

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2220

AN ACT

AMENDING SECTION 11-483, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 243, SECTION 1; AMENDING SECTION 11-484, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 243, SECTION 2; AMENDING SECTIONS 28-454, 39-123 AND 39-124, ARIZONA REVISED STATUTES; RELATING TO CODE ENFORCEMENT OFFICERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 11-483, Arizona Revised Statutes, as amended by
3 Laws 2005, chapter 243, section 1, is amended to read:
4 11-483. Records maintained by county recorder; confidentiality;
5 definitions
6 A. Notwithstanding any other provision of this article, in any county
7 a peace officer, justice, judge, commissioner, public defender, ~~or~~ prosecutor
8 **OR CODE ENFORCEMENT OFFICER** may request that the general public be prohibited
9 from accessing the unique identifier and the recording date contained in
10 indexes of recorded instruments maintained by the county recorder and may
11 request the recorder to prohibit access to that person's residential address
12 and telephone number contained in instruments or writings recorded by the
13 county recorder and made available on the internet.
14 B. A peace officer, justice, judge, commissioner, public defender, ~~or~~
15 prosecutor **OR CODE ENFORCEMENT OFFICER** may request this action by filing an
16 affidavit that states all of the following on an application form developed
17 by the administrative office of the courts in agreement with an association
18 of counties, an organization of peace officers and the motor vehicle division
19 of the department of transportation:
20 1. The person's full legal name and residential address.
21 2. The full legal description and parcel number of the person's
22 property.
23 3. The position the person currently holds and a description of the
24 person's duties.
25 4. The reasons the person reasonably believes that the person's life
26 or safety or that of another person is in danger and that restricting access
27 pursuant to this section will serve to reduce the danger.
28 5. The document locator number and recording date of each instrument
29 for which the person requests access restriction pursuant to this section.
30 6. A copy of pages from each instrument that includes the document
31 locator number and the person's full legal name and residential address or
32 full legal name and telephone number.
33 C. If a peace officer, public defender, ~~or~~ prosecutor **OR CODE**
34 **ENFORCEMENT OFFICER** is also requesting pursuant to section 11-484 that the
35 general public be prohibited from accessing records maintained by the county
36 assessor and county treasurer, the peace officer, public defender, ~~or~~
37 prosecutor **OR CODE ENFORCEMENT OFFICER** may combine the request pursuant to
38 subsection B of this section with the request pursuant to section 11-484 by
39 filing one affidavit with the **PEACE** officer's commanding officer, or with the
40 head of the prosecuting, ~~or~~ public defender **OR CODE ENFORCEMENT** agency, as
41 applicable, or that person's designee. The affidavit and subsequent action
42 by the appropriate authorities shall meet all of the requirements of this
43 section and section 11-484.
44 D. The affidavit shall be filed with the presiding judge of the
45 superior court in the county in which the affiant resides. To prevent a

1 multiplicity of filings, a peace officer, public defender, ~~or~~ prosecutor OR
2 CODE ENFORCEMENT OFFICER shall deliver the affidavit to the peace officer's
3 commanding officer, or to the head of the prosecuting, ~~or~~ public defender OR
4 CODE ENFORCEMENT agency, as applicable, or that person's designee, who shall
5 file the affidavits at one time. In the absence of an affidavit that
6 contains a request for immediate action and that is supported by facts
7 justifying an earlier presentation, the commanding officer, or the head of
8 the prosecuting, ~~or~~ public defender OR CODE ENFORCEMENT agency, as
9 applicable, or that person's designee, shall not file affidavits more often
10 than quarterly.

11 E. On receipt of an affidavit or affidavits, the presiding judge of
12 the superior court shall file with the clerk of the superior court a petition
13 on behalf of all requesting affiants. Each affidavit presented shall be
14 attached to the petition. In the absence of an affidavit that contains a
15 request for immediate action and that is supported by facts justifying an
16 earlier consideration, the presiding judge may accumulate affidavits and file
17 a petition at the end of each quarter.

18 F. The presiding judge of the superior court shall review the petition
19 and each attached affidavit to determine whether the action requested by each
20 affiant should be granted. If the presiding judge of the superior court
21 concludes that the action requested by the affiant will reduce a danger to
22 the life or safety of the affiant or another person, the presiding judge of
23 the superior court shall order that the recorder prohibit access for five
24 years to the affiant's residential address and telephone number contained in
25 instruments or writings recorded by the county recorder and made available on
26 the internet. If the presiding judge of the superior court concludes that
27 the affiant or another person is in actual danger of physical harm from a
28 person or persons with whom the affiant has had official dealings and that
29 action pursuant to this section will reduce a danger to the life or safety of
30 the affiant or another person, the presiding judge of the superior court
31 shall order that the general public be prohibited for five years from
32 accessing the unique identifier and the recording date contained in indexes
33 of recorded instruments maintained by the county recorder and identified
34 pursuant to subsection B of this section.

35 G. On motion to the court, if the presiding judge of the superior
36 court concludes that an instrument or writing recorded by the county recorder
37 has been redacted or sealed in error, that the original affiant no longer
38 lives at the address listed in the original affidavit, that the cause for the
39 original affidavit no longer exists or that temporary access to the
40 instrument or writing is needed, the presiding judge may temporarily stay or
41 permanently vacate all or part of the court order prohibiting public access
42 to the recorded instrument or writing.

43 H. On entry of the court order, the clerk of the superior court shall
44 file the court order and a copy of the affidavit required by subsection B of
45 this section with the county recorder. No more than ten days after the date

1 on which the county recorder receives the court order, the county recorder
2 shall restrict access to the information as required by subsection F of this
3 section.

4 I. If the court denies an affiant's request pursuant to this section,
5 the affiant may request a court hearing. The hearing shall be conducted by
6 the court in the county where the petition was filed.

7 J. The recorder shall remove the restrictions on all records
8 restricted pursuant to this section by January 5 in the year after the court
9 order expires.

10 K. To include subsequent recordings in the court order, the peace
11 officer, justice, judge, commissioner, public defender, ~~or~~ prosecutor OR CODE
12 ENFORCEMENT OFFICER shall present to the county recorder at the time of
13 recordation a certified copy of the court order. The recorder shall ensure
14 that public access shall be restricted pursuant to subsection A of this
15 section.

16 L. This section shall not be interpreted to restrict access to public
17 records for the purposes of perfecting a lien pursuant to title 12, chapter
18 9, article 2.

19 M. This section does not prohibit access to the records of the county
20 recorder by parties to the instrument, a title insurer, a title insurance
21 agent or an escrow agent licensed by the department of insurance or the
22 department of banking.

23 N. For the purposes of this section:

24 1. "CODE ENFORCEMENT OFFICER" MEANS A PERSON WHO IS EMPLOYED BY A
25 STATE OR LOCAL GOVERNMENT AND WHOSE DUTIES INCLUDE PERFORMING FIELD
26 INSPECTIONS OF BUILDINGS, STRUCTURES OR PROPERTY TO ENSURE COMPLIANCE WITH
27 AND ENFORCE NATIONAL, STATE AND LOCAL LAWS, ORDINANCES AND CODES.

28 ~~1-~~ 2. "Commissioner" means a commissioner of the superior court.

29 ~~2-~~ 3. "Indexes" means only those indexes that are maintained by and
30 located in the office of the county recorder, that are accessed
31 electronically and that contain information beginning from and after January
32 1, 1987.

33 ~~3-~~ 4. "Judge" means a judge of the United States district court, the
34 United States court of appeals, the United States magistrate court, the
35 United States bankruptcy court, the Arizona court of appeals, the superior
36 court or a municipal court.

37 ~~4-~~ 5. "Justice" means a justice of the United States or Arizona
38 supreme court or a justice of the peace.

39 ~~5-~~ 6. "Peace officer" means any person vested by law, or formerly
40 vested by law, with a duty to maintain public order and make arrests.

41 ~~6-~~ 7. "Prosecutor" means a county attorney, a municipal prosecutor,
42 the attorney general or a United States attorney and includes an assistant or
43 deputy United States attorney, county attorney, municipal prosecutor or
44 attorney general.

1 ~~7.~~ 8. "Public defender" means a federal public defender, county
2 public defender, county legal defender or county contract indigent defense
3 counsel and includes an assistant or deputy federal public defender, county
4 public defender or county legal defender.

5 Sec. 2. Section 11-484, Arizona Revised Statutes, as amended by Laws
6 2005, chapter 243, section 2, is amended to read:

7 11-484. Records maintained by county assessor and county
8 treasurer; redaction; application; definitions

9 A. Notwithstanding any other provision of this article, in any county
10 a peace officer, justice, judge, commissioner, public defender, ~~or~~ prosecutor
11 OR CODE ENFORCEMENT OFFICER may request that the general public be prohibited
12 from accessing that person's residential address and telephone number that
13 are contained in instruments, writings and information maintained by the
14 county assessor and the county treasurer.

15 B. A peace officer, justice, judge, commissioner, public defender, ~~or~~
16 prosecutor OR CODE ENFORCEMENT OFFICER may request this action by filing an
17 affidavit that states all of the following on an application form developed
18 by the administrative office of the courts in agreement with an association
19 of counties, an organization of peace officers and the motor vehicle division
20 of the department of transportation:

21 1. The person's full legal name and residential address.

22 2. The full legal description and parcel number of the person's
23 property.

24 3. The position the person currently holds and a description of the
25 person's duties.

26 4. The reasons the person reasonably believes that the person's life
27 or safety or that of another person is in danger and that redacting the
28 residential address and telephone number will serve to reduce the danger.

29 C. If a peace officer, public defender, ~~or~~ prosecutor OR CODE
30 ENFORCEMENT OFFICER is also requesting pursuant to section 11-483 that the
31 general public be prohibited from accessing records maintained by the county
32 recorder, the peace officer, public defender, ~~or~~ prosecutor OR CODE
33 ENFORCEMENT OFFICER may combine the request pursuant to subsection B of this
34 section with the request pursuant to section 11-483 by filing one affidavit
35 with the officer's commanding officer, or with the head of the prosecuting,
36 ~~or~~ public defender OR CODE ENFORCEMENT agency, as applicable, or that
37 person's designee. The affidavit and subsequent action by the appropriate
38 authorities shall meet all of the requirements of this section and section
39 11-483.

40 D. The affidavit shall be filed with the presiding judge of the
41 superior court in the county in which the affiant resides. To prevent a
42 multiplicity of filings, a peace officer, public defender, ~~or~~ prosecutor OR
43 CODE ENFORCEMENT OFFICER shall deliver the affidavit to the peace officer's
44 commanding officer, or to the head of the prosecuting, ~~or~~ public defender OR
45 CODE ENFORCEMENT agency, as applicable, or that person's designee, who shall

1 file the affidavits at one time. In the absence of an affidavit that
2 contains a request for immediate action and that is supported by facts
3 justifying an earlier presentation, the commanding officer, or the head of
4 the prosecuting, ~~or~~ public defender OR CODE ENFORCEMENT agency, as
5 applicable, or that person's designee, shall not file affidavits more often
6 than quarterly.

7 E. On receipt of an affidavit or affidavits, the presiding judge of
8 the superior court shall file with the clerk of the superior court a petition
9 on behalf of all requesting affiants. Each affidavit presented shall be
10 attached to the petition. In the absence of an affidavit that contains a
11 request for immediate action and that is supported by facts justifying an
12 earlier consideration, the presiding judge may accumulate affidavits and file
13 a petition at the end of each quarter.

14 F. The presiding judge of the superior court shall review the petition
15 and each attached affidavit to determine whether the action requested by each
16 affiant should be granted. If the presiding judge of the superior court
17 concludes that the action requested by the affiant will reduce a danger to
18 the life or safety of the affiant or another person, the presiding judge of
19 the superior court shall order the redaction of the affiant's residential
20 address and telephone number that are contained in instruments, writings and
21 information maintained by the county assessor and the county treasurer. The
22 redaction shall be in effect for five years.

23 G. On motion to the court, if the presiding judge of the superior
24 court concludes that an instrument or writing maintained by the county
25 assessor or the county treasurer has been redacted or sealed in error, that
26 the original affiant no longer lives at the address listed in the original
27 affidavit, that the cause for the original affidavit no longer exists or that
28 temporary access to the instrument or writing is needed, the presiding judge
29 may temporarily stay or permanently vacate all or part of the court order
30 prohibiting public access to the instrument or writing.

31 H. On entry of the court order, the clerk of the superior court shall
32 file the court order and a copy of the affidavit required by subsection B of
33 this section with the county assessor and the county treasurer. No more than
34 ten days after the date on which the county assessor and the county treasurer
35 receive the court order, the county assessor and the county treasurer shall
36 restrict access to the information as required by subsection F of this
37 section.

38 I. If the court denies an affiant's request pursuant to this section,
39 the affiant may request a court hearing. The hearing shall be conducted by
40 the court in the county where the petition was filed.

41 J. The county assessor and the county treasurer shall remove the
42 restrictions on all records that are redacted pursuant to this section by
43 January 5 in the year after the court order expires.

44 K. For the purposes of this section:

1 C. The affidavit shall be filed with the presiding judge of the
2 superior court in the county in which the affiant resides. To prevent a
3 multiplicity of filings, a peace officer, PROSECUTOR OR CODE ENFORCEMENT
4 OFFICER shall deliver the affidavit to the peace officer's commanding
5 officer, ~~who shall file the affidavits at one time, and prosecutors shall~~
6 ~~deliver the affidavit~~ OR to the head of the prosecuting OR CODE ENFORCEMENT
7 agency, AS APPLICABLE, or that person's designee, who shall file the
8 affidavits at one time. In the absence of an affidavit that contains a
9 request for immediate action and that is supported by facts justifying an
10 earlier presentation, the commanding officer, or the head of the prosecuting
11 OR CODE ENFORCEMENT agency, AS APPLICABLE, or that person's designee, shall
12 not file affidavits more often than quarterly.

13 D. On receipt of an affidavit or affidavits, the presiding judge of
14 the superior court shall cause to be filed with the clerk of the superior
15 court a petition on behalf of all requesting peace officers, ~~and~~ prosecutors
16 AND CODE ENFORCEMENT OFFICERS. Each affidavit presented shall be attached to
17 the petition. In the absence of an affidavit that contains a request for
18 immediate action and that is supported by facts justifying an earlier
19 consideration, the presiding judge may accumulate affidavits and file a
20 petition at the end of each quarter.

21 E. The presiding judge of the superior court shall review the petition
22 and each attached affidavit to determine whether the action requested by each
23 peace officer, ~~and~~ prosecutor AND CODE ENFORCEMENT OFFICER should be granted.
24 The presiding judge of the superior court shall order the redaction of the
25 residence address and telephone number from the public records maintained by
26 the department if the judge concludes that this action will reduce a danger
27 to the life or safety of the affiant or another person.

28 F. On entry of the court order, the clerk of the superior court shall
29 file the court order with the department. No more than one hundred fifty
30 days after the date the department receives the court order, the department
31 shall redact the residence addresses and telephone numbers of the peace
32 officers, ~~and~~ prosecutors AND CODE ENFORCEMENT OFFICERS listed in the court
33 order from the public records of the department. The residence addresses and
34 telephone numbers shall not be disclosed and are not part of a public record.

35 G. If the court denies an affiant's request pursuant to this section,
36 the affiant may request a court hearing. The hearing shall be conducted by
37 the court in the county where the petition was filed.

38 H. On motion to the court, if the presiding judge of the superior
39 court concludes that a residential address or telephone number has been
40 sealed in error or that the cause for the original affidavit no longer
41 exists, the presiding judge may vacate the court order prohibiting public
42 access to the residential address or telephone number.

43 I. Notwithstanding sections 28-447 and 28-452, the department shall
44 not release a photograph of a peace officer if the peace officer has made a
45 request as prescribed in this section that persons be prohibited from

1 accessing the peace officer's residential address and telephone number in any
2 record maintained by the department.

3 J. This section does not prohibit the use of a peace officer's
4 photograph that is either:

5 1. Used by a law enforcement agency to assist a person who has a
6 complaint against an officer to identify the officer.

7 2. Obtained from a source other than the department.

8 K. For the purposes of this section, ~~:-~~:

9 1. "CODE ENFORCEMENT OFFICER" MEANS A PERSON WHO IS EMPLOYED BY A
10 STATE OR LOCAL GOVERNMENT AND WHOSE DUTIES INCLUDE PERFORMING FIELD
11 INSPECTIONS OF BUILDINGS, STRUCTURES OR PROPERTY TO ENSURE COMPLIANCE WITH
12 AND ENFORCE NATIONAL, STATE AND LOCAL LAWS, ORDINANCES AND CODES.

13 2. "Prosecutor" means a county attorney, a municipal prosecutor or the
14 attorney general and includes an assistant or deputy county attorney,
15 municipal prosecutor or attorney general.

16 Sec. 4. Section 39-123, Arizona Revised Statutes, is amended to read:

17 39-123. Information identifying a peace officer, justice,
18 judge, commissioner, public defender; prosecutor or
19 code enforcement officer; confidentiality;
20 definitions

21 A. Nothing in this chapter requires disclosure from a personnel file
22 by a law enforcement agency or employing state or local governmental entity
23 of the home address or home telephone number of a peace officer as defined in
24 section 13-105, a justice, a judge, a commissioner, a public defender, ~~or~~ a
25 prosecutor **OR A CODE ENFORCEMENT OFFICER.**

26 B. The agency or governmental entity may release the information in
27 subsection A of this section only if either:

28 1. The person consents in writing to the release.

29 2. The custodian of records of the agency or governmental entity
30 determines that release of the information does not create a reasonable risk
31 of physical injury to the person or the person's immediate family or damage
32 to the property of the person or the person's immediate family.

33 C. A law enforcement agency may release a photograph of a peace
34 officer if either:

35 1. The peace officer has been arrested or has been formally charged by
36 complaint, information or indictment for a misdemeanor or a felony offense.

37 2. The photograph is requested by a representative of a newspaper for
38 a specific newsworthy event unless:

39 (a) The peace officer is serving in an undercover capacity or is
40 scheduled to be serving in an undercover capacity within sixty days.

41 (b) The release of the photograph is not in the best interest of this
42 state after taking into consideration the privacy, confidentiality and safety
43 of the peace officer.

44 (c) An order pursuant to section 28-454 is in effect.

1 D. This section does not prohibit the use of a peace officer's
2 photograph that is either:

3 1. Used by a law enforcement agency to assist a person who has a
4 complaint against an officer to identify the officer.

5 2. Obtained from a source other than the law enforcement agency.

6 E. This section does not apply to a certified peace officer OR CODE
7 ENFORCEMENT OFFICER who is no longer employed as a peace officer OR CODE
8 ENFORCEMENT OFFICER by a state or local government entity.

9 F. For the purposes of this section:

10 1. "CODE ENFORCEMENT OFFICER" MEANS A PERSON WHO IS EMPLOYED BY A
11 STATE OR LOCAL GOVERNMENT AND WHOSE DUTIES INCLUDE PERFORMING FIELD
12 INSPECTIONS OF BUILDINGS, STRUCTURES OR PROPERTY TO ENSURE COMPLIANCE WITH
13 AND ENFORCE NATIONAL, STATE AND LOCAL LAWS, ORDINANCES AND CODES.

14 ~~1-~~ 2. "Commissioner" means a commissioner of the superior court.

15 ~~2-~~ 3. "Judge" means a judge of the United States district court, the
16 United States court of appeals, the United States magistrate court, the
17 United States bankruptcy court, the Arizona court of appeals, the superior
18 court or a municipal court.

19 ~~3-~~ 4. "Justice" means a justice of the United States or Arizona
20 supreme court or a justice of the peace.

21 ~~4-~~ 5. "Prosecutor" means a county attorney, a municipal prosecutor,
22 the attorney general or a United States attorney and includes an assistant or
23 deputy United States attorney, county attorney, municipal prosecutor or
24 attorney general.

25 ~~5-~~ 6. "Public defender" means a federal public defender, county
26 public defender, county legal defender or county contract indigent defense
27 counsel and includes an assistant or deputy federal public defender, county
28 public defender or county legal defender.

29 Sec. 5. Section 39-124, Arizona Revised Statutes, is amended to read:

30 ~~39-124.~~ Releasing information identifying a peace officer,
31 justice, judge, commissioner, public defender;
32 prosecutor or code enforcement officer; violations;
33 classification; definitions

34 A. Any person who is employed by a state or local government entity
35 and who, in violation of section 39-123, knowingly releases the home address
36 or home telephone number of a peace officer as defined in section 13-105, a
37 justice, a judge, a commissioner, a public defender, ~~or~~ a prosecutor OR A
38 CODE ENFORCEMENT OFFICER with the intent to hinder an investigation, cause
39 physical injury to a peace officer, justice, judge, commissioner, public
40 defender, ~~or~~ prosecutor OR CODE ENFORCEMENT OFFICER or the peace officer's,
41 justice's, judge's, commissioner's, public defender's, ~~or~~ prosecutor's OR
42 CODE ENFORCEMENT OFFICER'S immediate family or cause damage to the property
43 of a peace officer, justice, judge, commissioner, public defender, ~~or~~
44 prosecutor OR CODE ENFORCEMENT OFFICER or the peace officer's, justice's,

1 judge's, commissioner's, public defender's, ~~or~~ prosecutor's OR CODE
2 ENFORCEMENT OFFICER'S immediate family is guilty of a class 6 felony.

3 B. Any person who is employed by a state or local government entity
4 and who, in violation of section 39-123, knowingly releases a photograph of a
5 peace officer with the intent to hinder an investigation, cause physical
6 injury to a peace officer or the peace officer's immediate family or cause
7 damage to the property of a peace officer or the peace officer's immediate
8 family is guilty of a class 6 felony.

9 C. For the purposes of this section:

10 1. "CODE ENFORCEMENT OFFICER" MEANS A PERSON WHO IS EMPLOYED BY A
11 STATE OR LOCAL GOVERNMENT AND WHOSE DUTIES INCLUDE PERFORMING FIELD
12 INSPECTIONS OF BUILDINGS, STRUCTURES OR PROPERTY TO ENSURE COMPLIANCE WITH
13 AND ENFORCE NATIONAL, STATE AND LOCAL LAWS, ORDINANCES AND CODES.

14 ~~1.~~ 2. "Commissioner" means a commissioner of the superior court.

15 ~~2.~~ 3. "Judge" means a judge of the United States district court, the
16 United States court of appeals, the United States magistrate court, the
17 United States bankruptcy court, the Arizona court of appeals, the superior
18 court or a municipal court.

19 ~~3.~~ 4. "Justice" means a justice of the United States or Arizona
20 supreme court or a justice of the peace.

21 ~~4.~~ 5. "Prosecutor" means a county attorney, a municipal prosecutor,
22 the attorney general or a United States attorney and includes an assistant or
23 deputy United States attorney, county attorney, municipal prosecutor or
24 attorney general.

25 ~~5.~~ 6. "Public defender" means a federal public defender, county
26 public defender, county legal defender or county contract indigent defense
27 counsel and includes an assistant or deputy federal public defender, county
28 public defender or county legal defender.