

AMENDED IN ASSEMBLY APRIL 29, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2206**

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**Introduced by Assembly Member Gomez**

February 20, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2206, as amended, Gomez. ~~Local government: public safety officials: confidentiality. Public records: local agencies: exception to disclosure: peace officers.~~

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.

*This bill would exempt from disclosure the records of the residence or mailing address of any person described as a peace officer, if that person or his or her recognized collective bargaining representative has requested confidentiality of that information to a local agency, and that local agency chooses to maintain a program that redacts that information or makes that information confidential.*

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.~~

1 ~~SEC. 2.~~

2 *SECTION 1.* Section 6254.1 of the Government Code is  
3 amended to read:

4 6254.1. (a) Except as provided in Section 6254.7, this chapter  
5 shall not require disclosure of records that are the residence address  
6 of any person contained in the records of the Department of  
7 Housing and Community Development, if the person has requested  
8 confidentiality of that information, in accordance with Section  
9 18081 of the Health and Safety Code.

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

14 (c) This chapter shall not require the disclosure of the results  
15 of a test undertaken pursuant to Section 12804.8 of the Vehicle  
16 Code.

17 ~~(d) This chapter shall not require disclosure of the name of any  
18 public safety official contained in any property record of a county  
19 that is disclosed to the public, or as specified in subdivision (g) of  
20 Section 27279.5, if the public safety official has requested  
21 confidentiality of that information, in accordance with Section  
22 27279.5, and the county maintains a program that redacts that  
23 information from property records pursuant to Section 27279.5.~~

24 *(d) This chapter shall not require the disclosure of records of  
25 the residence or mailing address of any person described in  
26 Sections 830 to 830.65, inclusive, of the Penal Code, if that person  
27 or his or her recognized collective bargaining representative has  
28 requested confidentiality of that information to a local agency,  
29 and that local agency chooses to maintain a program that redacts  
30 that information or makes that information confidential.*

31 ~~SEC. 3.~~ Section 27279.5 is added to the Government Code, to  
32 read:

33 ~~27279.5.~~ (a) The board of supervisors of a county may  
34 establish a program that requires the name of a public safety official  
35 to be redacted from any property record that is disclosed to the  
36 public by that county, which shall also include redaction of the  
37 property record pursuant to subdivision (g).

38 ~~(b) Subdivision (a) shall apply only to a public safety official  
39 described in Section 27279.7 who has requested that his or her  
40 name be redacted from a property record that is disclosed to the~~

1 public by that county and pursuant to subdivision (g). The county  
2 shall prepare and maintain a list specifying those job classifications  
3 eligible to request redaction as public safety officials pursuant to  
4 Section 27279.7. The county may prescribe the form or application  
5 by which a request of confidentiality shall be submitted pursuant  
6 to this subdivision.

7 (e) ~~Notwithstanding subdivisions (a), (b), and (g), this section~~  
8 ~~shall not preclude a county from using or maintaining records~~  
9 ~~internally that include the name of a public safety official who has~~  
10 ~~requested redaction under the program.~~

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

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

17 (e) (1) ~~A county that chooses to establish a program pursuant~~  
18 ~~to this section that sells aggregate data shall provide notice to the~~  
19 ~~person or entity that it sells data to that the names of program~~  
20 ~~participants shall remain confidential and not be posted on any~~  
21 ~~Internet Web site or solicited, sold, or traded.~~

22 (2) ~~A public safety official whose name is made public as a~~  
23 ~~result of a violation of paragraph (1) may bring an action seeking~~  
24 ~~injunctive or declarative relief in any court of competent~~  
25 ~~jurisdiction. If a court finds that a violation has occurred, it may~~  
26 ~~grant injunctive or declarative relief and shall award the official~~  
27 ~~court costs and reasonable attorney's fees. A fine not exceeding~~  
28 ~~one thousand dollars (\$1,000) may be imposed for a violation of~~  
29 ~~the court's order for an injunction or declarative relief obtained~~  
30 ~~pursuant to this paragraph.~~

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

37 (4) ~~A county shall not be held civilly liable for a violation of~~  
38 ~~paragraph (1) if the county provided proper notice pursuant to~~  
39 ~~paragraph (1) to the person or entity that it sold data to that the~~  
40 ~~name of the public safety official remain confidential.~~

1 ~~(f) Notwithstanding any other provision of this section, the~~  
2 ~~following shall apply:~~

3 ~~(1) A county that exercises reasonable care shall not be held~~  
4 ~~civilly liable for the unintentional disclosure of the name of a public~~  
5 ~~safety official.~~

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

10 ~~(g) A county that establishes a program pursuant to this section~~  
11 ~~shall also ensure that the property record of a public safety official~~  
12 ~~is redacted when a search is conducted by index by name of the~~  
13 ~~public safety official.~~

14 ~~(h) A county board of supervisors that chooses to establish a~~  
15 ~~program pursuant to this section shall have discretion in designing~~  
16 ~~a process to implement the program, provided that the process is~~  
17 ~~not in conflict with any specific requirement imposed under this~~  
18 ~~section.~~

19 ~~(i) For purposes of this section and Section 27279.7, the~~  
20 ~~following definitions shall have the following meanings:~~

21 ~~(1) “Post” means to intentionally communicate or otherwise~~  
22 ~~make available to the general public.~~

23 ~~(2) “Principal residence” means the residence that qualifies for~~  
24 ~~a homeowners’ property tax exemption.~~

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

27 ~~(4) “Public safety official” means a person listed in Section~~  
28 ~~27279.7 who is eligible for, or participates in, the program.~~

29 ~~(5) “Redacted” or “redaction” also includes redaction of the~~  
30 ~~address of principal residence and legal description of the property~~  
31 ~~from a property record of a public safety official when a search is~~  
32 ~~conducted by index by name of the public safety official.~~

33 ~~SEC. 4. Section 27279.7 is added to the Government Code, to~~  
34 ~~read:~~

35 ~~27279.7. (a) The name of any of the following public safety~~  
36 ~~officials, whether current or former, shall be redacted from a~~  
37 ~~property record pursuant to Section 27279.5 if the public safety~~  
38 ~~official requests the confidentiality of that information:~~

39 ~~(1) An employee of a federal, state, or local law enforcement~~  
40 ~~agency, not under suspension or otherwise lacking in good~~

1 standing, except an employee whose principal duties are clerical  
2 or who is not engaged in law enforcement operations.

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

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

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

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

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

20 (2) Notwithstanding subdivision (a), a public safety official who  
21 becomes an elected official shall not be eligible for redaction under  
22 the program.

23 (c) The name or property record of a public safety official listed  
24 in subdivision (a) shall not be disclosed pursuant to Section  
25 27279.5, except to any of the following:

26 (1) A court.

27 (2) A law enforcement agency.

28 (3) The State Board of Equalization.

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

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

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

35 SEC. 5.

36 SEC. 2. The Legislature finds and declares that this act imposes  
37 a limitation on the public's right of access to the meetings of public  
38 bodies or the writings of public officials and agencies within the  
39 meaning of Section 3 of Article I of the California Constitution.  
40 Pursuant to that constitutional provision, the Legislature makes

- 1 the following findings to demonstrate the interest protected by this
- 2 limitation and the need for protecting that interest:
- 3 In order to prevent crimes against ~~public safety officials~~ *peace*
- 4 *officers* and their families, it is necessary that this act take effect.

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