

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

SENATE BILL 1445

AN ACT

AMENDING SECTION 39-123, ARIZONA REVISED STATUTES; AMENDING TITLE 39, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 39-123.01; RELATING TO PUBLIC RECORDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 39-123, Arizona Revised Statutes, is amended to
3 read:

4 39-123. Information identifying eligible persons:
5 confidentiality: definitions

6 A. Nothing in this chapter requires disclosure from a personnel file
7 by a law enforcement agency or employing state or local governmental entity
8 of the home address or home telephone number of eligible persons.

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

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

12 2. The custodian of records of the agency or governmental entity
13 determines that release of the information does not create a reasonable risk
14 of physical injury to the person or the person's immediate family or damage
15 to the property of the person or the person's immediate family.

16 C. A law enforcement agency may release a photograph OR NAME of a
17 peace officer if either:

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

20 2. The photograph OR NAME is requested by a representative of a
21 newspaper for a specific newsworthy event unless:

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

24 (b) The release of the photograph OR NAME is not in the best interest
25 of this state after taking into consideration the privacy, confidentiality
26 and safety of the peace officer.

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

28 D. This section does not prohibit the use of a peace officer's
29 photograph OR NAME that is either:

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

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

33 E. This section does not apply to a certified peace officer or code
34 enforcement officer who is no longer employed as a peace officer or code
35 enforcement officer by a state or local government entity.

36 F. For the purposes of this section:

37 1. "Code enforcement officer" means a person who is employed by a
38 state or local government and whose duties include performing field
39 inspections of buildings, structures or property to ensure compliance with
40 and enforce national, state and local laws, ordinances and codes.

41 2. "Commissioner" means a commissioner of the superior court.

42 3. "Corrections support staff member" means an adult or juvenile
43 corrections employee who has direct contact with inmates.

44 4. "Eligible person" means a former public official, peace officer,
45 spouse of a peace officer, spouse or minor child of a deceased peace officer,

1 border patrol agent, justice, judge, commissioner, public defender,
2 prosecutor, code enforcement officer, adult or juvenile corrections officer,
3 corrections support staff member, probation officer, member of the board of
4 executive clemency, law enforcement support staff member, national guard
5 member who is acting in support of a law enforcement agency, person who is
6 protected under an order of protection or injunction against harassment,
7 firefighter who is assigned to the Arizona counterterrorism center in the
8 department of public safety or victim of domestic violence or stalking who is
9 protected under an order of protection or injunction against harassment.

10 5. "Former public official" means a person who was duly elected or
11 appointed to Congress, the legislature or a statewide office, who ceased
12 serving in that capacity and who was the victim of a dangerous offense as
13 defined in section 13-105 while in office.

14 6. "Judge" means a judge of the United States district court, the
15 United States court of appeals, the United States magistrate court, the
16 United States bankruptcy court, the Arizona court of appeals, the superior
17 court or a municipal court.

18 7. "Justice" means a justice of the United States or Arizona supreme
19 court or a justice of the peace.

20 8. "Law enforcement support staff member" means a person who serves in
21 the role of an investigator or prosecutorial assistant in an agency that
22 investigates or prosecutes crimes, who is integral to the investigation or
23 prosecution of crimes and whose name or identity will be revealed in the
24 course of public proceedings.

25 9. "Peace officer" has the same meaning prescribed in section 13-105.

26 10. "Prosecutor" means a county attorney, a municipal prosecutor, the
27 attorney general or a United States attorney and includes an assistant or
28 deputy United States attorney, county attorney, municipal prosecutor or
29 attorney general.

30 11. "Public defender" means a federal public defender, county public
31 defender, county legal defender or county contract indigent defense counsel
32 and includes an assistant or deputy federal public defender, county public
33 defender or county legal defender.

34 Sec. 2. Title 39, chapter 1, article 2, Arizona Revised Statutes, is
35 amended by adding section 39-123.01, to read:

36 39-123.01. Peace officer identification; confidentiality

37 A. NOTWITHSTANDING SECTION 39-123, THIS CHAPTER DOES NOT REQUIRE THE
38 DISCLOSURE OF, AND A LAW ENFORCEMENT AGENCY OR EMPLOYING STATE OR LOCAL
39 GOVERNMENTAL ENTITY MAY NOT PUBLICLY RELEASE, THE NAME OF A PEACE OFFICER WHO
40 IS INVOLVED IN AN INCIDENT THAT INVOLVES THE USE OF DEADLY PHYSICAL FORCE AND
41 THAT RESULTS IN EITHER THE DEATH OR SERIOUS PHYSICAL INJURY OF THE OFFICER OR
42 ANOTHER PERSON FOR SIXTY DAYS AFTER THE INCIDENT OCCURS OR UNLESS ANY OF THE
43 FOLLOWING APPLIES, WHICHEVER OCCURS FIRST:

44 1. THE PEACE OFFICER HAS BEEN ARRESTED OR HAS BEEN FORMALLY CHARGED BY
45 COMPLAINT, INFORMATION OR INDICTMENT FOR ACTIONS RELATED TO THE INCIDENT.

- 1 2. THE CRIMINAL INVESTIGATION OF THE INCIDENT IS COMPLETE.
- 2 3. THE PEACE OFFICER CONSENTS IN WRITING TO THE RELEASE.
- 3 4. AN ARIZONA RULE OF CRIMINAL PROCEDURE REQUIRES THE RELEASE.
- 4 5. THE PEACE OFFICER'S NEXT OF KIN, OR THE CHIEF EXECUTIVE OFFICER OF
- 5 THE LAW ENFORCEMENT AGENCY IF THERE IS NO NEXT OF KIN, CONSENTS TO THE
- 6 RELEASE OF THE PEACE OFFICER'S NAME IN WRITING IF THE PEACE OFFICER IS
- 7 INCAPACITATED.
- 8 6. THE PEACE OFFICER HAS DIED IN THE LINE OF DUTY AND THE LAW
- 9 ENFORCEMENT AGENCY HAS CONSENTED TO THE RELEASE.
- 10 B. ANY RELEASE OF DISCIPLINARY ACTION TAKEN AGAINST THE PEACE OFFICER
- 11 MUST BE REDACTED IN A WAY THAT WILL NOT IDENTIFY THE OFFICER.