissions of an employee of a political subdivision were manifestly outside the scope of the employee's employment or official responsibilities, or civil liability is expressly imposed upon the employee by a section of the Revised Code (R.C. 149.45(E)(2))).

Operation of the bill

The bill expands the procedure set forth above in existing law to also allow a federal law enforcement officer to request that a public office other than a county auditor or a person responsible for the public records of a public office other than a county auditor redact the address of the person making the request from any record made available to the general public on the internet that includes "peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, BCII investigator, or federal law enforcement officer residential or familial information" of the person making the request. A person who makes a request for a redaction must make the request in writing and on a form developed by the Attorney General. (R.C. 149.45(D)(1).)

Upon receiving a written request for a redaction pursuant to the above-described provision, the public office or person responsible for the public records of a public office must act within five business days in accordance with the request to redact the address of the federal law enforcement officer making the request from any record made available to the general public on the internet that includes "peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, BCII investigator, or federal law enforcement officer residential and familial information" of the person making the request, if practicable. If a redaction is not practicable, the public office or person responsible for the public office's public records must verbally or in writing within five business days after receiving the written request explain to the federal law enforcement officer why the redaction is impracticable.

Except as provided in the above-described provisions and R.C. 319.28, a public office other than an employer of a federal law enforcement officer or a person responsible for the public records of the employer is not required to redact the residential and familial information of the federal law enforcement officer from other records maintained by the public office.

The bill expands the requirement in existing law that the Attorney General develop a form to be used by a protected individual to request a redaction to also require the Attorney General to develop a form to be used by a federal law enforcement officer to request a redaction. This new form must include a place to provide any information that identifies the location of the address of a federal law enforcement officer to be redacted. (R.C. 149.45(D)(2), (3), and (4).)

The bill expands the immunity of a protected individual from liability provisions in existing law as described above by providing that a public office or a person responsible for a public office's public records also is not liable in damages in a civil

action for any harm a federal law enforcement officer sustains as a result of the inclusion of the address of the federal law enforcement officer on any record made available to the general public on the internet in violation of the above-discussed provisions unless the public office or person responsible for the public office's public records acted with malicious purpose, in bad faith, or in a wanton or reckless manner, the acts or omissions of an employee of a political subdivision were manifestly outside the scope of the employee's employment or official responsibilities, or civil liability is expressly imposed upon the employee by a section of the Revised Code (R.C. 149.45(E)(2)).

Request by protected individual to remove name from publicly accessible record and general tax list, and general duplicate, of real and public utility property

Continuing law requires the county auditor, on or before the first Monday of August, annually, to compile and make up a general tax list of real and public utility property in the county and requires this list be prepared in duplicate (R.C. 319.28). Existing law allows a protected individual (see redaction provisions above for the individuals encompassed by this term) to submit a written request by affidavit to the county auditor requesting the county auditor to remove the name of the protected individual from any record made available to the general public on the internet or a publicly accessible database and the general tax list, and general duplicate, of real and public utility property and insert the initials of the protected individual on that record, general tax list, and general duplicate as the name of the protected individual that appears on the deed. Upon receiving such a written request by affidavit, the county auditor must act within five business days in accordance with the request to remove the name of the protected individual from that record, general tax list, and general duplicate and insert the initials of the protected individual on the record, general tax list, and general duplicate, if practicable. If the removal and insertion is not practicable, the county auditor must verbally or in writing within five business days after receiving the written request explain to the protected individual why the removal and insertion is impracticable. (R.C. 319.28(B).)

The bill expands the above procedure to also allow a federal law enforcement officer to submit a written request by affidavit to the county auditor requesting the county auditor to remove the name of the federal law enforcement officer from any record made available to the general public on the internet or a publicly accessible database and the general tax list, and general duplicate, of real and public utility property and insert the initials of the federal law enforcement officer on that record, general tax list, and general duplicate as the name of the federal law enforcement officer that appears on the deed (R.C. 319.28(B)).

County auditor may not charge a fee for the removal of a protected individual's name from publicly accessible record and the general tax list, and general duplicate, of real and public utility property

Continuing law requires the county auditor to charge and receive certain fees, including fees for deeds of land sold for taxes to be paid by the purchaser. Continuing law also provides for certain situations in which the county auditor may not charge a fee, including when a transfer of real property is made to confirm or correct a deed previously executed and recorded. (R.C. 319.54(G).) Existing law prohibits a county auditor from charging a fee when a current owner on any record made available to the general public on the internet or a publicly accessible database and the general tax list, and general duplicate, of real and public utility property is a protected individual (see redaction provisions above for the individuals encompassed by this term) and is changing the current owner name listed on that record, general tax list, and general duplicate to the initials of the current owner. (R.C. 319.54(G)(3)(c).)

The bill expands the above-described prohibition by prohibiting a county auditor from charging a fee when a current owner on any record made available to the general public on the internet or a publicly accessible database and the general tax list, and general duplicate, of real and public utility property is a federal law enforcement officer and is changing the current owner name listed on that record, general tax list, and general duplicate to the initials of the current owner (R.C. 319.54(G)(3)(c)).

COMMENT

1. R.C. 3503.26, not in the bill, provides as follows:

(A) All registration forms and lists, when not in official use by the registrars or judges of elections, shall be in the possession of the board of elections. Names and addresses of electors may be copied from the registration lists only in the office of the board when it is open for business; but no such copying shall be permitted during the period of time commencing twenty-one days before an election and ending on the eleventh day after an election if such copying will, in the opinion of the board, interfere with the necessary work of the board. The board shall keep in convenient form and available for public inspection a correct set of the registration lists of all precincts in the county.

(B) Notwithstanding division (A) of this section the board of elections shall maintain and make available for

public inspection and copying at a reasonable cost all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of voter registration lists, including the names and addresses of all registered electors sent confirmation notices and whether or not the elector responded to the confirmation notice. The board shall maintain all records described in this division for a period of two years.

2. R.C. 9.86, not in the bill, provides the following:

Except for civil actions that arise out of the operation of a motor vehicle and civil actions in which the state is the plaintiff, no officer or employee shall be liable in any civil action that arises under the law of this state for damage or injury caused in the performance of his duties, unless the officer's or employee's actions were manifestly outside the scope of his employment or official responsibilities, or unless the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

This section does not eliminate, limit, or reduce any immunity from civil liability that is conferred upon an officer or employee by any other provision of the Revised Code or by case law. This section does not affect the liability of the state in an action filed against the state in the court of claims pursuant to Chapter 2743. of the Revised Code.

3. R.C. 2111.01, not in the bill, defines the following terms:

(A) "Guardian," other than a guardian under sections 5905.01 to 5905.19 of the Revised Code, means any person, association, or corporation appointed by the probate court to have the care and management of the person, the estate, or both of an incompetent or minor. When applicable, "guardian" includes, but is not limited to, a limited guardian, an interim guardian, a standby guardian, and an emergency guardian appointed pursuant to division (B) of section 2111.02 of the Revised Code. "Guardian" also includes an agency under contract with the department of developmental disabilities for the provision of protective service under sections 5123.55 to 5123.59 of the Revised

Code when appointed by the probate court to have the care and management of the person of an incompetent.

(B) "Ward" means any person for whom a guardian is acting or for whom the probate court is acting pursuant to section 2111.50 of the Revised Code.

....

(D) "Incompetent" means any person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide, or any person confined to a correctional institution within this state.

....

(G) "Parent" means a natural parent or adoptive parent of a minor child whose parental rights and responsibilities have not been terminated by a juvenile court or another court.

4. R.C. 149.011, not in the bill, defines a series of terms for purposes of R.C. Chapter 149., including the Public Records Law. Under R.C. 149.011:

(a) "Records" includes any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in R.C. 1306.01, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

(b) "Public office" includes any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by the laws of this state for the exercise of any function of government. Related to this definition, "state agency" includes every department, bureau, board, commission, office, or other organized body established by the Constitution and laws of Ohio for the exercise of any function of state government, including any state-supported institution of higher education, the General Assembly, any legislative agency, any court or judicial agency, or any political subdivision or agency of a political subdivision.

5. For purposes of this journalist disclosure provision, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public (R.C. 149.43(B)(9)).

HISTORY

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