

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON TRANSPORTATION

Lori D. Wilson, Chair

AB 2281 (Soria) – As Introduced February 8, 2024

SUBJECT: Tribal judges

SUMMARY: Makes it a felony for the Department of Motor Vehicles (DMV) to disclose a tribal judge's confidential home address if it results in bodily injury. Specifically, **this bill:**

- 1) Adds tribal judges of federally recognized California Indian tribes (referred to as “tribal judges” below) to the list of “public safety officer[s]” authorized to request the confidentiality of their residence address, telephone number, and email address appearing on their affidavit of voter registration.
- 2) Adds tribal judges to the list of public officials authorized to request the confidentiality of their home addresses appearing in the DMV records.
- 3) Adds tribal judges to the list of public officials for whom it is a criminal offense to assault or to attempt to commit murder, in retaliation for, or to prevent the performance of that official's official duties.

EXISTING LAW:

- 1) Lists 23 classes of persons, primarily in law enforcement fields, plus their spouses and children that may request that DMV keep their home addresses confidential. The home addresses of these persons may only be disclosed to a court; a law enforcement agency; the State Board of Equalization (BOE); 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. (Vehicle Code Section (VEH) 1804.4)
- 2) 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. (VEH 1808.21)
- 3) Grants DMV the authority 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. (VEH 1804.21)
- 4) Makes the willful, unauthorized disclosure of any DMV record to any person, or the use of false representation to obtain information from DMV for a purpose other than one stated a misdemeanor, punishable by a fine not exceeding \$5,000 or by imprisonment in the county jail not exceeding one year, or by both fine and imprisonment.

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. 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, generally referred to as the Confidential Records Program (CRP), now includes 23 classes of persons. DMV is not aware of any instances since the implementation of AB 1779 where confidential home address information has been used for physical harm or for violent criminal purposes.

According to the author, ““Like local and state counterparts, tribal courts oversee a slew of legal cases that can touch upon very sensitive information. Misdemeanor cases, custody battles, and child support cases risk the chance of emotions becoming heightened and leading to threats and assaults on tribal judges. As the rates of court-targeted acts of violence increase at the state and federal level, California must bring to parity the same protections given to local, state, and federal judges to their counterparts servicing tribal courts across the state.”

According to California Indian Legal Services, writing in support of this bill, “California Tribal Judges are often faced with making decisions impacting child custody, protection orders, division of property and other highly charged litigant claims. However, unlike other judges, many Tribal Court Judges do not have law enforcement officers in their court room or other security protection. Due to Judges significant vulnerabilities, state laws have greater penalties for threats and assaults made against State and Federal Court Judges and also the protections limiting their personal information from being made public. Tribal Court Judges are no less vulnerable and deserve the same level of protection. This bill is crucial as it aims to rectify this disparity by providing equity for Tribal Judges who are integral to upholding the Tribe's sovereign right to operate their own judicial systems.”

Committee concerns: Given that DMV records are universally confidential, with limited exceptions, and that DMV is not aware of any instances since the implementation of AB 1779 in which DMV home address information has been used for physical harm or for violent criminal purposes, the need for this bill is unclear.

While it may appear that the CRP provides a greater level of confidentiality than is available to the general public, functionally the level of confidentiality is the same. People seeking confidential information about others generally do not look to DMV records for personal data since those records are carefully protected and the same information is much more easily obtainable via the internet and social media.

A 2009 investigative article from Jennifer Muir at the Orange County Register found another use for individuals protected under the CRP: evading tickets. The article found:

- 1) Vehicles with protected license plates can run through dozens of intersections controlled by red light cameras and breeze along the 91 toll lanes with impunity.
- 2) Parking citations issued to vehicles with protected plates are often dismissed because the process necessary to pierce the shield is too cumbersome.
- 3) Some patrol officers let drivers with protected plates off with a warning because the plates signal that the drivers are “one of their own” or related to someone who is.

The Register found through a public records request of the Orange County Transportation Authority that there were 14,535 unpaid trips on toll facilities in the county by motorists with confidential plates over a five year period.

Further, adding tribal judges to the confidential records program will add programing costs to DMV. According to the Legislative Analyst Office (LAO), The Motor Vehicle Account (MVA), the primary funding source for DMV, is expected to fully exhaust its reserves and become insolvent in 2025-26. The LAO recommends the Legislature should consider MVA cost pressures when evaluating new proposals. LAO argues that “Until a plan is put in place to address MVA’s structural deficit, we recommend the Legislature set a high bar for considering approval of any proposals that create additional MVA cost pressures and accelerate the risk of insolvency.”

Previous legislation: Over the past 12 years, there have been a number of bills proposing to expand the list of those eligible to apply for the CRP, only one of which was chaptered. Another bill extending the length of time of a profession already on the list was also chaptered. These bills include:

AB 2322 (Daly) Chapter 914, Statutes of 2018, requires DMV, upon request, to make a retired judge or court commissioner’s home address confidential for the rest of his or her life and for any surviving spouse or child for three years following the death of the judge or court commissioner.

AB 2687 (Bocanegra), Chapter 273, Statutes of 2014, added Licensing Program Analysts with the Department of Social Services to the list.

AB 980 (Kalra) of 2019, would have required the Department of Motor Vehicles (DMV), upon request, to make an adult abuse investigator or social worker, public guardian, public conservator, or public administrator’s home address confidential. That bill was held in the Assembly Appropriations committee suspense file.

SB 1093 (Jackson) of 2017, would have added adult abuse investigators or social workers to the list of persons who can request their home address be held confidential by the DMV. SB 1093 was held in the Senate Appropriations Committee on the suspense file.

SB 101 (Nielsen) of 2021, SB 362 (Galgiani) of 2017, SB 1131 (Galgiani) of 2016 and SB 372 (Galgiani) of 2015: These bills would have added Department of Insurance investigators, code enforcement officers, and parking control officers to the list of categories for which the (DMV) must hold home addresses confidential. These bills were held on the Senate Appropriations Committee suspense file.

AB 3017 (Acosta) of 2017, would have added air marshals to the list of persons who can request that their home address be held confidential by the DMV. AB 3017 was amended on the Senate floor into a substantially different bill and died.

AB 222 (Achadjian) of 2015, would have added certain employees of the Department of State Hospitals (DSH) and the California Department of Corrections and Rehabilitation (CDCR) to the list of persons who can request that their home address be held confidential by the DMV. AB 222 was held on the Senate Appropriations Committee suspense file.

SB 767 (Lieu) of 2014, would have added code enforcement officers and would have required eligible persons requesting confidentiality for their spouse or child to disclose whether the spouse or child had been convicted of a crime and or was on mandatory supervision or post release community supervision at the time of the request for confidentiality. SB 767 was referred to this committee but was not heard at the request of the author.

AB 1270 (Eggman) of 2013, would have added code enforcement officers and their spouses and children. AB 1270 was held in the Assembly Appropriations Committee on the suspense file.

AB 923 (Swanson) of 2009, would have added BOE members, code enforcement officers, and certain veterinarians. AB 923 was held in the Assembly Appropriations Committee on the suspense file.

AB 592 (Lowenthal) of 2009, would have added BOE staff who are designated to exercise limited peace officer authority and duties. AB 592 was held in the Assembly Appropriations Committee on the suspense file.

AB 1958 (Swanson) of 2008, would have added firefighters, code enforcement officers, and certain veterinarians. AB 1958 was held in the Assembly Appropriations Committee on the suspense file.

AB 1311 (Berryhill) of 2007, would have added community service and public service officers employed by police departments. AB 1311 was referred to this committee but was not heard at the request of the author.

AB 1706 (Strickland) of 2005, would have added fraud investigators, park rangers, emergency dispatchers, and DMV employees who test new drivers. AB 1706 was referred to this committee but was not heard at the request of the author.

AB 2012 (Chu) of 2004, would have added court-appointed attorneys, their investigators, and social workers assigned to child abuse cases. These provisions were eventually amended out of the bill.

AB 130 (Campbell) of 2003 and AB 246 (Cox) of 2003, both bills would have added members of Congress. Both bills were referred to this committee but neither was heard.

REGISTERED SUPPORT / OPPOSITION:

Support

California Indian Legal Services
California State Sheriffs' Association
California Tribal Business Alliance
Northern California Tribal Court Coalition

Opposition

None on file

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