

Date of Hearing: April 2, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 3017 (Acosta) – As Introduced February 16, 2018

SUBJECT: Department of Motor Vehicles: records: federal air marshal

SUMMARY: Adds federal air marshals to the list of persons who can request that their home address be held confidential by the Department of Motor Vehicles (DMV).

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 (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.
- 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.
- 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.

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.

Peace officers are already included in the CRP. Air marshals are not, however, considered a peace officer for the purpose of this section.

According to the author, “This bill is intended to provide additional piece of mind and security for Federal air marshals and their families while their vehicles are parked for long periods of time at the airport during frequent and extended travel. Nearly all Air Marshals are also prior Peace Officer Standards and Training (POST) certified law enforcement officers who have spent time on the beat and made numerous arrests. Although they are no longer making daily arrests, former arrestees are still able to recognize these former officers on the street. Any additional protections that can be offered to these...air marshals and their families should be afforded to them to ensure their safety...”.

Given that DMV records are universally confidential, with limited exceptions, and the fact 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 so carefully protected and the same information is much more easily obtainable via the internet and social media. Further, if it is the case that nearly all air marshals are former California peace officers, then their prior position would allow them to remain on the CRP for the rest of their lives.

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.

In fact, 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.

Current legislation: AB 2322 (Daly) Requires the Department of Motor Vehicles (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 2322 is currently in Assembly Appropriations Committee.

SB 1093 (Jackson) adds 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 is set to be heard by the Senate Public Safety Committee on April 10, 2018.

Prior 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, including:

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

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 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

None on File

Opposition

None on File

Analysis Prepared by: David Sforza / TRANS. / (916) 319-2093