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# OHIO LEGISLATIVE SERVICE COMMISSION

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134<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Sen. Roegner

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### SUMMARY

- Adds “emergency service telecommunicators” and certain Ohio National Guard members to the list of professions whose residential and familial information is exempted from disclosure under the Public Records Law.
- Permits an emergency service telecommunicator and certain Ohio National Guard members to request the person’s address be redacted from any record of a public office that is publicly available on the Internet in which the person’s residential and familial information appears, except for the records of a county auditor.
- Permits an emergency service telecommunicator or the person’s spouse to request that the county auditor replace the emergency service telecommunicator’s or spouse’s name or the emergency service telecommunicator’s or spouse’s initials on records publicly available on the Internet or in a publicly accessible database.
- Permits certain Ohio National Guard members or the member’s spouse to request that the county auditor replace the National Guard member’s or spouse’s name or the National Guard member’s or spouse’s initials on records publicly available on the Internet or in a publicly accessible database.

### DETAILED ANALYSIS

#### Public records

##### **Emergency service telecommunicator’s and designated Ohio National Guard member’s residential and familial information 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 bill includes an emergency service telecommunicator and a designated Ohio National Guard member within the definition of “designated public service worker” and as a result exempts an emergency service telecommunicator’s and a designated Ohio National Guard member’s residential and familial information from disclosure under the Public Records Law.<sup>2</sup> An “emergency service telecommunicator” is an individual employed by an emergency service provider, whose primary responsibility is to be an operator for the receipt or processing of calls for emergency services made by telephone, radio, or other electronic means.<sup>3</sup> A “designated Ohio National Guard member” is a member of the Ohio National Guard who is participating in duties related to remotely piloted aircraft, including but not limited to, pilots, sensor operators, and mission intelligence personnel, duties related to special forces operations, or duties related to cybersecurity, and is designated by the Adjutant General as a designated public service worker for those purposes.<sup>4</sup>

Under continuing law, and generally under the bill for emergency service telecommunicators and designated Ohio National Guard members, designated public service worker’s residential and familial information that is exempt from the Public Records Law includes the following:<sup>5</sup>

1. The address of the actual personal residence of a designated public service worker, except for the following information:
  - a. The address of the actual personal residence of a prosecuting attorney or judge; and
  - b. The state or political subdivision in which a designated public service worker 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, a designated public service worker;
4. The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a designated public service worker by the designated public service worker’s employer;
5. The identity and amount of any charitable or employment benefit deduction made by the designated public service worker’s employer from the designated public service worker’s compensation, unless the amount of the deduction is required by state or federal law;

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

<sup>2</sup> R.C. 149.43(A)(1)(p) and (7).

<sup>3</sup> R.C. 149.43(A)(9), by reference to R.C. 4742.01(B), not in the bill.

<sup>4</sup> R.C. 149.43(A)(9).

<sup>5</sup> R.C. 149.43(A)(8).

6. The name, 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 a designated public service worker;
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.

Continuing law allows a journalist to submit a written request to a public office that employs a person whose residential and familial information is exempted from the Public Records Law for the actual address of the person. The journalist also may request the name and address of the employer of the person's spouse, former spouse, or child if they are also employed by a public office. This process also applies to an emergency service telecommunicator and a designated Ohio National Guard member under the bill.<sup>6</sup>

### **Emergency service telecommunicator or designated Ohio National Guard member may request address be redacted from available online records**

Under the bill, an emergency service telecommunicator or a designated Ohio National Guard member may request that the emergency service telecommunicator's or the designated Ohio National Guard member's address be redacted from a record in which that person's residential and familial information appears 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>7</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>8</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>9</sup> The bill includes emergency service telecommunicators and designated Ohio National Guard members in this process.

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<sup>6</sup> R.C. 149.43(B)(9)(a).

<sup>7</sup> R.C. 149.45(D)(1), not in the bill.

<sup>8</sup> R.C. 149.45(D)(2), not in the bill.

<sup>9</sup> R.C. 149.45(D)(3), not in the bill.

## **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 **"Emergency service telecommunicator or designated Ohio National Guard member 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 emergency service telecommunicators and designated Ohio National Guard members.<sup>10</sup>

## **Emergency service telecommunicator, designated Ohio National Guard member, or the person's spouse may request name removed from the property tax list**

The bill permits an emergency service telecommunicator, designated Ohio National Guard member, or the person's spouse to file an affidavit to have the emergency service telecommunicator's, designated Ohio National Guard member's, or spouse's name removed from certain records. Under continuing law, a person, or spouse of that person, whose residential and familial 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>11</sup>

## **Requirements of Adjutant General – designation of Ohio National Guard members**

The bill adds to the specific requirements of the Adjutant General the duty to designate Ohio National Guard members, who are participating in duties related to remotely piloted aircraft, including but not limited to, pilots, sensor operators, and mission intelligence

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<sup>10</sup> R.C. 149.45(E)(2), not in the bill.

<sup>11</sup> R.C. 319.28(B), not in the bill.

personnel, duties related to special forces operations, or duties related to cybersecurity, as designated public service workers under the Public Records Law.<sup>12</sup>

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## HISTORY

| Action     | Date     |
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| Introduced | 01-19-21 |

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S0004-I-134/ks

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<sup>12</sup> R.C. 5913.01(A)(11).