

Date of Hearing: March 25, 2019

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 980 (Kalra) – As Amended March 18, 2019

SUBJECT: Department of Motor Vehicles: records: confidentiality

SUMMARY: Requires 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.

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.

According to the Author, “Adult Protective Service (APS) social workers and Public Administrators/Guardians/Conservators on a routine basis investigate and confront abusers in hostile and threatening situations. These workers commonly use their own vehicles and there is fear that their personal information can be obtained by their license plate number. In many cases, workers have witnessed abusers photographing their license plates with the intent to stalk and intimidate. AB 980 adds these two groups to the DMV Confidentiality Records Program to provide enhanced confidentiality and peace of mind that their identity will be protected.”

The City and County of San Francisco, writing in support, argues, “As the APS program has been implemented over the past two decades, and as our population ages, the level of crime perpetrated against elder and dependent adults has increased and the criminals have grown more sophisticated, encompassing financial abuse as well as physical abuse and neglect. A growing number of county APS staff, as well as employees of the Public Guardian (PG)/ Public Conservator (PC)/ Public Administrator (PA) offices, who often work in partnership with APS, have reported being harassed and followed by alleged perpetrators who are angry at their crimes being discovered and make the worker the target of their anger. Unfortunately, we expect these types of crimes to increase as the population grows. In San Francisco, 23% of the population will be age 60 or older by 2020, and that number will grow to 27% by 2030. Over the years, the number of APS reports of abuse has been growing, with over 7,700 reports in 2018. Ensuring the safety of our APS and PG/PC/PA staff is critical so they can focus on doing their job: protecting our most vulnerable San Franciscans. It is time for the protections afforded to child welfare staff and community care licensing staff, along with numerous other law enforcement entities, to be extended to San Francisco’s 45 APS and 50 PG/PC/PA workers.”

A PG provides guardianship assistance for the state of a minor when the estate assets are considered substantial and the parents are not available. A PC arranges for the personal care of an individual or the management of their financial affairs. This could include arranging food and clothing, housekeeping and personal care, or transportation and recreation. A PA manages estates and makes final arrangements for residents who die without a will or any known relatives able or willing to act on the decedent’s behalf to manage and resolve the estate.

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 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.

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.

Committee comments: Last year Governor Brown vetoed almost every bill that would have resulted in increased operational costs to DMV. The Legislative Analyst’s Office predicts the Motor Vehicle Account (MVA), which accounts for 95% of DMV funding, will become insolvent by 2021-2022.

Last year there was a noticeable uptick in wait times at DMV. As a result, DMV began reporting monthly numbers on wait times to the Joint Legislative Budget Committee. In the last week of July of 2018, DMV reported that the average wait time for non-appointment customers was two hours and ten minutes. The top 20 most impacted DMV field offices saw average wait times of three hours and 21 minutes.

DMV attributes much of the increase in wait times to compliance with the Federal REAL ID Act of 2005, which requires in-person verification for a state issued driver’s license or identification cards in order for a person to fly domestically or enter a federal building. While individuals traditionally only have to renew their state issued driver’s license in person once every 15 years, individuals who wish to fly domestically have between January 2018 and October 2020 to renew in person, regardless of when their driver’s licenses expire.

DMV began to hire significantly more staff as a result of the increase in wait times. Between July 1, 2018 and December 31, 2018, DMV made 946 civil service appointments, 680 emergency hires, and hired 141 retired annuitants. DMV made several technological changes as well, including allowing individuals to electronically fill out their information either online or while waiting for their appointment. These actions have sped up transactions.

By January, the statewide average wait time for those without an appointment dropped to 57 minutes and the top 20 offices saw an average wait time of 95 minutes. DMV has set a goal of reducing their average wait times to 45 minutes for those without an appointment, and 15 minutes for those with an appointment. So far DMV has not met that goal.

In addition, Governor Brown initiated an audit of DMV currently being conducted by the Department of Finance. Governor Newsom has indicated he will continue the audit, and announced on January 10, 2019 that a DMV Strike Team would be formed to look at reforms to DMV. These reforms are aimed at making DMV more customer friendly while also reducing wait times.

According to the Monterey County Department of Social Services, there are an estimated 800 APS workers in the state. In light of Governor Newsom’s reform efforts of DMV and the impending insolvency of the MVA, the Legislature may want to consider if now a good time to increase operational costs to DMV by requiring them to add hundreds of individuals to the CRP when everyone’s DMV records are already confidential.

Current legislation: SB 517 (Archuleta) of 2018 adds 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 and adds a service fee for those who wish to be added to the confidential records program. This bill is set for a hearing on March 26th in Senate Public Safety Committee.

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.

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 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 State Association Of Public Administrators, Public Guardians, Public Conservators (Sponsor)

County Welfare Directors Association Of California (Sponsor)

California State Association Of Counties

City And County Of San Francisco

Contra Costa County

County Of Santa Barbara

Fresno County

Humboldt County Public Guardian/Conservator

Monterey County

Nevada County

Sacramento County

San Diego County

San Francisco Human Services Agency

Santa Cruz County

SEIU State Council

Tehama County Public Guardian/Public Administrator

Ventura County

Opposition

None on file

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