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H.B. 61  
133rd General Assembly

## Bill Analysis

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**Version:** As Reported by Senate Judiciary

**Primary Sponsors:** Reps. Lanese and Liston

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### SUMMARY

- Adds forensic mental health providers, mental health evaluation providers, and regional psychiatric hospital employees to the list of professions, consolidated in continuing law into the term “designated public service worker,” whose residential and familial information is exempted from disclosure under the Public Records Law.
- Defines “forensic mental health provider” as any employee of a community mental health service provider or local alcohol, drug addiction, and mental health services board that has contact in the course of their duties with persons committed to the board by a court order.
- Defines “mental health evaluation provider” as an individual who examines a respondent who is alleged to be a mentally ill person subject to court order, and reports to the probate court on the respondent’s mental condition.
- Defines “regional psychiatric hospital employee” as any employee of the Department of Mental Health and Addiction Services who, in the course of the employee’s duties, has contact with patients committed to the Department by a court order.

### DETAILED ANALYSIS

#### **Residential and familial information of certain mental health workers not a public record**

Under continuing Public Records Law, any person may request to inspect or obtain copies of public records from a public office. When it receives a public records request, and unless part or all of a record is exempt from release, a public office must provide inspection of the requested records promptly and at no cost, or provide copies at cost within a reasonable

period of time.<sup>1</sup> The residential and familial information of designated public service workers are exempt from public disclosure.<sup>2</sup> The law defines “designated public service worker” as a “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, medical director or member of a cooperating physician advisory board of an emergency medical service organization, state board of pharmacy employee, investigator of the bureau of criminal identification and investigation, judge, magistrate, or federal law enforcement officer.”<sup>3</sup> The bill expands the definition of “designated public service worker” to include a forensic mental health provider, mental health evaluation provider, or regional psychiatric hospital employee, thus exempting their residential and familial information from disclosure under the Public Records Law.<sup>4</sup>

The bill defines those added terms in the following manner:<sup>5</sup>

- “Forensic mental health provider” means any employee of a community mental health service provider or local alcohol, drug addiction, and mental health services board who has contact in the course of their duties with persons committed to the board by a court order finding the person incompetent to stand trial or not guilty by reason of insanity or conditionally releasing the person.<sup>6</sup>
- “Mental health evaluation provider” means an individual who, under the law regarding the hospitalization of the mentally ill, examines a respondent who is alleged to be a mentally ill person subject to court order for such hospitalization, and reports to the probate court the respondent’s mental condition.
- “Regional psychiatric hospital employee” means any employee of the Department of Mental Health and Addiction Services who has contact in the course of their duties with persons committed to the Department by a court order described in the first dot point above.

Under continuing law, and generally under the bill for forensic mental health providers, mental health evaluation providers, and regional psychiatric hospital employees, designated public service worker’s residential and familial information exempt from the Public Records Law means information that discloses any of the following:<sup>7</sup>

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<sup>1</sup> R.C. 149.43(B).

<sup>2</sup> R.C. 149.43(A)(1)(p).

<sup>3</sup> R.C. 149.43(A)(7).

<sup>4</sup> R.C. 149.43(A)(7).

<sup>5</sup> R.C. 149.43(A)(9).

<sup>6</sup> By reference to R.C. 2945.38, 2945.39, 2945.40, and 2945.402, not in the bill.

<sup>7</sup> R.C. 149.43(A)(8).

- The address of the actual personal residence of a designated public service worker (other than a prosecuting attorney or judge), except for the state or political subdivision in which the worker resides;
- Information compiled from referral to or participation in an employee assistance program;
- The Social Security number, residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information of, a designated public service worker;
- The name of any beneficiary of employment benefits, including life insurance benefits, provided to a designated public service worker by the worker's employer;
- The identity and amount of any charitable or employment benefit deduction made by the designated public service worker's employer from the worker's compensation, unless state or federal law requires the amount of the deduction;
- The name, residential address, employer, employer's address, Social Security number, residential telephone number, bank account, debit card, charge card, or credit card number, or emergency telephone number of the spouse, former spouse, or any child of a designated public service worker; and
- 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.

There is one exception to the general exemption of a designated public service worker's residential and familial information from disclosure under the Public Records Law. Continuing law allows a journalist to submit a written and signed request to a public office that employs a person whose residential and familial information is exempted from the Public Records Law for the actual personal address of the person.<sup>8</sup> The journalist also may request the name and address of the employer of the person's spouse, former spouse, or child if that person also is employed by a public office.<sup>9</sup> Therefore, this process applies to a forensic mental health provider, mental health evaluation provider, or regional psychiatric hospital employee under the bill.

### **Certain mental health workers may request address be redacted from available online records**

Under the bill, a forensic mental health provider, mental health evaluation provider, or regional psychiatric hospital employee may request that the provider's or employee's address be redacted from a record in which that person's residential and familial information appears

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<sup>8</sup> R.C. 149.43(B)(9)(a).

<sup>9</sup> R.C. 149.43(B)(9)(a).

and that is available to the public on the Internet. Continuing law allows a designated public service worker to submit a request (in writing and on a form developed by the Attorney General) to a public office, except for a county auditor, to redact the worker's address from any record in which the worker's residential and familial information appears that is publicly available on the Internet.<sup>10</sup> The public office that receives the request must redact the worker's address from the public record within five business days, or if the redaction is impracticable, provide an explanation, verbally or in writing, of the impracticality of the request within five business days of receiving the request.<sup>11</sup> Generally a public office, other than an employer of a designated public service worker, or a person responsible for the public records of the employer, is not required to redact designated public service worker residential and familial information of the designated public service worker from other records maintained by the public office.<sup>12</sup> The bill includes forensic mental health providers, mental health evaluation providers, and regional psychiatric hospital employees in this process.

### **Civil action for damages**

Continuing law provides that a public office or person responsible for a public office's public records is not liable in damages in a civil action for any harm an individual allegedly sustains as a result of the inclusion of that individual's personal information on any record made available to the general public on the Internet or any harm a designated public service worker sustains as a result of the inclusion of the designated public service worker's address on any record made available to the general public on the Internet in violation of the requirements described under "**Certain mental health workers may request address be redacted from available online records,**" above, unless the public office or person responsible for the public office's public records acted with malicious purpose, in bad faith, or in a wanton or reckless manner or unless R.C. 2744.03(A)(6)(a) or (c) applies (exceptions to employee immunity under the Political Subdivision Tort Liability Law). The bill applies this provision to forensic mental health providers, mental health evaluation providers, and regional psychiatric hospital employees.<sup>13</sup>

### **Certain mental health workers or the worker's spouse may request name removed from the property tax list**

The bill permits a forensic mental health provider, mental health evaluation provider, regional psychiatric hospital employee, or the provider's or employee's spouse to file an affidavit to have the forensic mental health provider's, mental health evaluation provider's, regional psychiatric hospital employee's, or spouse's name removed from certain records. Under continuing law, a person, or spouse of that person, whose residential and familial

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<sup>10</sup> R.C. 149.45(D)(1), not in the bill.

<sup>11</sup> R.C. 149.45(D)(2), not in the bill.

<sup>12</sup> R.C. 149.45(D)(3), not in the bill.

<sup>13</sup> R.C. 149.45(E)(2), not in the bill.

information is not a public record under the Public Records Law may submit an affidavit to the county auditor requesting that the county auditor remove the name of the person from any record made available to the general public on the Internet or a publicly accessible database and from the general tax list and duplicate of real and public utility property and to replace the name with the person's initials as the name of the individual that appears on the deed. When the county auditor receives the affidavit, the auditor must act on the request within five business days if practicable. If removal and reinsertion is not practicable, the auditor must explain to the requestor, within five days after receiving the affidavit, why the removal and insertion is impracticable.<sup>14</sup>

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## HISTORY

Action	Date
Introduced	2-12-19
Reported, H. Civil Justice	3-20-19
Passed House (93-1)	03-28-19
Reported, S. Judiciary	06-28-19

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<sup>14</sup> R.C. 319.28(B), not in the bill.