

SENATE JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 6171

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 6, 2022

The Senate Judiciary Committee reports favorably and with committee amendments, the First Reprint of Assembly Bill No. 6171.

This bill, as amended, would create an Office of Information Privacy in the Department of Community Affairs. The office would be led by a director, appointed by and serving at the pleasure of the Commissioner of Community Affairs.

The director would establish, not later than June 9, 2022 (181 days after the bill's retroactive December 10, 2021 effective date), a secure portal through which certain current or former public officials, immediate family members residing in the same household, or authorized persons on behalf of such persons could submit, and subsequently revoke, a request for the redaction or nondisclosure of such officials' home addresses (or same address regarding immediate family members residing in the same household) from various public records and Internet postings. A person would be required to submit a request through the portal and be approved by the director in order for a home address to be subject to redaction or nondisclosure by any public agency in accordance with the bill.

The public officials specifically covered under the bill, and designated as "covered persons" throughout, include: any active, formerly active, or retired federal, state, county, or municipal judge, including a Workers' Compensation judge or administrative law judge, and any active, formerly active, or retired law enforcement officer or prosecutor. Among the authorized persons who may submit (or revoke) a redaction or nondisclosure request for a covered person are: a designee of the United States Marshall Service or clerk of any United States District Court on behalf of any federal judge; a person acting as a designated trustee, estate executor, or pursuant to a power of attorney or other legal instrument on behalf of a covered person who is deceased, or medically or psychologically incapacitated; and a parent or legal guardian of an immediate family member who is a minor.

The bill would require any person submitting a request to the director to acknowledge in writing that the person understands that certain rights, duties, and obligations would be affected as a result of

the redaction or nondisclosure request, including: the receipt of certain notices from non-governmental entities that would otherwise be required under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.); the signing of candidate petitions for public office or public questions; eligibility for election to public office, or the appointment to any public position; the sale or purchase of a home or other property, and the recordation or notice of any encumbrances on real or other property; the ability to be notified of any class action suit or settlement; and any other legal, promotional, or official notice which would otherwise be provided but for the redaction or nondisclosure of the covered person's home address.

Public agencies would be required to redact or cease disclosing in records the home address of a covered person or that person's immediate family member residing in the same household within 30 days of approval of a request by the Director of the Office of Information Privacy. Further, the bill would prohibit State and local government agencies from knowingly posting a home address on the Internet beginning 31 days after an address has been approved for redaction or nondisclosure, unless the State or local government agency receives written permission otherwise from the covered person.

In addition to maintaining the portal for redaction or nondisclosure requests, the director would also establish a process by which a person could request receipt of an unredacted record, or information that is not subject to disclosure as a result of the director's approval of a redaction or nondisclosure request by a covered person or authorized person on behalf of a covered person.

The bill lists several categories of documents for which there would be an exception to the general requirement to redact or not disclose home addresses, which in some cases the exception would only apply to specific recipients. For example, unredacted voter records may only be provided to candidates, chairpersons of the county or municipal political party committees, or any other person serving as an elections challenger; documents affecting title to real property could only be provided as unredacted to title insurance companies and agents, approved attorneys, mortgage guarantee insurance companies, registered title search business entities formed primarily to determine the existence of liens or other encumbrances or restrictions, or ownership interests on any property (which title search businesses would be newly regulated by the bill), real estate brokers, salespersons and broker-salespersons, and any person making or receiving an offer for the purchase of property; unredacted addresses could also be provided to labor unions, government agency vendors and contractors, and upon court order.

There would be no redaction or nondisclosure provided under the bill for the following types of documents: records, including Uniform Commercial Code filings and financial statements, maintained by the Division of Revenue and Enterprise Services in the Department of the

Treasury; candidate petitions; records evidencing encumbrances on real or other property; property presumed abandoned under the "Uniform Unclaimed Property Act," P.L.1989, c.58 (C.46:30B-1 et seq.); and, when viewed in person, property tax assessment lists, and the indexes of recorded documents maintained by county recording officers. Also, nothing in the bill would be construed to require redaction or nondisclosure of any information in any document that was shared with or otherwise provided to any other government entity.

Additionally, for a record or other document for which a home address is required to be redacted that, because of the characteristics or properties thereof is only available to be viewed in person (e.g., extremely old), actual redaction is not required but a records custodian or other government official would have to make every reasonable effort to hide the address when allowing an individual not permitted to view the unredacted document while viewing it.

The bill also amends sections of current law, originally enacted in 2020 as "Daniel's Law," P.L.2020, c.125, which enactment in part established a prohibition on private persons, businesses, and associations from disclosing the home addresses or unpublished phone numbers of the various public officials now designated as covered persons under this bill, as well as expanded an existing crime, section 1 of P.L.2015, c.226 (C.2C:20-31.1), concerning the disclosure of such persons' home addresses and unlisted telephone numbers with an intent of exposure to a risk of harm. The updates to "Daniel's Law" added by the bill would specify that a person, business, or association would not be permitted, upon receipt of a written notice from a covered person or immediate family member residing in the same household, to disclose the home address or unpublished home telephone number of the covered person who has received approval from the Director of the Office of Information Privacy concerning a redaction or nondisclosure request for the person's home address. A failure to do so would subject the person, business, or association to possible criminal penalties for committing a third degree crime (punishable by three to five years' imprisonment; a fine of up to \$15,000; or both) or fourth degree crime (up to 18 months' imprisonment; a fine of up to \$10,000; or both), or civil penalties (including either liquid damages of \$1,000 for each violation, or actual damages if greater).

Due to the changes to "Daniel's Law" provided by the bill as described above, the bill repeals section 7 of that act (C.56:8-166.2), which originally established a means by which a covered person or immediate family member would make an after-the-fact request to a person, business, or association to refrain from continuing to disclose a home address or unpublished telephone number.

This bill, as amended and reported, is identical to Senate Bill No. 4219, also amended and reported today by the committee.

The committee amendments to the bill:

- add a reference for "real estate broker-salespersons" as persons permitted to see certain unredacted documents, or documents otherwise subject to nondisclosure, that are related to their real estate business operators.