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AB-2322 Department of Motor Vehicles: records: confidentiality. (2017-2018)

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Assembly Bill No. 2322

CHAPTER 914

An act to amend Section 1808.4 of the Vehicle Code, relating to the Department of Motor Vehicles.

[Approved by Governor September 29, 2018. Filed with Secretary of State September 29, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2322, Daly. Department of Motor Vehicles: records: confidentiality.

Existing law prohibits the disclosure of the home addresses of certain public employees and officials, including judges and court commissioners, that appear in records of the Department of Motor Vehicles upon the request of the employee or official, except to a court, a law enforcement agency, an attorney in a civil or criminal action under certain circumstances, and certain other official entities. Existing law prohibits the disclosure of the home addresses of the public employees and officials described above for a period of 3 years following termination of office or employment, except as specified. Existing law prohibits the disclosure of the home address of a retired peace officer permanently upon his or her request for confidentiality. Existing law also prohibits the disclosure of the home address of the surviving spouse or child of a peace officer for 3 years following the death of the peace officer if he or she died in the line of duty.

This bill would clarify that the above-described provisions apply to active or retired judges and court commissioners, and would expand those protections to the surviving spouse or child of a judge or court commissioner, if the judge or court commissioner died in the performance of his or her duties. The bill would also prohibit the disclosure of the home address of a retired judge or court commissioner permanently upon his or her request for confidentiality, and would prohibit the disclosure of the home address of the surviving spouse or child of a judge or court commissioner who died in the performance of his or her duties for 3 years following his or her death. The bill would make conforming changes to those provisions.

If the disclosure of the confidential home address of a peace officer, a nonsworn employee of the city police department or county sheriff's office, or the spouses or children of these persons in violation of these provisions results in bodily injury to those persons, existing law makes that violation a felony.

This bill would make a violation of these provisions with respect to a judge or court commissioner, or the spouses or children of these persons, a felony, thereby expanding the scope of an existing crime, and imposing a state-mandated local program.

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.

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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1808.4 of the Vehicle Code is amended to read:

1808.4. (a) For all of the following persons, his or her home address that appears in a record of the department is confidential if the person requests the confidentiality of that information:

(1) Attorney General.

(2) State Public Defender.

(3) A Member of the Legislature.

(4) An active or retired judge or court commissioner.

(5) A district attorney.

(6) A public defender.

(7) An attorney employed by the Department of Justice, the office of the State Public Defender, or a county office of the district attorney or public defender.

(8) A city attorney, city prosecutor, or an attorney who submits verification from his or her public employer that the attorney represents the city in matters that routinely place the attorney in personal contact with persons under investigation for, charged with, or convicted of, committing criminal acts, if that attorney is employed by a city attorney or city prosecutor.

(9) A nonsworn police dispatcher.

(10) A child abuse investigator or social worker, working in child protective services within a social services department.

(11) An active or retired peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(12) An employee of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or the Prison Industry Authority specified in Sections 20403 and 20405 of the Government Code.

(13) A nonsworn employee of a city police department, a county sheriff's office, the Department of the California Highway Patrol, a federal, state, or local detention facility, or a local juvenile hall, camp, ranch, or home, who submits agency verification that, in the normal course of his or her employment, he or she controls or supervises inmates or is required to have a prisoner in his or her care or custody.

(14) A county counsel assigned to child abuse cases.

(15) An investigator employed by the Department of Justice, a county district attorney, or a county public defender.

(16) A member of a city council.

(17) A member of a board of supervisors.

(18) A federal prosecutor, criminal investigator, or National Park Service Ranger working in this state.

(19) An active or retired city enforcement officer engaged in the enforcement of the Vehicle Code or municipal parking ordinances.

(20) An employee of a trial court.

(21) A psychiatric social worker employed by a county.

(22) A police or sheriff department employee designated by the chief of police of the department or the sheriff of the county as being in a sensitive position. A designation pursuant to this paragraph shall, for purposes of this section, remain in effect for three years subject to additional designations that, for purposes of this section, shall remain in effect for additional three-year periods.

(23) A state employee in one of the following classifications:

(A) Licensing-Registration Examiner, Department of Motor Vehicles.

(B) Motor Carrier Specialist I, Department of the California Highway Patrol.

(C) Museum Security Officer and Supervising Museum Security Officer.

(D) Licensing Program Analyst, State Department of Social Services.

(24) (A) The spouse or child of a person listed in paragraphs (1) to (23), inclusive, regardless of the spouse's or child's place of residence.

(B) The surviving spouse or child of a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, if the peace officer died in the line of duty.

(C) The surviving spouse or child of a judge or court commissioner, if the judge or court commissioner died in the performance of his or her duties.

(D) (i) Subparagraphs (A), (B), and (C) shall not apply if the person listed in those subparagraphs was convicted of a crime and is on active parole or probation.

(ii) For requests made on or after January 1, 2011, the person requesting confidentiality for their spouse or child listed in subparagraph (A), (B), or (C) shall declare, at the time of the request for confidentiality, whether the spouse or child has been convicted of a crime and is on active parole or probation.

(iii) Neither the listed person's employer nor the department shall be required to verify, or be responsible for verifying, that a person listed in subparagraph (A), (B), or (C) was convicted of a crime and is on active parole or probation.

(D) (i) The department shall discontinue holding a home address confidential pursuant to this subdivision for a person specified in subparagraph (A), (B), or (C) who is the child or spouse of a person described in paragraph (4), (9), (11), (13), or (22) if the child or spouse is convicted of a felony in this state or is convicted of an offense in another jurisdiction that, if committed in California, would be a felony.

(ii) The department shall comply with this subparagraph upon receiving notice of a disqualifying conviction from the agency that employs or formerly employed the parent or spouse of the convicted person, or as soon as the department otherwise becomes aware of the disqualifying conviction.

(b) The confidential home address of a person listed in subdivision (a) shall not be disclosed, except to any of the following:

(1) A court.

(2) A law enforcement agency.

(3) The State Board of Equalization.

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

(5) A governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department.

(c) (1) A record of the department containing a confidential home address shall be open to public inspection, as provided in Section 1808, if the address is completely obliterated or otherwise removed from the record.

(2) Following termination of office or employment, a confidential home address shall be withheld from public inspection for three years, unless the termination is the result of conviction of a criminal offense. If the termination or separation is the result of the filing of a criminal complaint, a confidential home address shall be withheld from public inspection during the time in which the terminated individual may file an appeal from termination, while an appeal from termination is ongoing, and until the appeal process is exhausted, after which confidentiality shall be at the discretion of the employing agency if the termination or separation is upheld. Upon reinstatement to an office or employment, the protections of this section are available.

(3) With respect to a retired peace officer, his or her home address shall be withheld from public inspection permanently upon request of confidentiality at the time the information would otherwise be opened. The home address of the surviving spouse or child listed in subparagraph (B) of paragraph (24) of subdivision (a) shall be withheld from public inspection for three years following the death of the peace officer.

(4) The department shall inform a person who requests a confidential home address what agency the individual whose address was requested is employed by or the court at which the judge or court commissioner presides.

(5) With respect to a retired judge or court commissioner, his or her home address shall be withheld from public inspection permanently upon request of confidentiality at the time the information would otherwise be opened. The home address of the surviving spouse or child listed in subparagraph (C) of paragraph (24) of subdivision (a) shall be withheld from public inspection for three years following the death of the judge or court commissioner.

(d) A violation of subdivision (a) by the disclosure of the confidential home address of a peace officer, as specified in paragraph (11) of subdivision (a), a nonsworn employee of the city police department or county sheriff's office, a judge or court commissioner, as specified in paragraph (4) of subdivision (a), or the spouses or children of these persons, including, but not limited to, the surviving spouse or child listed in subparagraph (B) or (C) of paragraph (24) of subdivision (a), that results in bodily injury to the peace officer, employee of the city police department or county sheriff's office, judge or court commissioner, or the spouses or children of these persons is a felony.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which amends Section 1808.4 of the Vehicle Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The need to protect the privacy of judges and court commissioners, and their surviving spouses or children, from the public disclosure of their home addresses outweighs the interest in public disclosure of that information.

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