

AMENDED IN ASSEMBLY MARCH 22, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1813

Introduced by Assembly Member Lieu

February 11, 2010

An act to amend ~~Section 6254.21~~ *Sections 6254.21 and 6254.24* of the Government Code, relating to public officials.

LEGISLATIVE COUNSEL'S DIGEST

AB 1813, as amended, 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, and include within that definition retired members of specified~~

employee classifications. 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.~~

(2) Existing law provides that a person who maliciously, with the intent to obstruct justice or the administration of the laws, or with the intent to inflict physical harm, discloses the residence address or telephone number of public safety officials, as defined, or that of the spouse or children of these persons, is guilty of a misdemeanor. A violation of these provisions that results in bodily harm to the public safety official, or the spouse or child of that person, is a felony.

The bill would expand the definition of public safety officer for these purposes, and include within that definition retired members of specified employee classifications. By expanding the definition of a crime, this bill would create a state-mandated local program.

(3) Upon adoption by a county board of supervisors, existing law requires a county elections official to make confidential certain personal information of a public safety officer, upon application by the public safety officer made under penalty of perjury.

The bill would expand the definition of public safety officer for these purposes, and include within that definition retired members of specified employee classifications. By increasing the duties of local officials, and expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.

(4) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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.

30 (D) (i) A person, business, or association that receives the
31 written demand of an elected or appointed official pursuant to this
32 paragraph shall remove the official's home address or telephone
33 number from public display on the Internet, including information
34 provided to cellular telephone applications, within 48 hours of
35 delivery of the written demand, and shall continue to ensure that
36 this information is not reposted on the same Internet Web site,
37 subsidiary site, or any other Internet Web site maintained by the
38 recipient of the written demand.

1 (ii) After receiving the elected or appointed official's written
2 demand, the person, business, or association shall not transfer the
3 appointed or elected official's home address or telephone number
4 to any other person, business, or association through any other
5 medium.

6 (iii) Clause (ii) shall not be deemed to prohibit a telephone
7 corporation, as defined in Section 234 of the Public Utilities Code,
8 or its affiliate, from transferring the elected or appointed official's
9 home address or telephone number to any person, business, or
10 association, if the transfer is authorized by federal or state law,
11 regulation, order, or tariff, or necessary in the event of an
12 emergency, or to collect a debt owed by the elected or appointed
13 official to the telephone corporation or its affiliate.

14 (E) For purposes of this paragraph, "publicly post" or "publicly
15 display" means to intentionally communicate or otherwise make
16 available to the general public.

17 (2) An official whose home address or telephone number is
18 made public as a result of a violation of paragraph (1) may bring
19 an action seeking injunctive or declarative relief in any court of
20 competent jurisdiction. If a court finds that a violation has occurred,
21 it may grant injunctive or declarative relief and shall award the
22 official court costs and reasonable attorney's fees. A fine not
23 exceeding one thousand dollars (\$1,000) may be imposed for a
24 violation of the court's order for an injunction or declarative relief
25 obtained pursuant to this paragraph.

26 (3) An elected or appointed official may designate in writing
27 the official's employer, a related governmental entity, or any
28 voluntary professional association of similar officials to act, on
29 behalf of that official, as that official's agent with regard to making
30 a written demand pursuant to this section. A written demand made
31 by an agent pursuant to this paragraph shall include a statement
32 describing a threat or fear for the safety of that official or of any
33 person residing at the official's home address.

34 (d) (1) No person, business, or association shall solicit, sell, or
35 trade on the Internet the home address or telephone number of an
36 elected or appointed official with the intent to cause imminent
37 great bodily harm to the official or to any person residing at the
38 official's home address.

39 (2) Notwithstanding any other law, an official whose home
40 address or telephone number is solicited, sold, or traded in violation

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

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

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

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

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

37 *SEC. 2. Section 6254.24 of the Government Code is amended*
38 *to read:*

39 6254.24. As used in this chapter, “public safety official” means
40 the following *parties, whether active or retired:*

- 1 (a) ~~An active or retired~~A peace officer as defined in Sections
2 830 ~~and 830.1~~ to 830.7, inclusive, of the Penal Code.
- 3 (b) ~~An active or retired~~A public officer or other person listed
4 in Sections 1808.2 and 1808.6 of the Vehicle Code.
- 5 (c) An “elected or appointed official” as defined in subdivision
6 (f) of Section 6254.21.
- 7 (d) An attorney employed by the Department of Justice, the
8 State Public Defender, or a county office of the district attorney
9 or public defender, the United States Attorney, or the Federal
10 Public Defender.
- 11 (e) A city attorney and an attorney who represent cities in
12 criminal matters.
- 13 (f) ~~A specified~~An employee of the Department of Corrections
14 and Rehabilitation who supervises inmates or is required to have
15 a prisoner in his or her care or custody.
- 16 (g) A sworn or nonsworn employee who supervises inmates in
17 a city police department, a county sheriff’s office, the Department
18 of the California Highway Patrol, federal, state, or a local detention
19 facility, and a local juvenile hall, camp, ranch, or home, and a
20 probation officer as defined in Section 830.5 of the Penal Code.
- 21 (h) A federal prosecutor, a federal criminal investigator, and a
22 National Park Service Ranger working in California.
- 23 (i) The surviving spouse or child of a peace officer defined in
24 Section 830 of the Penal Code, if the peace officer died in the line
25 of duty.
- 26 (j) State and federal judges and court commissioners.
- 27 (k) An employee of the Attorney General, a district attorney,
28 or a public defender who submits verification from the Attorney
29 General, district attorney, or public defender that the employee
30 represents the Attorney General, district attorney, or public
31 defender in matters that routinely place that employee in personal
32 contact with persons under investigation for, charged with, or
33 convicted of, committing criminal acts.
- 34 (l) A nonsworn employee of the Department of Justice or a
35 police department or sheriff’s office that, in the course of his or
36 her employment, is responsible for collecting, documenting, and
37 preserving physical evidence at crime scenes, testifying in court
38 as an expert witness, and other technical duties, and a nonsworn
39 employee that, in the course of his or her employment, performs
40 a variety of standardized and advanced laboratory procedures in

1 the examination of physical crime evidence, determines their
2 results, and provides expert testimony in court.

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

12 *SEC. 3. No reimbursement is required by this act pursuant to*
13 *Section 6 of Article XIII B of the California Constitution for certain*
14 *costs that may be incurred by a local agency or school district*
15 *because, in that regard, this act creates a new crime or infraction,*
16 *eliminates a crime or infraction, or changes the penalty for a crime*
17 *or infraction, within the meaning of Section 17556 of the*
18 *Government Code, or changes the definition of a crime within the*
19 *meaning of Section 6 of Article XIII B of the California*
20 *Constitution.*

21 *However, if the Commission on State Mandates determines that*
22 *this act contains other costs mandated by the state, reimbursement*
23 *to local agencies and school districts for those costs shall be made*
24 *pursuant to Part 7 (commencing with Section 17500) of Division*
25 *4 of Title 2 of the Government Code.*