

ASSEMBLY BILL

No. 1813

Introduced by Assembly Member Lieu

February 11, 2010

An act to amend Section 6254.21 of the Government Code, relating to public officials.

LEGISLATIVE COUNSEL'S DIGEST

AB 1813, as introduced, Lieu. Public officials: personal information.

(1) Existing law requires a person, business, or association, upon receiving the written demand of an elected or appointed official, to remove the official's home address or telephone number from public display on the Internet within 48 hours of the delivery of the demand, and to continue to ensure that information is not reposted on the same Internet Web site, a subsidiary site, or any other Internet Web site maintained by the recipient of the written demand, with specified exceptions. Existing law includes a public safety official within the definition of an elected or appointed official for these purposes, and defines public safety official to include specified peace officer classifications. Existing law makes a violation of these provisions a misdemeanor or a felony under certain circumstances.

This bill would specify that the requirement to remove the information described above from public display on the Internet includes information provided to cellular telephone applications. The bill would also expand the definition of public safety officer for these purposes and would, in turn, provide the protections described above to a wider range of officers. By expanding the definition of a crime, this bill would create a state-mandated local program

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 6254.21 of the Government Code is
2 amended to read:

3 6254.21. (a) No state or local agency shall post the home
4 address or telephone number of any elected or appointed official
5 on the Internet without first obtaining the written permission of
6 that individual.

7 (b) No person shall knowingly post the home address or
8 telephone number of any elected or appointed official, or of the
9 official’s residing spouse or child, on the Internet knowing that
10 person is an elected or appointed official and intending to cause
11 imminent great bodily harm that is likely to occur or threatening
12 to cause imminent great bodily harm to that individual. A violation
13 of this subdivision is a misdemeanor. A violation of this
14 subdivision that leads to the bodily injury of the official, or his or
15 her residing spouse or child, is a misdemeanor or a felony.

16 (c) (1) (A) No person, business, or association shall publicly
17 post or publicly display on the Internet the home address or
18 telephone number of any elected or appointed official if that official
19 has made a written demand of that person, business, or association
20 to not disclose his or her home address or telephone number.

21 (B) A written demand made under this paragraph by a state
22 constitutional officer, a mayor, or a Member of the Legislature, a
23 city council, or a board of supervisors shall include a statement
24 describing a threat or fear for the safety of that official or of any
25 person residing at the official’s home address.

26 (C) A written demand made under this paragraph by an elected
27 official shall be effective for four years, regardless of whether or
28 not the official’s term has expired prior to the end of the four-year
29 period.

1 (D) (i) A person, business, or association that receives the
2 written demand of an elected or appointed official pursuant to this
3 paragraph shall remove the official’s home address or telephone
4 number from public display on the Internet, *including information*
5 *provided to cellular telephone applications*, within 48 hours of
6 delivery of the written demand, and shall continue to ensure that
7 this information is not reposted on the same Internet Web site,
8 subsidiary site, or any other Internet Web site maintained by the
9 recipient of the written demand.

10 (ii) After receiving the elected or appointed official’s written
11 demand, the person, business, or association shall not transfer the
12 appointed or elected official’s home address or telephone number
13 to any other person, business, or association through any other
14 medium.

15 (iii) Clause (ii) shall not be deemed to prohibit a telephone
16 corporation, as defined in Section 234 of the Public Utilities Code,
17 or its affiliate, from transferring the elected or appointed official’s
18 home address or telephone number to any person, business, or
19 association, if the transfer is authorized by federal or state law,
20 regulation, order, or tariff, or necessary in the event of an
21 emergency, or to collect a debt owed by the elected or appointed
22 official to the telephone corporation or its affiliate.

23 (E) For purposes of this paragraph, “publicly post” or “publicly
24 display” means to intentionally communicate or otherwise make
25 available to the general public.

26 (2) An official whose home address or telephone number is
27 made public as a result of a violation of paragraph (1) may bring
28 an action seeking injunctive or declarative relief in any court of
29 competent jurisdiction. If a court finds that a violation has occurred,
30 it may grant injunctive or declarative relief and shall award the
31 official court costs and reasonable attorney’s fees.

32 A fine not exceeding one thousand dollars (\$1,000) may be
33 imposed for a violation of the court’s order for an injunction or
34 declarative relief obtained pursuant to this paragraph.

35 (3) An elected or appointed official may designate in writing
36 the official’s employer, a related governmental entity, or any
37 voluntary professional association of similar officials to act, on
38 behalf of that official, as that official’s agent with regard to making
39 a written demand pursuant to this section. A written demand made
40 by an agent pursuant to this paragraph shall include a statement

1 describing a threat or fear for the safety of that official or of any
2 person residing at the official’s home address.

3 (d) (1) No person, business, or association shall solicit, sell, or
4 trade on the Internet the home address or telephone number of an
5 elected or appointed official with the intent to cause imminent
6 great bodily harm to the official or to any person residing at the
7 official’s home address.

8 (2) Notwithstanding any other law, an official whose home
9 address or telephone number is solicited, sold, or traded in violation
10 of paragraph (1) may bring an action in any court of competent
11 jurisdiction. If a jury or court finds that a violation has occurred,
12 it shall award damages to that official in an amount up to a
13 maximum of three times the actual damages but in no case less
14 than four thousand dollars (\$4,000).

15 (e) An interactive computer service or access software provider,
16 as defined in Section 230(f) of Title 47 of the United States Code,
17 shall not be liable under this section unless the service or provider
18 intends to abet or cause imminent great bodily harm that is likely
19 to occur or threatens to cause imminent great bodily harm to an
20 elected or appointed official.

21 (f) For purposes of this section, “elected or appointed official”
22 includes, but is not limited to, all of the following:

- 23 (1) State constitutional officers.
- 24 (2) Members of the Legislature.
- 25 (3) Judges and court commissioners.
- 26 (4) District attorneys.
- 27 (5) Public defenders.
- 28 (6) Members of a city council.
- 29 (7) Members of a board of supervisors.
- 30 (8) Appointees of the Governor.
- 31 (9) Appointees of the Legislature.
- 32 (10) Mayors.
- 33 (11) City attorneys.
- 34 (12) Police chiefs and sheriffs.
- 35 (13) A public safety official, as defined in Section 6254.24. *For*
36 *purposes of this section, a public safety official also means an*
37 *active or retired peace officer as defined in Sections 830.2 to 830.7,*
38 *inclusive, of the Penal Code.*
- 39 (14) State administrative law judges.
- 40 (15) Federal judges and federal defenders.

1 (16) Members of the United States Congress and appointees of
2 the President.

3 (g) Nothing in this section is intended to preclude punishment
4 instead under Sections 69, 76, or 422 of the Penal Code, or any
5 other provision of law.

6 SEC. 2. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

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