
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 2322 **Hearing Date:** May 15, 2018
Author: Daly
Version: March 7, 2018
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Department of Motor Vehicles: Records: Confidentiality*

HISTORY

Source: California Judges Association

Prior Legislation: SB 1131 (Galgiani) Held Senate Appropriations 2016
SB 372 (Galgiani) 2015 this version held in Senate Appropriations
SB 767 (Lieu) (as amended in the Assembly) failed Assembly
Transportation, 2014
AB 2687 (Bocanegra) Ch. 273, Stats. 2014
AB 1270 (Eggman) failed Assembly Appropriations, 2013
AB 923 (Swanson) failed Assembly Appropriations, 2009
AB 529 (Lowenthal) failed Assembly Appropriations, 2009
AB 1958 (Swanson) failed Assembly Appropriations, 2008
AB 1311 (Berryhill) not heard Assembly Transportation, 2007
AB 1706 (Strickland) failed Assembly Transportation, 2005
AB 2012 (Chu) section amended out of the bill, 2004
AB 130 (Campbell) not heard Assembly Transportation, 2003
AB 246 (Cox) not heard Assembly Transportation, 2003
AB 1775 (Ortiz) no vote in Senate Public Safety, 2002
AB 84 (Hertzberg) Ch. 809, Stats. 2001
AB 1029 (Oropeza) Ch. 486, Stats. 2001
AB 151 (Longville) vetoed, 2000
AB 298 (Battin) held in Assembly Transportation, 2000
AB 1310 (Granlund) vetoed, 2000
AB 1358 (Shelley) Ch. 808, Stats. 2000
AB 1864 (Correa) held Assembly Appropriations, 2000
SB 171 (Knight) vetoed, 1998
AB 1941 (Bordonaro) Ch. 880, Stats. 1996
AB 191(Cannella) died in Sen. Committee on Criminal Procedure, 1996
AB 3033 (Baca) died in Sen. Committee on Criminal Procedure, 1996
AB 3391 (Ducheny) never heard, 1996
AB 688 (Frusetta) died in Sen. Committee on Criminal Procedure, 1996
AB 1396 (Poochigian) died in Sen. Committee on Criminal Procedure,
1996
AB 1931 (Conroy) Ch. 77, Stats. 1994
AB 3454 (Speier) Ch. 395, Stats. 1994
AB 3161 (Frazee) Ch. 838, Stats. 1994
AB 1268 (Martinez) Ch. 1268, Stats. 1993

AB 2367 (Polanco) Ch. 1291, Stats. 1993
SB 274 (Committee on Transportation) Ch. 1292, Stats. 1993
SB 602 (1992) Chaptered
AB 1779 (1989) Chaptered

Support: Judicial Council; a number of current and former Superior Court Judges

Opposition: None known

Assembly Floor Vote: 68 - 0

PURPOSE

The purpose of this bill is to provide that a judge who requests an additional level of confidentiality from the Department of Motor Vehicles shall have his or her records remain confidential even after retirement.

Under existing law the residential addresses of certain public employees and their families are confidential. (Vehicle Code §§ 1808.4 and 1808.6 - began in 1977.)

Existing law states that all residence addresses in any record of the Department of Motor Vehicles (DMV) are confidential and shall not be disclosed to any person, except a court, law enforcement agency, or other governmental agency, or as authorized in section 1808.22 of the Vehicle Code. (Vehicle Code §§ 1808.21 - added in 1989.)

Existing law states that any person may seek suppression of any DMV registration or driver's license record if he or she can show that he or she is the subject of stalking or a threat of death or great bodily injury. The suppression will be for a period of one year renewable for two more one year periods. (Vehicle Code § 1808.21(d).)

Existing law provides that the home address of specified persons which appear in the records of DMV is confidential upon the request of the person and that it not be disclosed except as specified. (Vehicle Code §§ 1808.4 and 1808.6.)

Existing law provides that the willful, unauthorized disclosure of this information as it relates to specified law enforcement (peace officers, employees of city police departments, and county sheriffs' offices and their families) that results in the bodily injury to the individual or individuals whose specified information was confidential, is a felony. (Vehicle Code § 1808.4.)

Existing law provides that a retired peace officer shall have his or her home address permanently withheld from public inspection upon the initial request of confidentiality and it shall not be opened after they retired. (Vehicle Code § 1880.4 (c)(3))

Existing law provides that the release of such confidential information, for all other persons specified, is a misdemeanor and punishable by a fine of up to \$5,000 and/or by up to one year in a county jail. (Vehicle Code § 1808.45.)

This bill provides that 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 of a judge or court commissioner shall be withheld from public inspection for three years following the death of the judge or court commissioner.

COMMENTS

1. Need for This Bill

According to the author:

Current law lists almost 30 occupations where an employee can request to have his or her home address confidential in any DMV records while they're an employee. However, for every occupation other than a peace officer, the protection of this sensitive information ends 3 years after retirement, resignation or termination from that job. This is problematic for some of the listed occupations, such as a judge or court commissioners, who may face retaliation years after they've left their position.

Judicial officers, like peace officers, perform critically essential duties in requiring compliance with the law and ensuring public safety. For public safety reasons, many suspects who have been convicted of serious and violent felonies receive lengthy prison sentences, typically longer than three years. These suspects, and often times their families and friends, have years to harbor ill will towards that judicial officer. Most suspects do not retaliate against the judicial officer but some do. Statistically, judicial officers are at the greatest risk of targeted violence in any profession, even higher than prosecutors or investigating officers. Fifty-one percent of all targeted attacks against judicial officers occurred at their homes¹.

2. Background of DMV Confidentiality

Vehicle Code section 1808.4 was added by statute in 1977 to provide confidentiality of home addresses to specified public employees and their families.

In 1989, Vehicle Code section 1808.21 was added to make all residence addresses contained within the Department of Motor Vehicle files confidential. Vehicle Code section 1808.21(a) states the following:

The residence address in any record of the department is confidential and cannot be disclosed to any person except a court, law enforcement agency, or other governmental agency, or as authorized in Section 1808.22 or 1808.23.

This section was further amended in 1994 to allow individuals under specific circumstances to request that their entire records be suppressed. Any individual who is the subject of stalking or who is experiencing a threat of death or great bodily injury to his or her person may request their entire record to be suppressed under this section.

¹ Murdered Justice: An Exploratory Study of Targeted Attacks Against the Justice Community (2013) by Glenn McGovern, Santa Clara County District Attorney Investigator – information is also cited in Judge James Brandlin's letter.

Upon suppression of a record, each request for information about that record has to be authorized by the subject of the record or verified as legitimate by other investigative means by the DMV before the information is released.

A record is suppressed for a one-year period. At the end of the one year period, the suppression is continued for a period determined by the department and if the person submits verification acceptable to the department that he or she continues to have reasonable cause to believe that he or she is the subject of stalking or that there exists a threat of death or great bodily injury to his or her person.

DMV has long maintained that all residence addresses are suppressed and only persons authorized by statute can access this information. The general public can not.

Under sections 1808.4 and 1808.6 the home addresses of specific individuals are suppressed and can only be accessed through the Confidential Records Unit of the Department of Motor Vehicles while under section 1808.21, the residence address portion of all individuals' records are suppressed but can be accessed by a court, law enforcement agency, or other governmental agency or other authorized persons.

In addition, peace officers' records shall be suppressed even after they retire if they request this additional confidentiality.

This bill would additionally provide that the records of a judge or court commissioner shall be permanently suppressed even after he or she retires if he or she had requested the additional confidentiality.

3. The Department of Motor Vehicles

There have been a number of bills adding or attempting to add various public employees to the enhanced confidentiality provisions of the Vehicle Code.

According to a Senate Committee on Public Safety analysis for June 11, 1996 of AB 1941 (Bordonaro):

According to a letter dated June 9, 1995 from the Department of Motor Vehicles concerning related measures initially set for hearing last year (AB 191, AB 688, AB 1396) on this issue, AB 1941 "is just one of four bills slated for the Criminal Procedure Committee hearing on June 13 which seek to include various professions within the category of confidential records that have historically been reserved for law enforcement personnel. When names are added to this special category, they cannot be accessed except through a telephone procedure utilized in one particular file security area in the DMV's Sacramento headquarters location. Currently, we estimate that this file contains close to half a million individual records which must be manually entered and individually retrieved when access is authorized.

The DMV has stated that approximately 1000 requests for confidentiality of home addresses are made each week. The Confidential Records Unit of the DMV consists of 12 people and only two of these people review these forms to determine whether the individuals requesting confidentiality are in fact qualified to do so.

According to the DMV, a majority of these requests are granted due to the fact that the DMV restricts the release of the request forms to qualifying agencies and individuals only. The Confidential Records Unit of the DMV updated “5900 records in May 1995 and only 273 applications were rejected.”

4. Argument in Support

According to the sponsor:

This change to current law is needed because three years of protection after a judicial officer’s retirement is inadequate. Judicial officers decide the punishment a suspect receives, and suspects convicted of serious or violent felonies receive lengthy state prison commitments, leaving many years for their friends and families, and the suspects themselves, to retaliate against the judicial officer. The Legislature has appropriately recognized the risks faced by peace officers as a result of their duties. Judicial officers perform similarly critical duties as peace officers in requiring compliance with the law and ensuring public safety, yet judicial officers do not receive the extended confidentiality. Unlike peace officers, judicial officers are not generally trained nor equipped to effectively defend themselves and are not issued weapons.

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