

AMENDED IN ASSEMBLY APRIL 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1250**

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**Introduced by Assembly Member Perea**

February 22, 2013

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An act to add Article 12 (commencing with Section 1064) to Chapter 4 of Division 8 of the Evidence Code, relating to privileged communications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1250, as amended, Perea. Privileged communications: crime stopper privilege.

Existing law provides several privileges against the compulsory release of certain types of information.

This bill would provide that a person shall not be required to disclose identifying information, as defined, regarding a ~~person~~ *tipster* who submits statements of alleged criminal activity to a crime stopper organization, as defined, or to produce any records, documentary evidence, opinions, or decisions relating to the identifying information in connection with any criminal proceeding by way of any discovery procedure. The bill also would authorize ~~a person arrested or charged with a criminal offense to petition the court for an in camera review of a privileged communication, and any records, documentary evidence, opinions, or decisions relating to that communication, in a criminal proceeding, the defendant and the district attorney to petition the court by noticed motion for an in camera review of the record or report containing the privileged communication, as specified, to determine on the basis of certain facts alleged in the petition, and if the record or report contains evidence that is exculpatory to the defendant in the trial~~

*of that offense. The bill* would authorize a court to order production and disclosure to the petitioner’s attorney as it deems appropriate, so long as identifying information is not disclosed. The bill would prohibit disclosure of the documents to certain individuals, except as specified, and would, if the petitioner is acting as his or her own attorney, require the court to order the production of documents to a private investigator licensed by the Department of Consumer Affairs and appointed by the court or to impose other reasonable restrictions, as specified.

Section 28 of Article I of the California Constitution provides that relevant evidence shall not be excluded in any criminal proceeding except as provided by statute enacted by a  $\frac{2}{3}$  vote of the membership of each house of the Legislature.

Because this bill would limit the admissibility of evidence in criminal proceedings, it would require a  $\frac{2}{3}$  vote.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: no.

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

1 SECTION 1. Article 12 (commencing with Section 1064) is  
 2 added to Chapter 4 of Division 8 of the Evidence Code, to read:

3  
 4 Article 12. Crime Stopper Privilege  
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6 1064. As used in this article, the following definitions apply:  
 7 (a) “~~Crime stoppers~~ *stopper* organization” means a private,  
 8 nonprofit organization that accepts and expends donations for  
 9 rewards to persons who report to the organization information  
 10 concerning alleged criminal activity and that forwards the  
 11 information to the appropriate law enforcement agency.

12 (b) “Identifying information” means information that identifies  
 13 a person who submits a statement of alleged criminal activity to  
 14 a ~~crime stoppers~~ *stopper* organization by name, address, or  
 15 telephone number, and includes other information that would allow  
 16 someone to easily ascertain the identity of the person.

17 (c) “Privileged communication” means ~~a any statement by a~~  
 18 ~~person, in any manner, to a crime stopper organization for the~~  
 19 ~~purpose of reporting alleged criminal activity, information, or~~  
 20 ~~identifying information submitted by a tipster to a crime stopper~~  
 21 ~~organization for the purpose of reporting alleged criminal activity.~~

1 (d) “Tipster” means a person who provides a crime stopper  
2 organization with a statement or information regarding alleged  
3 criminal activity by any means including, but not limited to, by  
4 writing, telephone, text, e-mail, or other electronic means.

5 1065. (a) A person shall not be required to disclose identifying  
6 information, by way of testimony or otherwise, or to produce,  
7 under subpoena, any records, documentary evidence, opinions, or  
8 decisions relating to the identifying information in connection with  
9 a criminal proceeding by way of any discovery procedure.

10 (b) *In a criminal proceeding, the defendant and the district*  
11 *attorney may petition the court by noticed motion for review of*  
12 *the record or report containing the privileged communication. The*  
13 *motion shall be accompanied by a declaration under penalty of*  
14 *perjury that the record or report contains evidence that is*  
15 *exculpatory to the defendant in the trial of that offense. Upon the*  
16 *filing of the motion, the court may subpoena the record or the*  
17 *report from the crime stopper organization. The court shall conduct*  
18 *an in camera hearing to determine if the record or report contains*  
19 *evidence that is exculpatory to the defendant in the trial of that*  
20 *offense. A party shall not obtain the privileged communication*  
21 *through a criminal or civil subpoena duces tecum.*

22 ~~(b) A person arrested or charged with a criminal offense may~~  
23 ~~petition the court for an in camera review of a privileged~~  
24 ~~communication, and any records, documentary evidence, opinions,~~  
25 ~~or decisions relating to the privileged communication, as it relates~~  
26 ~~to that person.~~

27 (1) The court shall determine if any of the documents relating  
28 to the privileged communication may be relevant to the issue of  
29 the petitioner’s guilt or punishment or to any motions to suppress  
30 that may be brought by the petitioner.

31 (2) If the court determines, pursuant to paragraph (1) that any  
32 of the documents relating to the privileged communication may  
33 be relevant, it may order their production and disclosure to the  
34 petitioner’s attorney as the court deems appropriate, so long as  
35 identifying information is not disclosed.

36 (A) If the court orders the production of documents relating to  
37 a privileged communication, the petitioner’s attorney shall not  
38 disclose the documents to the petitioner, members of the  
39 petitioner’s family, or any other person unless specifically

1 permitted to do so by the court after a hearing and upon a showing  
2 of good cause.

3 (B) Notwithstanding subparagraph (A), the petitioner’s attorney  
4 may disclose or permit to be disclosed documents relating to a  
5 privileged communication to persons employed by the attorney or  
6 to persons appointed by the court to assist in the preparation of the  
7 petitioner’s case if disclosure is required for that purpose. The  
8 attorney shall inform all persons provided with the documents that  
9 further dissemination of the documents is prohibited, except as  
10 provided by this section.

11 (C) If the petitioner is acting as his or her own attorney, the  
12 court shall only order the production of documents relating to a  
13 privileged communication to a private investigator licensed by the  
14 Department of Consumer Affairs and appointed by the court or  
15 impose other reasonable restrictions, absent a showing of good  
16 cause as determined by the court.

17 (c) Notwithstanding subdivisions (a) and (b), identifying  
18 information and privileged communications may be released with  
19 the permission of the person who submitted the statement to the  
20 crime stoppers organization.