



# Ohio Legislative Service Commission

## Bill Analysis

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### S.B. 83

131st General Assembly  
(As Introduced)

**Sens.** Williams, Brown, Tavares, Yuko

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## BILL SUMMARY

### ADDRESS CONFIDENTIALITY PROGRAM

- Establishes an address confidentiality program in the Office of the Secretary of State.
- Permits an adult, a parent, or a guardian acting on behalf of a minor, incompetent, or ward to apply with the assistance of an application assistant to the Secretary of State to have an address designated by the Secretary of State serve as the person's address or the address of the minor, incompetent, or ward.
- Requires an application to include, among other things, a sworn statement that the applicant fears for the safety of the applicant, the applicant's children, or the minor, incompetent, or ward.
- States that no tier I, tier II, or tier III sex offender/child-victim offender is eligible to apply to the Secretary of State to have an address designated by the Secretary of State to serve as the person's address under the address confidentiality program.
- Requires the court, in a criminal action involving specified offenses or in a protection order proceeding, to notify the victim of the offense or the petitioner for the protection order of the person's right to apply to the Secretary of State to have an address designated by the Secretary of State serve as the address of the victim or the person protected by the protection order.
- Prohibits any person from falsely attesting in an application that disclosure of the applicant's address would endanger the safety of the applicant, the applicant's children, or the minor, incompetent, or ward or knowingly providing false or incorrect information upon making an application.

- Permits a program participant to request that a governmental entity use the address designated by the Secretary of State as the program participant's address and, with certain exceptions, requires the governmental entity to accept that address.
- Requires the Office of the Secretary of State to daily place all first class mail of a program participant received that day into an envelope or package and mail it to the participant at the mailing address provided in the application.
- Generally authorizes a program participant who is a qualified elector to vote by absent voter's ballot, provides that such participant must apply to the Secretary of State for an absent voter's ballot using the participant's confidential address, and provides for the verification of the participant's registration and eligibility to vote by bipartisan teams of employees of the Office of the Secretary of State.
- Generally prohibits the Secretary of State from disclosing or making a program participant's voter registration record available for public inspection or copying.
- Allows a person to petition the Franklin County Court of Common Pleas for a hearing to order the Secretary of State to make a program participant's confidential address available to the person and prescribes the procedures for the service of notice and hearing.
- Generally prohibits the Secretary of State from disclosing or making a program participant's confidential address available for inspection or copying and excludes such an address and all records pertaining to the address confidentiality program from the definition of "public record" under the Public Records Law.
- Prohibits any person who obtains the confidential address of a program participant from the Office of the Secretary of State, with knowledge that the address is protected under the address confidentiality program, from knowingly disclosing that address to any person not authorized to receive it.
- Specifies the circumstances in which the Secretary of State must cancel a program participant's certification and the circumstances in which the Secretary of State may cancel the certification.
- Authorizes the Secretary of State to designate employees or volunteers of shelters for victims of domestic violence or other agencies in a county that serve victims of abuse to serve as application assistants for the applicants for certification.
- Requires the Secretary of State to adopt rules to facilitate the administration of the bill's provisions.



- Grants to the state and the Office of the Secretary of State immunity from liability in damages for injury, death, or loss to person or property that allegedly arises from the performance of the Secretary of State's duties.

### **FEDERAL LAW ENFORCEMENT OFFICER RESIDENTIAL AND FAMILIAL INFORMATION**

- In the Public Records Law, expands the exclusion from the definition of "public record" for "peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, and investigator of the Bureau of Criminal Identification and Investigation (BCII) residential and familial information" to include "federal law enforcement officer residential and familial information."
- In the Public Records Law, expands the definition of "peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the BCII residential and familial information" to include federal law enforcement officer residential and familial information.
- Allows journalists to obtain from public offices the actual personal residence address of a federal law enforcement officer and the name and address of the employer of such an officer's spouse, former spouse, or child if employed by a public office to the same extent as they may obtain that information as it relates to the individuals described in the first dot point.
- Expands the existing procedure for an individual described in the first dot point to request that a public office other than a county auditor redact the address of that individual from any record made available to the general public on the Internet to also apply to a similar request by a federal law enforcement officer.
- Expands the existing procedure for an individual described in the first dot point to submit a request to the county auditor to remove the name of the individual from, and insert the individual's initials on, any record available to the public on the Internet or a publicly accessible database and the general tax list, and general duplicate, of real and public utility property to also apply to a similar request made by a federal law enforcement officer.
- Expands the prohibition in current law against the county auditor charging a fee for changing the name to the initials of a current owner who makes the request described in the preceding dot point to also apply in regard to a federal law enforcement officer who makes a similar request.



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## CONTENT AND OPERATION

### ADDRESS CONFIDENTIALITY PROGRAM

#### Application for designated address

The bill permits an adult person, a "parent," or a "guardian" acting on behalf of a minor, "incompetent," or "ward" to apply with the assistance of an "application assistant" to the Secretary of State to have an "address" designated by the Secretary of State serve as the person's address or the address of the minor, incompetent, or ward. The bill states, however, that no "tier I, II, or III sex offender/child-victim offender" is eligible to apply to the Secretary of State for an address under the program. The Secretary of State is required to approve an application if it is filed in the manner and on



the form prescribed under the bill and if it contains all of the following (terms in quotation marks are defined below in "**Definitions**"):<sup>1</sup>

(1) A sworn statement by the applicant that the applicant fears for the safety of the applicant, the applicant's children, or the minor, incompetent, or ward on whose behalf the application is made and that one or more of the following apply:

(a) The applicant provides proof that the applicant, any of the applicant's children, or the minor, incompetent, or ward is a victim of a violation of R.C. 2903.11 (felonious assault), 2903.12 (aggravated assault), 2903.13 (assault), 2903.21 (aggravated menacing), 2903.211 (menacing by stalking), 2903.22 (menacing), 2907.02 (rape), 2907.03 (sexual battery), 2907.04 (unlawful sexual conduct with a minor), 2907.05 (gross sexual imposition), 2907.06 (sexual imposition), 2907.07 (importuning), 2907.08 (voyeurism), 2907.09 (public indecency), 2911.211 (aggravated trespass), 2919.22 (endangering children), or 2919.25 (domestic violence).

(b) The applicant provides proof that the applicant, any of the applicant's children, or the minor, incompetent, or ward has a protection order issued or consent agreement approved under R.C. 2903.213 (protection order as a pretrial condition of release of certain alleged offenders), 2903.214 (protection order in menacing by stalking cases), or 3113.31 (protection order in civil domestic violence cases) or a protection order issued by a court of another state that has been registered under R.C. 2919.272.

(c) The applicant reasonably fears that the applicant, any of the applicant's children, or the minor, incompetent, or ward is in danger of being threatened or physically harmed by another person.

(2) A designation of the Secretary of State as the agent for the purposes of receiving service of process and the receipt of mail;

(3) The mailing address at which the applicant may be contacted by the Secretary of State and the telephone number or numbers at which the applicant may be called by the Secretary of State;

(4) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk that the applicant, the applicant's children, or the minor, incompetent, or ward will be threatened or physically harmed by another person;

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<sup>1</sup> R.C. 111.32(A) and (E).

(5) The signature of the applicant, the name, work address, and signature of the application assistant who assisted the applicant in applying to become a "program participant" (a person certified as a program participant under the bill), and the date on which the applicant and application assistant signed the application;

(6) The name, occupation if known, and contact information if known of the person the applicant reasonably believes will threaten or physically harm the applicant, the applicant's children, or the minor, incompetent, or ward.

### **Filing of application and certification by Secretary of State**

The bill requires any person who files an application as described above to file the application with the Office of the Secretary of State. Upon the filing of a properly completed application, the Secretary of State must certify the applicant or the minor, incompetent, or ward on whose behalf the application is filed as a program participant. The certification is valid for four years after the date of the filing of the application for the program participant unless the certification is withdrawn or invalidated before the end of that four-year period. A program participant may renew the program participant's certification pursuant to the renewal procedure adopted by the Secretary of State as described below in "**Rules.**"<sup>2</sup>

### **Prohibition**

The bill prohibits any person from falsely attesting in an application that disclosure of the applicant's address would endanger the applicant's safety, the safety of the applicant's children, or the safety of the minor, incompetent, or ward on whose behalf the application is made or knowingly providing false or incorrect information upon making an application. A violation of this prohibition constitutes grounds for removal from the address confidentiality program.<sup>3</sup>

### **Notification by a court of the right to apply to Secretary of State for designated address**

The bill provides that in any criminal action involving a violation described in paragraph (1)(a) under "**Application for designated address,**" above, upon the conviction or plea of guilty of the defendant, the court must notify in writing the victim of the offense if an adult person or a parent or guardian acting on behalf of the victim who is a minor, incompetent, or ward of the person's right to apply with the assistance of an application assistant to the Secretary of State to have an address designated by the

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<sup>2</sup> R.C. 111.32(B) and (C).

<sup>3</sup> R.C. 111.32(D).



Secretary of State serve as the person's address or the address of the minor, incompetent, or ward. The person may so apply pursuant to the bill's provisions.<sup>4</sup>

The bill provides that in any proceeding under R.C. 2903.213 (protection order as a pretrial condition of release of certain alleged offenders), upon the issuance of a protection order, the court must notify in writing the person who filed the motion for the protection order of the person's right to apply with the assistance of an application assistant to the Secretary of State to have an address designated by the Secretary of State serve as the person's address or the address of the person on whose behalf the protection order was issued. The person who filed the motion for the protection order may so apply pursuant to the bill's provisions.<sup>5</sup>

Under the bill, in any proceeding under R.C. 2903.214 (protection order in menacing by stalking cases) or 3113.31 (protection order and consent agreement in civil domestic violence cases), upon the issuance of a protection order or the approval of a consent agreement, the court must notify in writing the petitioner in the proceeding of the right of the petitioner to apply with the assistance of an application assistant to the Secretary of State to have an address designated by the Secretary of State serve as the petitioner's address or the address of the person on whose behalf the protection order was issued or the consent agreement was approved. The petitioner may so apply pursuant to the bill's provisions.<sup>6</sup>

### **Use of designated address by governmental entity; use at place of employment**

The bill permits a program participant to request that a "governmental entity" (defined as the state, a political subdivision of the state, or any department, agency, board, commission, or other instrumentality of the state or a political subdivision of the state) use the address designated by the Secretary of State as the program participant's address. If the program participant requests that a governmental entity use that address, the governmental entity must accept that address, except that this provision does not apply to a municipal-owned public utility. The "confidential addresses" (meaning addresses that are required to be kept confidential once a program participant is certified by the Secretary of State under the bill) of participants of the address

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<sup>4</sup> R.C. 111.321(A) and 2901.44.

<sup>5</sup> R.C. 111.321(B) and 2903.213(J).

<sup>6</sup> R.C. 111.321(C), 2903.214(O), and 3113.31(O).



confidentiality program that are maintained by a municipal-owned public utility are not a public record and cannot be released by such a utility or by its employee.<sup>7</sup>

The bill permits a program participant to use the address designated by the Secretary of State as the program participant's address at the participant's place of employment.<sup>8</sup>

### **Mailings to program participant**

The bill requires the Office of the Secretary of State to daily place all first class mail of a program participant that the Secretary of State receives that day into an envelope or package and mail that envelope or package to the program participant at the participant's mailing address provided in the participant's application. The Secretary of State may contract with the United States Postal Service to establish special postal rates for the envelopes or packages used in mailing a program participant's first class mail under this provision.<sup>9</sup>

### **Voting by program participant**

Generally, the bill authorizes a program participant who is a qualified elector to vote by absent voter's ballots under the Absent Voter's Ballot Law. The program participant must apply to the Secretary of State for those ballots using the participant's confidential address. "Bipartisan teams" of employees (defined as two designated employees of the Office of the Secretary of State who are from different political parties) must determine the precinct in which the program participant resides and the ballot style that the program participant should receive and request the program participant absent voter's ballot from the board of elections. The board of elections must send to the Secretary of State the ballots appropriate for the precinct where the participant's true residence is located. The Office of the Secretary of State must forward the ballot to the program participant and instruct the participant to return the ballot to that Office. Bipartisan teams of employees of the Office must verify that the program participant is registered and eligible to vote using the statewide voter registration database and that the ballot envelope was properly completed before forwarding the ballot for tabulation to the board of elections in the county where the participant voter resides. The absent voter's ballots provided to program participants must be referred to as "ACP absent voter's ballots." The board of elections must accept all ballots forwarded by the Secretary of State that are postmarked prior to election day for up to ten days after

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<sup>7</sup> R.C. 111.31(C) and (D) and 111.33(A) and (D).

<sup>8</sup> R.C. 111.33(B).

<sup>9</sup> R.C. 111.33(C).





election day. The bill requires each employee of the Office of the Secretary of State who serves on a bipartisan team that handles program participants' absent voter's ballots to subscribe to an oath that the employee will faithfully execute the employee's duties to the best of the employee's ability.<sup>10</sup>

The bill provides that the procedures described in the preceding paragraph are an exception to existing law's provision that requires when an application for absent voter's ballots must be delivered to the director of the board of elections. Except as otherwise described below under "**Petition for inspection or copying of confidential address**" and "**Prohibitions against disclosure of confidential address**" and notwithstanding any provision of the statewide voter registration database and the custody of registration forms, records, and lists laws or any other provision of the Revised Code to the contrary, the bill prohibits the Secretary of State from disclosing or making a program participant's voter registration record available for public inspection or copying. Such a record is subject to a mandatory audit every four years by the Auditor of State. The results of that audit are not a public record and must be kept only by the Auditor of State and the Secretary of State.<sup>11</sup>

### **Voter registration records**

The bill provides that notwithstanding any other provision of Voters' Qualifications and Registration Law, the Secretary of State must maintain the voter registration records for participants in the address confidentiality program who are registered or choose to register to vote. The Secretary of State must process new voter registration records and maintain existing voter registration records in the same manner as county boards of elections.<sup>12</sup>

The bill expands existing law's requirement for the Secretary of State to adopt rules pertaining to the maintenance of voter registration records to include rules establishing a process to keep the voter registration record of a person who is a program participant under the bill's provisions confidential and not available for public inspection.<sup>13</sup>

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<sup>10</sup> R.C. 111.34(A), (B), and (D).

<sup>11</sup> R.C. 111.34(C).

<sup>12</sup> R.C. 3503.151.

<sup>13</sup> R.C. 3503.15(D)( 8).



## Petition for inspection or copying of confidential address

The bill allows a person to petition the Court of Common Pleas of Franklin County for a hearing to order the Secretary of State to make a program participant's confidential address available to the person. Upon the filing of such a petition, the Court must fix a date for a hearing on it and require the Clerk of the Court to serve a notice of the date, time, place, and purpose of the hearing upon the petitioner and the program participant. The Clerk must notify by electronic means the Secretary of State on behalf of the program participant and send the notice by certified mail, return receipt requested, to the participant. Upon receipt of that notice, the Secretary of State must forward by certified mail, return receipt requested, a copy of the individual notice to the program participant at the participant's confidential address. The return receipt must be addressed to the Clerk of the applicable Court of Common Pleas. The Court may not hear the petition until the Clerk receives the return receipt containing proof of service of the notice upon the program participant. At a hearing under this provision, the program participant or the participant's attorney may appear and be heard. After the hearing and considering the testimony, the Court must issue the requested order only if good cause is shown for the order and it appears to the Court by clear and convincing evidence that the disclosure of the program participant's confidential address will not increase the risk that the participant will be threatened or harmed by another person.<sup>14</sup>

## Prohibitions against disclosure of confidential address

Notwithstanding any provision of the laws on statewide voter registration database and custody of registration forms, records, and lists or any other section of the Revised Code to the contrary, the bill prohibits the Secretary of State from disclosing or making a program participant's confidential address available for inspection or copying, except under the following circumstances:<sup>15</sup>

(1) The Secretary of State must disclose a program participant's confidential address to a law enforcement officer, prosecuting attorney, city director of law, or similar chief legal officer, or their designees, acting pursuant to a search warrant, subpoena, or court order. A law enforcement officer may obtain the confidential address of a program participant from an electronic database maintained by the Secretary of State as described below in "**Program participant database**," and accessed through existing electronic databases regularly used by law enforcement officers if none of the following applies to the law enforcement officer: (a) the officer is the offender of a criminal offense described above in paragraph (1)(a) in "**Application for designated**

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<sup>14</sup> R.C. 111.35.

<sup>15</sup> R.C. 111.36(A).



**address,"** (b) the officer is the person against whom a protection order is issued or a consent agreement is approved as described above in paragraph (1)(b) in "**Application for designated address,"** or (c) the officer is the person an applicant reasonably fears as causing the danger of being threatened or physically harmed as described above in paragraph (1)(c) in "**Application for designated address."**

(2) If a court orders that a program participant's confidential address be made available to a person as described above in "**Petition for inspection or copying of confidential address,"** the Secretary of State must make it available to the person named in the court order.

(3) If the Secretary of State has canceled a program participant's certification as described below in "**Cancellation of certification,"** the Secretary of State may make the address available for inspection or copying under the election law providing for the custody of registration forms, records, and lists.

The bill prohibits any person who obtains the confidential address of a program participant from the Office of the Secretary of State, with knowledge that the confidential address is protected in the address confidentiality program established by the bill, from knowingly disclosing the confidential address to any person not authorized to receive that confidential address. This prohibition does not apply to: (1) any disclosure of the confidential address of a program participant to a law enforcement officer acting within the scope of the officer's duties in the investigation or prosecution of a criminal offense, or (2) any disclosure of the confidential address of a program participant in any grand jury proceeding, any judicial proceeding, or any filing, notice, discovery, motion, or other process incident to a judicial proceeding. Whoever violates this prohibition is guilty of a felony of the fifth degree.<sup>16</sup>

### **Exclusion from Public Records Law**

The bill adds the confidential address of a participant of the address confidentiality program, and all of the records pertaining to the program, established under its provisions, to the list of records excluded from the definition of "public record" under the current Public Records Law, subject to any provision in the bill pertaining to the program.<sup>17</sup>

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<sup>16</sup> R.C. 111.36(B).

<sup>17</sup> R.C. 149.43(A)(1)(bb).



## **Cancellation of certification**

The bill requires the Secretary of State to immediately cancel the certification of a program participant if the participant's application contained one or more false statements or the participant requests to cease being a program participant. The bill permits the Secretary of State to cancel the certification of a program participant if the participant's address changes from any address listed on the application, unless the program participant or the person who applied for the program on behalf of the participant provides the Secretary of State with written notice of the change of address within five days after the change of address occurs.<sup>18</sup>

## **Application assistants**

The bill authorizes the Secretary of State to designate one or more employees or volunteers of various "shelters for victims of domestic violence" (defined as facilities that provide temporary residential service or facilities to family or household members who are victims of domestic violence) or other agencies within a county that serve victims of abuse to serve as application assistants for the applicants. Application assistants must comply with the requirements for training and certification adopted by the Secretary of State as described below in "**Rules.**"<sup>19</sup>

## **Civil immunity**

The bill provides that notwithstanding any provision of the Court of Claims Law or any other provision of the Revised Code to the contrary, the state and the Office of the Secretary of State are not liable in damages for injury, death, or loss to person or property that allegedly arises from the performance of the Secretary of State's duties under the bill. The law on the qualified civil immunity of state officers or employees applies to all officers and employees of the Office of the Secretary of State in relation to that performance. Any assistance or counseling rendered to program applicants or program participants by the Office of the Secretary of State or by certified application assistants is not legal advice.<sup>20</sup>

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<sup>18</sup> R.C. 111.37.

<sup>19</sup> R.C. 111.31(G) and 111.38.

<sup>20</sup> R.C. 111.39.



## Rules

The bill requires the Secretary of State to adopt rules under the Administrative Procedure Act to facilitate the administration of the bill's provisions and to establish the following:<sup>21</sup>

- (1) Guidelines for maintaining the confidentiality of the voter registration records of program participants;
- (2) Requirements for the training and certification of application assistants;
- (3) The application for certification as a program participant;
- (4) The procedure for renewal of certification as a program participant.

The Secretary of State must prescribe forms necessary for the administration of the address confidentiality program, including, but not limited to, an address confidentiality program identification card. Application assistants and other persons involved in registering participants in the address confidentiality program must use the forms prescribed by the Secretary of State.<sup>22</sup>

### Program participant database

The bill requires the Secretary of State to maintain an electronic database that contains the names and confidential addresses of participants in the address confidentiality program and any other information the Secretary of State considers appropriate regarding the participants. Except as otherwise described below, the database is not a public record open for inspection under the Public Records Law. Any law enforcement officer may access the database to obtain the confidential address of a program participant if the officer is not described in paragraph (1)(a), (b), or (c) in "**Prohibitions against disclosure of confidential address**," above. The bill requires the Secretary of State and the Attorney General to enter into a memorandum of understanding to make any data pertaining to participants in the address confidentiality program available in a secure manner to law enforcement officers while maintaining a high level of safety for program participants.<sup>23</sup>

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<sup>21</sup> R.C. 111.40(A) and (B).

<sup>22</sup> R.C. 111.40(C).

<sup>23</sup> R.C. 111.40(D).



## Definitions

The bill defines the following additional terms as used in its provisions:<sup>24</sup>

"Address" means a residential street address, school address, or work address of a person as specified on an application to be a program participant under the bill.

"Application assistant" means a person who is designated by the Secretary of State to help individuals complete applications to be program participants and who has received training and certification from the Secretary of State for that purpose.

"Guardian," "incompetent," "parent," and "ward" have the same meanings as in R.C. 2111.01.

"Tier II sex offender/child-victim offender" means any of the following (by reference to R.C. 2950.01(F), not in the bill):

(1) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any of the following sexually oriented offenses: (a) a violation of R.C. 2907.21, 2907.321, or 2907.322, (b) a violation of R.C. 2907.04 when the offender is at least four years older than the other person with whom the offender engaged in sexual conduct, or when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of or pleaded guilty to a violation of R.C. 2907.02, 2907.03, or 2907.04 of the Revised Code or former R.C. 2907.12, (c) a violation of R.C. 2907.05(A)(4) or of R.C. 2907.24(A)(3) or of R.C. 2907.323(A)(1) or (2), (d) a violation of R.C. 2905.01(A)(1), (2), (3), or (5) when the offense is committed with a sexual motivation, (e) a violation of R.C. 2905.01(A)(4) when the victim of the offense is 18 years of age or older, (f) a violation of R.C. 2905.02(B) or of R.C. 2919.22(B)(5), (g) a specified violation of R.C. 2905.32, (h) a violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in (a), (b), (c), (d), (e), (f), or (g) in this paragraph, (i) any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in (a), (b), (c), (d), (e), (f), (g), or (h) in this paragraph, or (j) any sexually oriented offense that is committed after the sex offender previously has been convicted of, pleaded guilty to, or has been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier I sex offender/child-victim offender.

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<sup>24</sup> R.C. 111.31.

(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any child-victim oriented offense when the child-victim oriented offense is committed after the child-victim offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier I sex offender/child-victim offender.

(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, classifies a tier II sex offender/child-victim offender relative to the offense.

(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and whom a juvenile court, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, classifies a tier II sex offender/child-victim offender relative to the current offense.

(5) A sex offender or child-victim offender who is not in any category of tier II sex offender/child-victim offender set forth in paragraph (1), (2), (3), or (4), above, who prior to January 1, 2008, was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense, and who prior to that date was determined to be a habitual sex offender or determined to be a habitual child-victim offender, unless either of the following applies: (a) the sex offender or child-victim offender is reclassified pursuant to R.C. 2950.031 or 2950.032 as a tier I sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the offense, or (b) a juvenile court, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, classifies the child a tier I sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the offense.

"Tier III sex offender/child-victim offender" means any of the following (by reference to R.C. 2950.01(G), not in the bill):

(1) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any of the following sexually oriented offenses: (a) a violation of R.C. 2907.02 or 2907.03, (b) a violation of R.C. 2907.05(B), (c) a violation of R.C. 2903.01, 2903.02, or 2903.11 when the violation was committed with a sexual motivation, (d) a violation of R.C. 2903.04(A) when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation, (e) a violation of R.C. 2905.01(A)(4) when the victim of the offense is under 18 years of age, (f) a violation of R.C. 2905.01(B) when the victim of the offense is under 18 years of age and the offender is not a parent of the victim of the offense, (g) a violation of R.C. 2903.03(B), (h) a

violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in (a), (b), (c), (d), (e), (f), or (g) in this paragraph, (i) any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in (a), (b), (c), (d), (e), (f), (g), or (h) in this paragraph, or (j) any sexually oriented offense that is committed after the sex offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier II sex offender/child-victim offender or a tier III sex offender/child-victim offender.

(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any child-victim oriented offense when the child-victim oriented offense is committed after the child-victim offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier II sex offender/child-victim offender or a tier III sex offender/child-victim offender.

(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, classifies a tier III sex offender/child-victim offender relative to the offense.

(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and whom a juvenile court, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, classifies a tier III sex offender/child-victim offender relative to the current offense.

(5) A sex offender or child-victim offender who is not in any category of tier III sex offender/child-victim offender set forth in paragraph (1), (2), (3), or (4), above, who prior to January 1, 2008, was convicted of or pleaded guilty to a sexually oriented offense or child-victim oriented offense or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense and classified a juvenile offender registrant, and who prior to that date was adjudicated a sexual predator or adjudicated a child-victim predator, unless either of the following applies: (a) the sex offender or child-victim offender is reclassified pursuant to R.C. 2950.031 or 2950.032 as a tier I sex offender/child-victim offender or a tier II sex offender/child-victim offender relative to the offense, or (b) the sex offender or child-victim offender is a delinquent child, and a juvenile court, pursuant to R.C. 2152.82, 2152.83, 2152.84, or



2152.85, classifies the child a tier I sex offender/child-victim offender or a tier II sex offender/child-victim offender relative to the offense.

(6) A sex offender who is convicted of, pleads guilty to, was convicted of, or pleaded guilty to a sexually oriented offense, if the sexually oriented offense and the circumstances in which it was committed are such that R.C. 2971.03(F) automatically classifies the offender as a tier III sex offender/child-victim offender;

(7) A sex offender or child-victim offender who is convicted of, pleads guilty to, was convicted of, pleaded guilty to, is adjudicated a delinquent child for committing, or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim offense in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States if both of the following apply: (a) under the law of the jurisdiction in which the offender was convicted or pleaded guilty or the delinquent child was adjudicated, the offender or delinquent child is in a category substantially equivalent to a category of tier III sex offender/child-victim offender described in paragraph (1), (2), (3), (4), (5), or (6), above, and (b) subsequent to the conviction, plea of guilty, or adjudication in the other jurisdiction, the offender or delinquent child resides, has temporary domicile, attends school or an institution of higher education, is employed, or intends to reside in this state in any manner and for any period of time that subjects the offender or delinquent child to a duty to register or provide notice of intent to reside under R.C. 2950.04 or 2950.041.

## **FEDERAL LAW ENFORCEMENT OFFICER RESIDENTIAL AND FAMILIAL INFORMATION**

### **Public Records Law**

#### **Exemption from Public Records Law**

The bill expands the current Public Records Law exemption from the definition of "public record" for "peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the Bureau of Criminal Identification and Investigation (BCII) residential and familial information" so that the exemption also applies to federal law enforcement officer residential and familial information.<sup>25</sup> Similarly, the bill renames the applicable definition for that exemption to "peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, investigator of the BCII, or *federal law enforcement officer residential and familial information.*" The bill modifies the listing under current law of

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<sup>25</sup> R.C. 149.43(A)(1)(p).



the types of information included within that definition so that the types of information listed also apply regarding federal law enforcement officers.

These types of information as they apply to these officers are:<sup>26</sup>

(1) The address of the actual personal residence of a federal law enforcement officer, except for the state or political subdivision in which the officer 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 federal law enforcement officer;

(4) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a federal law enforcement officer by the officer's employer;

(5) The identity and amount of any charitable or employment benefit deduction made by the federal law enforcement officer's employer from the officer'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 a federal law enforcement officer;

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

The effect of these changes is that the information included in the definition as modified by the bill is exempt from disclosure under the Public Records Law.

### **Journalist disclosure**

The bill expands the journalist disclosure procedure set forth in existing law to also allow journalists to use the procedure to obtain the address of the actual personal residence of a federal law enforcement officer and to obtain the name and address of the

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<sup>26</sup> R.C. 149.43.

employer of such an officer's spouse, former spouse, or child if the officer's spouse, former spouse, or child is employed by a public office. The procedure requires the journalist to make and sign a written request for that information. The request must include the journalist's name and title and the name and address of the journalist's employer and must state that disclosure of the information sought would be in the public interest. For purposes of this journalist disclosure provision, current law defines "journalist" as 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 medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.<sup>27</sup>

### **Definition**

For purposes of the provisions described above and the other provisions in the bill that are discussed below, the bill defines "federal law enforcement officer" as any officer of the United States who is authorized by federal law to conduct any investigation of, and make any arrest for, any offense against the United States in violation of federal law.<sup>28</sup>

### **Redaction of a federal law enforcement officer's address**

The bill expands the procedure set forth in existing law to also allow a federal law enforcement officer (current law permits a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or BCII investigator (hereafter "protected individual") to make a request) to 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 "peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, investigator of the BCII, or *federal law enforcement officer* residential or familial information" of the person making the request. A person who makes a request for a redaction must make the request in writing and on a form developed by the Attorney General.<sup>29</sup>

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<sup>27</sup> R.C. 149.43(B)(9).

<sup>28</sup> R.C. 149.43(A)(7), 149.45(A)(4), 319.28(C), and 319.54(H).

<sup>29</sup> R.C. 149.45(D)(1).



Upon receiving a written request for a redaction pursuant to the above-described provision, the public office or person responsible for the public records of a public office must act within five business days in accordance with the request to redact the address of the federal law enforcement officer making the request from any record made available to the general public on the Internet that includes "peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, investigator of the BCII, or *federal law enforcement officer* residential and familial information" of the person making the request, if practicable. If a redaction is not practicable, the public office or person responsible for the public office's public records must verbally or in writing within five business days after receiving the written request explain to the federal law enforcement officer why the redaction is impracticable.

Except as provided in the above-described provisions and R.C. 319.28 (see below), a public office other than an employer of a federal law enforcement officer or a person responsible for the public records of the employer is not required to redact the residential and familial information of the federal law enforcement officer from other records maintained by the public office.

The bill expands the requirement in existing law that the Attorney General develop a form to be used by a protected individual to request a redaction to also require the Attorney General to develop a form to be used by a federal law enforcement officer to request a redaction. This new form must include a place to provide any information that identifies the location of the address of a federal law enforcement officer to be redacted.<sup>30</sup>

### **Immunity from liability**

The bill expands the immunity from liability provisions in existing law by providing that a public office or a person responsible for a public office's public records is not liable in damages in a civil action for any harm a protected individual or *federal law enforcement officer* sustains as a result of the inclusion of that individual's or *officer's* address on any record made available to the general public on the Internet in violation of the above-discussed provisions 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 the acts or omissions of an employee of a political subdivision were manifestly outside the scope of the employee's employment or official

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<sup>30</sup> R.C. 149.45(D)(2), (3), and (4).

responsibilities or civil liability is expressly imposed upon the employee by a section of the Revised Code.<sup>31</sup>

### **Request to remove name from Internet and the general tax list, and general duplicate, of real and public utility property**

The bill expands the procedure in current law to also allow a federal law enforcement officer (current law permits a protected individual to make a request) to submit a written request by affidavit to the county auditor requesting the county auditor to remove the name of the federal law enforcement officer from any record made available to the general public on the Internet or a publicly accessible database and the general tax list, and general duplicate, of real and public utility property and insert the initials of the federal law enforcement officer on that record or database and the general tax list and general duplicate as the name of the federal law enforcement officer that appears on the deed. Upon receiving such a written request by affidavit, the county auditor must act within five business days in accordance with the request to remove the name of the officer from that record or database and the general tax list and general duplicate and insert the initials of the officer on the record or database and the general tax list and general duplicate, if practicable. If the removal and insertion is not practicable, the county auditor must verbally or in writing within five business days after receiving the written request explain to the officer why the removal and insertion is impracticable.<sup>32</sup>

### **County auditor may not charge a fee for the removal of a federal law enforcement officer's name from the Internet and the general tax list, and general duplicate, of real and public utility property**

The bill expands current law's prohibition that prohibits a county auditor from charging a fee when a current owner on any record made available to the general public on the Internet or a publicly accessible database and the general tax list, and general duplicate, of real and public utility property is a federal law enforcement officer (current law refers to a protected individual) and is changing the current owner name listed on that record or database and the general tax list and general duplicate to the initials of the current owner.<sup>33</sup>

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<sup>31</sup> R.C. 149.45(E)(2).

<sup>32</sup> R.C. 319.28(B).

<sup>33</sup> R.C. 319.54(G)(3)(c).

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## HISTORY

ACTION

DATE

Introduced

02-23-15

S0083-I-131.docx/emr

