



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Dennis M. Papp

Sub. H.B. 451

132nd General Assembly
(As Reported by S. Judiciary)

Reps. Retherford, Thompson, Seitz, Johnson, Carfagna, DeVitis, Hill, Ryan, Becker, Householder, Butler, Edwards, Sprague, Wiggam, Young, Arndt, Brinkman, Patton, Schaffer, Romanchuk, Dean, Greenspan, Hambley, Riedel, Koehler, Lanese, Blessing, Dever, Anielski, R. Smith, Reineke, LaTourette, Hood, Manning, Gavarone, Merrin, Rezabek, Perales, Zeltwanger, Stein, Cupp, Hagan, Scherer, Roegner, Green, Brenner, Keller, Ginter, Lipps, Huffman, Sweeney, Kick, Henne, Gonzales, Celebrezze, Schuring, Slaby

BILL SUMMARY

- Exempts from the Public Records Law a specified type of depiction: (1) of a crime victim the release of which a reasonable person would see as an offensive and objectionable intrusion into the victim's expectation of bodily privacy and integrity, or (2) that captures or depicts a sexually oriented offense victim at the actual occurrence of the offense.
- Allows a victim, victim's attorney, or victim's representative to request and receive a copy of a depiction of the victim of a type described in the preceding dotpoint from a public office despite the exemption.
- Exempts certain residential and familial information regarding county or multicounty corrections officers from the definition of "public record" in the Public Records Law and, as a result, provides them with protections similar to those provided to other specified law enforcement and corrections personnel.
- Names the bill the "Victims Privacy and Protection Act."

CONTENT AND OPERATION

Public records exemptions – depiction of certain crime victims or residential and familial information regarding county or multicounty corrections officers

Depiction of certain crime victims not a public record

The bill exempts certain depictions of victims of crime under specified circumstances from the definition of "public record" in the Public Records Law. Under the bill, any depiction by photograph, film, videotape, or printed or digital image is not a public record if: (1) it is that of a victim of an offense the release of which would be, to a reasonable person of ordinary sensibilities, an offensive and objectionable intrusion into the victim's expectation of bodily privacy and integrity, or (2) it depicts or captures the victim of a sexually oriented offense, as defined in the Sex Offender Registration and Notification (SORN) Law located in R.C. Chapter 2950., at the actual occurrence of the offense.¹

Under the existing Public Records Law, unchanged by the bill, any person may request to inspect or obtain copies of public records from a public office. When it receives a public records request, except for information within the requested record that is exempt from release, a public office must provide inspection of the requested record promptly and at no cost, or provide copies of it at cost within a reasonable period of time. Therefore, under the bill, if a person makes a public records request for a record that is a depiction by photograph, film, videotape, or printed or digital image of a victim of an offense the release of which would be, to a reasonable person of ordinary sensibilities, an offensive and objectionable intrusion into the victim's expectation of bodily privacy and integrity or that is a depiction that captures or depicts the victim of a sexually oriented offense at the actual occurrence of the offense, the record is not a public record that is subject to inspection or copying under the Public Records Law.²

Depiction of crime victim may be released to certain persons

The bill allows a victim, victim's attorney, or victim's representative, as that term is defined in the Rights of Victims of Crimes Law located in R.C. Chapter 2930., to request a copy of a victim-related depiction that would otherwise be exempt from the Public Records Law under the bill. The public office or person responsible for public

¹ R.C. 149.43(A)(1)(gg); R.C. 2950.01, not in the bill.

² R.C. 149.43(A)(1)(gg) and (B).



records is required to transmit a copy of the depiction to the victim, victim's attorney, or victim's representative upon receiving the request.³

County corrections officers residential and familial information not a public record

The bill exempts certain residential and familial information regarding county or multicounty corrections officers from the definition of "public record" in the Public Records Law. It does this by including such officers within the current definition of "peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer residential and familial information" and expanding the definition to also refer to such officers (hereafter, officers and officials included within this expanded definition are collectively referred to as "protected officers and officials" and the information is collectively referred to as "protected officer and official residential and familial information"). For purposes of the exemption, a "county or multicounty corrections officer" is any corrections officer employed by any county or multicounty correctional facility.⁴

The general rule for inspecting or obtaining copies of public records is described above. Under the bill, if a person makes a public records request for a record that is "protected officer and official residential and familial information," the record is not a public record that is subject to inspection or copying under the Public Records Law.⁵

Under an existing provision that will apply with respect to county and multicounty corrections officers under the bill, upon written request by a journalist, a public office, or person responsible for public records, having custody of the records of the agency employing a protected officer or official must disclose to the journalist the address of the actual personal residence of the officer or official and, if the officer's or official's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the officer's or official's spouse, former spouse, or child. The request must include the journalist's name and title and the name and address of the journalist's employer and state that disclosure of the information sought would be in the public interest. As used in this provision, a "journalist" is a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar

³ R.C. 149.43(B)(10); R.C. 2930.02, not in the bill.

⁴ R.C. 149.43(A)(1)(p), (A)(7), and third paragraph after (A)(7)(g).

⁵ R.C. 149.43(A)(1)(p) and (B).



medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.⁶

And under an existing provision that will apply with respect to county and multicounty corrections officers under the bill, a protected officer or official may request that a public office other than a county auditor or a person responsible for the public records of a public office other than a county auditor redact the address of the person making the request from any record made available to the general public on the Internet that includes protected officer and official residential and familial information of the person making the request. The law specifies procedures that apply following the making of such an application and rules for the redaction of the address.⁷

For purposes of these provisions, the term "peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, county or multicounty corrections officer, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer residential and familial information," as expanded by the bill, means any information that discloses any of the following about any of the specified officers or officials:⁸

(1) The address of the actual personal residence of any of the specified officers or officials, except for the state or political subdivision in which the officer or official resides;

(2) Information compiled from referral to or participation in an employee assistance program;

(3) The Social Security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, any of the specified officers or officials;

(4) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to any of the specified officers or officials by the officer's or official's employer;

⁶ R.C. 149.43(B)(9).

⁷ R.C. 149.45(D).

⁸ R.C. 149.43(A)(7).



(5) The identity and amount of any charitable or employment benefit deduction made by any of the specified officer's or official's employer from the officer's or official's compensation unless the amount of the deduction is required by state or federal law;

(6) The name, the residential address, the name of the employer, the address of the employer, the Social Security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of any of the specified officers or officials;

(7) A photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace officer's appointing authority.

Public record – current definition

Currently, a "public record" is a record kept by any public office, including state, county, city, village, township, and school district units, or a record pertaining to the delivery of educational services by an alternative school in Ohio kept by the nonprofit or for profit entity operating the alternative school, but it does not include any of the more than 30 specified types of records (all of which the bill retains as excluded types of records). As used in the Public Records Law, unchanged by the bill, "record" includes any document, device, or item, regardless of physical form or characteristic and including an electronic record, created or received by or coming under the jurisdiction of any public office of the state or a political subdivision, that serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.⁹

Name of act

The bill states that it is to be known as the "Victims Privacy and Protection Act."¹⁰

HISTORY

ACTION	DATE
Introduced	12-13-17
Reported, H. Gov't Accountability & Oversight	02-28-18
Passed House (71-23)	03-21-18
Reported, S. Judiciary	12-04-18

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⁹ R.C. 149.43(A); R.C. 149.011(G), not in the bill.

¹⁰ Section 3.

