

AMENDED IN SENATE JUNE 6, 2012
AMENDED IN ASSEMBLY MAY 3, 2012
AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2299

Introduced by Assembly Member Feuer
(Coauthors: Assembly Members Galgiani, Jeffries, and Wieckowski)

February 24, 2012

An act to amend Section 6254.1 of, and to add Sections 27279.5 and 27279.7 to, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2299, as amended, Feuer. Local government: public safety officials: confidentiality.

Existing law sets forth the duties and powers of the board of supervisors of a county and the county recorder and county assessor of each county. Existing law requires the county recorder to, upon payment of proper fees and taxes, accept for recordation; any instrument, paper, or notice that is authorized or required by statute or court order to be recorded, as specified. Existing law allows any instrument or judgment affecting the title to, or possession of, real property to be recorded. Existing law requires a document that effects or evidences a transfer or encumbrance of an interest in real property to include the name or names in which the interest appears of record. Existing law requires the county recorder of each county to establish a social security truncation program for the redaction of social security numbers to create a public record version of official records.

This bill would authorize the board of supervisors of a county to establish a program that requires the names of certain public safety officials to be redacted from any property record of principal residence that is disclosed to the public by that county, except as specified. The bill would authorize a county to charge a fee for participation in the program. The bill would set forth requirements that would apply to the sale of aggregate data. *The bill would require a county that establishes a program pursuant to this act to also ensure that the property record of a public safety official is redacted, as defined, in a specified manner when a search is conducted by index by name of the public safety official.*

Existing law, the California Public Records Act, requires state and local agencies to make public records available upon receipt of a request that reasonably describes an identifiable record not otherwise exempt from disclosure, and upon payment of fees covering direct costs of duplication.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

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

1 SECTION 1. It is the intent of the Legislature in enacting this
2 act to authorize the board of supervisors of any county to establish
3 a county program to redact the name of a public safety official
4 from a property record that contains the address of the principal
5 residence of the public safety official *and as otherwise specified*
6 *when a search is conducted by index by name of the public safety*
7 *official.* A public safety official is defined for purposes of this act
8 as an official *who is currently or formerly* employed by a public
9 agency responsible for law enforcement, the justice system, or
10 corrections.

11 SEC. 2. Section 6254.1 of the Government Code is amended
12 to read:

1 6254.1. (a) Except as provided in Section 6254.7, this chapter
2 shall not require disclosure of records that are the residence address
3 of any person contained in the records of the Department of
4 Housing and Community Development, if the person has requested
5 confidentiality of that information, in accordance with Section
6 18081 of the Health and Safety Code.

7 (b) This chapter shall not require the disclosure of the residence
8 or mailing address of any person in any record of the Department
9 of Motor Vehicles except in accordance with Section 1808.21 of
10 the Vehicle Code.

11 (c) This chapter shall not require the disclosure of the results
12 of a test undertaken pursuant to Section 12804.8 of the Vehicle
13 Code.

14 (d) This chapter shall not require disclosure of the name of any
15 public safety official contained in any property record of a county
16 that is disclosed to the public, *or as specified in subdivision (g) of*
17 *Section 27279.5*, if the public safety official has requested
18 confidentiality of that information, in accordance with Section
19 27279.5, and the county maintains a program that redacts that
20 information from property records pursuant to Section 27279.5.

21 SEC. 3. Section 27279.5 is added to the Government Code, to
22 read:

23 27279.5. (a) The board of supervisors of a county may
24 establish a program that requires the name of a public safety official
25 to be redacted from any property record that is disclosed to the
26 public by that county, *which shall also include redaction of the*
27 *property record pursuant to subdivision (g)*.

28 (b) Subdivision (a) shall apply only to a public safety official
29 described in Section 27279.7 who has requested that his or her
30 name be redacted from a property record that is disclosed to the
31 public by that county *and pursuant to subdivision (g)*. The county
32 shall prepare and maintain a list specifying those job classifications
33 eligible to request redaction as public safety officials pursuant to
34 Section 27279.7. The county may prescribe the form or application
35 by which a request of confidentiality shall be submitted pursuant
36 to this subdivision.

37 (c) Notwithstanding subdivisions (a) ~~and~~, (b), *and (g)*, this
38 section shall not preclude a county from using or maintaining
39 records internally that include the name of a public safety official
40 who has requested redaction under the program.

1 (d) (1) The county may charge a fee for participation in the
2 program, provided the fee is reasonable and charged to cover only
3 the costs of the program.

4 (2) The county shall require an individual to show valid photo
5 identification and proof of employment eligibility as a precondition
6 of requesting redaction under the program.

7 (e) (1) A county that chooses to establish a program pursuant
8 to this section that sells aggregate data shall ~~further require~~ *provide*
9 *notice to the person or entity that it sells data to* that the names of
10 program participants *shall* remain confidential and not be posted
11 on any Internet Web site or solicited, sold, or traded.

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

21 (3) A public safety official whose name is solicited, sold, or
22 traded in violation of paragraph (1) may bring an action in any
23 court of competent jurisdiction. If a jury or court finds that a
24 violation has occurred, it shall award damages to that public safety
25 official in an amount up to a maximum of three times the actual
26 damages but in no case less than four thousand dollars (\$4,000).

27 (4) *A county shall not be held civilly liable for a violation of*
28 *paragraph (1) if the county provided proper notice pursuant to*
29 *paragraph (1) to the person or entity that it sold data to that the*
30 *name of the public safety official remain confidential.*

31 (f) Notwithstanding any other provision of this section, the
32 following shall apply:

33 (1) A county that exercises reasonable care shall not be held
34 civilly liable for the unintentional disclosure of the name of a public
35 safety official.

36 (2) For purposes of this section, a county shall have exercised
37 reasonable care if it redacts those documents identified by
38 conducting an electronic or index search of records based upon
39 the name of the public safety official.

1 ~~(3) The name of a public safety official shall be released upon~~
2 ~~request of the public safety official.~~

3 (g) *A county that establishes a program pursuant to this section*
4 *shall also ensure that the property record of a public safety official*
5 *is redacted when a search is conducted by index by name of the*
6 *public safety official.*

7 (h) *A County Board of Supervisors that chooses to establish a*
8 *program pursuant to this section shall have discretion in designing*
9 *a process to implement the program, provided that the process is*
10 *not in conflict with any specific requirement imposed under this*
11 *section.*

12 (i) For purposes of this section and Section 27279.7, the
13 following definitions shall have the following meanings:

14 (1) “Post” means to intentionally communicate or otherwise
15 make available to the general public.

16 (2) “Principal residence” means the residence that qualifies
17 for a homeowners’ property tax exemption.

18 ~~(2)~~

19 (3) “Property record” means a property record that contains the
20 address of principal residence of the public safety official.

21 ~~(3)~~

22 (4) “Public safety official” means a person listed in Section
23 27279.7 who is eligible for, or participates in, the program.

24 (5) “Redacted” or “redaction” also includes redaction of the
25 address of principal residence and legal description of the property
26 from a property record of a public safety official when a search
27 is conducted by index by name of the public safety official.

28 SEC. 4. Section 27279.7 is added to the Government Code, to
29 read:

30 27279.7. (a) The name of any of the following public safety
31 officials, whether current or former, shall be redacted from a
32 property record pursuant to Section 27279.5 if the public safety
33 official requests the confidentiality of that information:

34 (1) An employee of a federal, state, or local law enforcement
35 agency, not under suspension or otherwise lacking in good
36 standing, except an employee whose principal duties are clerical
37 or who is not engaged in law enforcement operations.

38 (2) A judge, federal magistrate, court commissioner, or referee
39 who has statutory authority to preside in criminal proceedings.

1 (3) An attorney of a federal, state, or local prosecutorial or
2 defense agency who represents that office in criminal matters.

3 (4) An employee of a federal, state, or local prosecutorial or
4 defense agency whose responsibilities routinely place that
5 employee in personal contact with persons under investigation for,
6 charged with, or convicted of, committing criminal acts.

7 (5) An employee of a federal, state, or local agency who
8 supervises inmates or is required to have a prisoner in his or her
9 care or custody, or a probation officer or parole agent.

10 (b) (1) Notwithstanding subdivision (a), Section 27279.5 and
11 this section shall not apply to an elected official in an elected office,
12 or to a person who has been appointed on a temporary basis to fill
13 a vacancy in an elected office, when that elected office is the
14 attorney general, district attorney, sheriff, public defender, or city
15 attorney or prosecutor.

16 (2) *Notwithstanding subdivision (a), a public safety official who*
17 *becomes an elected official shall not be eligible for redaction under*
18 *the program.*

19 (c) The name *or property record* of a public safety official listed
20 in subdivision (a) shall not be disclosed pursuant to Section
21 27279.5, except to any of the following:

22 (1) A court.

23 (2) A law enforcement agency.

24 (3) The State Board of Equalization.

25 (4) An attorney in a civil or criminal action that demonstrates
26 to a court the need for the name, if the disclosure is made pursuant
27 to a subpoena.

28 (5) A governmental agency to which, under any law, information
29 is required to be furnished from records maintained by the county.

30 (6) *To any person, upon request of the public safety official.*

31 SEC. 5. The Legislature finds and declares that this act imposes
32 a limitation on the public's right of access to the meetings of public
33 bodies or the writings of public officials and agencies within the
34 meaning of Section 3 of Article I of the California Constitution.
35 Pursuant to that constitutional provision, the Legislature makes
36 the following findings to demonstrate the interest protected by this
37 limitation and the need for protecting that interest:

1 In order to prevent crimes against public safety officials and
2 their families, it is necessary that this act take effect.

O