

Date of Hearing: June 27, 2016

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

SB 1311 (Glazer) – As Amended May 17, 2016

SENATE VOTE: 36-2

SUBJECT: Vehicles: confidential home address

SUMMARY: Requires the Department of Motor Vehicles (DMV) to discontinue holding a home address confidential for a child or spouse of specified persons if the child or spouse is convicted of a felony. Specifically, **this bill:**

- 1) Requires DMV to discontinue holding a home address confidential for a child or a spouse of the following persons, living or deceased if killed in the line of duty, if the child or spouse is convicted of a felony in this state or convicted of an offense in another jurisdiction that, if committed in California, would be a felony:
 - a) A non-sworn police dispatcher;
 - b) An active or retired peace officer;
 - c) A non-sworn employee of a city police department, a county sheriff's office, the Department of the California Highway Patrol (CHP), a federal, state, or local detention facility, or a local juvenile hall, camp, ranch, or home, who submits agency verification that, in the normal course of his or her employment, he or she controls or supervises inmates or is required to have a prisoner in his or her care or custody; and
 - d) A police or sheriff department employee designated by the chief of police of the department or the sheriff of the county as being in a sensitive position, as specified.
- 2) Requires DMV to comply with the above requirement upon receiving notice of a disqualifying conviction from the agency that employs or formerly employed the parent or spouse of the convicted person, or as soon as DMV otherwise becomes aware of the disqualifying conviction.

EXISTING LAW:

- 1) Lists 23 classes of persons, primarily in law enforcement fields, plus the spouses and children of those persons, that may request that their home addresses be held confidential by DMV. The home addresses of these persons may only be disclosed to a court; a law enforcement agency; the State Board of Equalization; an attorney in a civil or criminal action who demonstrates to a court the need for the home address, if the disclosure is made pursuant to a subpoena; and any governmental agency legally required to be furnished the information.
- 2) Provides that the child or spouse of any of the 23 designated classes of persons may also request that their home address be held confidential, unless the child or spouse has been convicted of a crime and is on active parole or probation

- 3) Provides that the confidentiality provisions above terminate three years after the end of that person's qualifying employment.
- 4) Provides that if the termination or separation of employment is the result of a criminal complaint, the confidentiality protections shall apply during the time in which the terminated individual may file an appeal from termination, while an appeal from termination is ongoing, and until the appeal process is exhausted, after which confidentiality shall be at the discretion of the employing agency if the termination or separation is upheld
- 5) Makes confidential the home addresses of all individuals contained within DMV records. These provisions similarly allow for disclosure to courts, law enforcement agencies, and other governmental agencies, but also allow for limited disclosure to financial institutions, insurance companies, attorneys, vehicle manufacturers, and persons doing statistical research.
- 6) Authorizes DMV to suppress all records for at least one year for persons who are under threat of death or bodily injury. Under these circumstances, the entire record, including the address, is rendered inaccessible.

FISCAL EFFECT: Unknown

COMMENTS: Until 1989, DMV records were considered public records unless state law specifically made them confidential, as was the case for the addresses of peace officers and certain other officials thought to be at risk. Because home addresses were not considered confidential, any person who gave a reason that DMV deemed legitimate and could present to DMV a person's driver's license number or license plate number could obtain address information on that individual.

In 1989, actress Rebecca Schaeffer was stalked and killed. The murderer obtained her address from a private investigation agency doing business in Arizona. The private investigation agency acquired her address through a subcontractor agent in California, who obtained it from DMV. In response, the Legislature enacted AB 1779 (Roos), Chapter 1213, Statutes of 1989, which made all home addresses in DMV records confidential, with limited exceptions, including to law enforcement officers during the conduct of their duties. AB 1779 left in place existing confidentiality provisions that applied only to peace officers and certain other officials. The list of those to whom the pre-AB 1779 confidentiality provisions apply now includes 23 classes of persons, plus the children and spouses of those persons. To date, DMV is not aware of any instances since the implementation of AB 1779 where DMV home address information has been used for physical harm or for violent criminal purposes.

According to the California State Sheriff's Association, the sponsors of SB 1311, the confidentiality provisions relating to the designated protected classes extend to when a law enforcement officer queries DMV databases for information by running a person's license plate. In the case of a child or spouse of a person whose address is held confidential, the result that appears when the DMV database is queried displays the address of the agency with whom the eligible person is employed. For example, when running the license plate of a child of an officer of the Sacramento Police Department, the address that appears with the license plate record is the address of the Department. According to the Sheriff's Association, this can result in incomplete information and a false sense of security for officers when the person whose information is shielded has a felony record and may be dangerous.

By removing the confidentiality protections for children and spouses of peace officers who are convicted of felonies upon notification to the DMV of the disqualifying conviction, the author intends to enhance the safety of law enforcement in already dangerous situations, such as traffic stops and pursuits.

Committee concerns: While a child or spouse of a peace officer cannot request to have their address held confidential if they have been convicted of a crime and is on active parole or probation, SB 1311 would only remove someone's confidentiality protections if they are reported as being convicted of a felony. This seems to create two standards for being denied or losing the confidentiality privilege: a crime, presumably of any level of severity, precludes a child or spouse of a peace officer from requesting confidentiality if they are on parole or probation, while a person is only eligible to lose that privilege if they already enjoy it when they are convicted of a felony.

Under existing law, a peace officer or other designated class of person may lose their confidentiality protections upon the termination of their employment at the discretion of the employing agency, if the termination is a result of a criminal complaint. The practical outcome of this existing process is similar to the outcome of the process for removing a person's confidentiality protections proposed by SB 1311, but there is currently no automatic trigger for the employee to lose this privilege as there is in this bill, specifically, conviction of a felony. Inconsistent standards of what triggers the loss of address confidentiality protections could be made uniform across all classes of persons who enjoy that privilege.

Furthermore, while the bill's sponsors argue the efforts of law enforcement are furthered when an officer can access a person's full driving record and that the existing confidentiality provisions shield that record from law enforcement, existing law clearly states that the confidential home address of a designated person may be disclosed to law enforcement. It is unclear why an officer could not avail him or herself of this existing exemption.

Because DMV is not required to be alerted when a person is convicted of a felony or of an offense committed out of state that would be a felony in California, the department would likely have to rely on the employing agency of the employee whose child or spouse has been convicted to report the disqualifying conviction. There is no requirement in SB 1311 for the employing agency to alert DMV of a disqualifying conviction, creating the potential for an inconsistent standard of when an agency alerts DMV.

Because SB 1311 would not remove any of the blanket confidentiality provisions for DMV records, there does not appear to be any significant risk of a person's information falling into the hands of anyone outside of the law enforcement community.

While the need for this bill is unclear, it seems reasonable to restrict the privilege to a confidential address record if the person enjoying that privilege poses a potential safety risk to a peace officer.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Sheriff's Association (Sponsor)

Opposition

None on file

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