

CONCURRENCE IN SENATE AMENDMENTS

AB 343 (Pacheco)

As Amended July 1, 2025

Majority vote

SUMMARY

Expands the definition of "elected or appointed official" so that protections in existing law against disclosure of personal identifying information about such officials apply to more officials.

Major Provisions

- 1) Expands the definition of "elected or appointed official" to include the following:
 - a) A retired judge or court commissioner.
 - b) A retired federal judge or federal defender.
 - c) A retired judge of a federally recognized Indian tribe.
 - d) An appointee of a court to serve as children's counsel in a family or dependency proceeding.
 - e) *An active or retired judge of the State Bar Court.*
- 2) Makes the following legislative finding to demonstrate the interest protected by the bill's limitation on the right of the public to access public records and the need for protecting that interest:

The California Public Records Act protects personal information, such as residence addresses and personal telephone numbers, of elected or appointed officials from disclosure. The need to protect elected or appointed officials and their families from harassment or targeted violence outweighs the interest in public disclosure of this information

Senate Amendments

Adds an active or retired judge of the State Bar Court in the definition of "elected or appointed official."

COMMENTS

This bill, sponsored by the California Judges Association, seeks to expand the definition of "elected or appointed official" so that protections in existing law against disclosure of personal identifying information of elected and appointed officials would apply to a retired judge or court commissioner; retired federal judge or federal defender; retired judge of a federally recognized Indian tribe; *an active or retired judge of the State Bar Court*; and an attorney appointed by a court to serve as children's counsel in a family or dependency proceeding. By including these individuals in the definition of "elected or appointed official," some personal information about them would be prohibited from being posted on an agency's internet website; and disclosure of the information would be a crime in specific limited circumstances.

Public Records and Public Access to Such Records. Under the California Public Records Act (CPRA), public records are open to inspection at all times during the office hours of a public agency for inspection by the public, unless exempted. (Government Code (GC) Section 7922.525.) A public record is defined as any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any public agency regardless of physical form or characteristics. (GC Section 7920.530.) The CPRA allows a public agency 10 days or, in specified "unusual circumstances," an additional 14 days after the 10-day period to respond to a request for the requested public record, and authorizes the agency to charge a fee for its "direct costs of duplication" of the record. (Sections GC 7922.530(a), 7922.535.)

Despite the CPRA's general rule that public records are open to inspection and subject to disclosure, the CPRA provides exceptions providing that a document, or a portion thereof, is not subject to public disclosure. An exemption can be explicit in the CPRA itself, pursuant to another law, or justified by the agency's determination that, based on the facts of the particular case, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. (See GC Sections 7922.000, 7922.525, 7922.530.)

Limits (and Inconsistencies) in Existing Law Regarding Disclosure of Address and Telephone Information Regarding Public Employees and Elected and Appointed Officials. Existing law provides that information about the home address and phone number of a public employee is generally exempt from disclosure under the CPRA pursuant to GC Section 7928.300. Therefore, except in specified circumstances, an agency is required to redact information about the employee's home address and /or phone number (and similar information about the employee) from any record that otherwise would be open to the public and subject to disclosure.

On the other hand, existing law does not explicitly prohibit the inspection and disclosure of the home address and telephone number of an elected or appointed official in response to a CPRA request. An agency is required to provide public access to any record, including the home address information, unless the agency made an argument under GC Section 7922.000 that on the facts of the particular case, the public interest served by not disclosing the record clearly outweighed the public interest served by disclosure of the record. However, in what appears to be a compromise between the public's interest in transparency and an official's interest in privacy (and safety), existing law limits the disclosure of information about elected and appointed officials in two ways. First, it prohibits a state or local agency from publicly posting the home address, telephone number, or both the name and assessor parcel number of any elected or appointed official on the internet without first obtaining the written permission of that individual. (GC Section 7928.205.) Second, existing law prohibits a person from knowingly posting the home address or telephone number of any elected or appointed official, or of the official's residing spouse or child, on the internet knowing that person is an elected or appointed official and intending to cause imminent great bodily harm that is likely to occur or threatening to cause imminent great bodily harm to that individual. (GC Section 7928.210.) Violation is a misdemeanor, unless the violation leads to the bodily injury of the official, or his or her residing spouse or child, in which case the violation is a misdemeanor or a felony. (*Ibid.*)

What is the rationale for this difference in laws governing disclosure of private information, depending on whether the person is a public employee, as opposed to an elected or appointed official? It appears that the Legislature may have concluded that the public has a greater interest in knowing the home address of an elected or appointed official. For example, unless otherwise

specifically provided, no person is eligible to be elected or appointed to an elective office unless that person is a registered voter and otherwise qualified to vote for that office at the time that nomination papers are issued to the person or at the time of the person's appointment. (Elections Code Section 201.) In other words, unless otherwise specified, the person appointed or elected to an office must live in the geographic area that the office represents. There is a strong public interest – for not only residents who live in the geographic area represented by the office, but also the press, and the public in general – in knowing where the official lives.

This bill. As explained above, existing law prohibits a state or local agency from publicly posting the home address, telephone number, or both the name and assessor parcel number of any elected or appointed official on the internet without first obtaining the written permission of that individual. (GC Section 7928.205.) And existing law makes it a crime for a person to knowingly post the home address or telephone number of any elected or appointed official, or of the official's residing spouse or child, on the internet knowing that person is an elected or appointed official and intending to cause imminent great bodily harm that is likely to occur or threatening to cause imminent great bodily harm to that individual. (GC Section 7928.210.)

This bill would apply those provisions to a retired judge or court commissioner; retired federal judge or federal defender; retired judge of a federally recognized Indian tribe; and an attorney appointed by a court to serve as children's counsel in a family or dependency proceeding; *an active or retired judge of the State Bar Court*. Most of these individuals would meet the definition of an "elected or appointed official" in current law if they are active, rather than retired; or if they worked for the state or a local government, rather than the federal government). The only entirely new addition to the definition is an attorney who has been court-appointed "to serve as children's counsel in a family or dependency proceeding." Such proceedings are notoriously contentious and can be dangerous as the result of domestic violence and anger about court proceedings in which high-stakes child custody and parental rights, among other issues, are decided. It makes sense that an attorney representing a child – who literally is caught in the middle of the dispute between or about the child's parents – may need their personal information to be protected from disclosure by an agency, just like any other "elected or appointed official."

According to the Author

Nationwide elected and appointed officials face rising threats and violence against themselves and their family members. AB 343 extends the definition of elected or appointed official to retired state, federal, and tribal judges, court commissioners, and federal defenders, adding safeguards to these essential professions. The bill also includes children's counsel appointed by the court in a family or dependency proceeding as they often are subjected to threats from disgruntled relatives at their law offices and homes.

Arguments in Support

The California Judges Association, sponsor of the bill, writes the following to explain why the bill is necessary:

California already has some of the strongest privacy laws in the country, including those additional protections for elected and appointed officials. . . . Unfortunately, the definition of elected and appointed official does not expressly include retired judges on any level – state, federal, or tribal. Because threats to judicial officials don't stop just because a judge retires from the bench, AB 343 seeks to ensure the existing protections continue into retirement.

. . . Unfortunately, children's counsel are too often subjected to threats to their safety at their law offices and homes because of their important work. Reportedly, a litigant recently learned the home addresses of several attorneys believed to be children's counsel in Family Court [. . .]. Children's counsel in both Family Court and Juvenile Dependency performs similar functions (i.e. home visits, investigation regarding allegations of child abuse) as some parties that are currently included as elected and appointed officials such as an employee of the district attorney or public defender. AB 343 seeks to extend the elected and appointed official's designation to these court appointed children's counsel.

Arguments in Opposition

None on file

FISCAL COMMENTS

The Senate Appropriations Committee writes regarding the fiscal impact:

- 1) Unknown, potentially significant cost to the state funded trial court system (Trial Court Trust Fund, General Fund) to adjudicate civil and criminal actions. This bill allows specified officials whose information has been made public to bring a civil action seeking injunction or declarative relief, which may lead to additional case filings that otherwise would not have been commenced, with attendant workload and resource costs to the court. The expanded crime in this bill will also increase costs to the trial courts. Defendants are constitutionally guaranteed certain rights during criminal proceedings, including the right to a jury trial and the right to counsel (at public expense if the defendants are unable to afford the costs of representation).

The fiscal impact of this bill to the courts will depend on many unknowns, including the numbers of people charged with an offense and the factors unique to each case. An eight-hour court day costs approximately \$10,500 in staff in workload. This is a conservative estimate, based on the hourly rate of court personnel including at minimum the judge, clerk, bailiff, court reporter, jury administrator, administrative staff, and jury per-diems. If court days exceed 10, costs to the trial courts could reach hundreds of thousands of dollars. In 2023–24, over 4.8 million cases were filed statewide in the superior courts, including 451,647 misdemeanor cases, and 179,821 felony cases. Filings increased over the past year, driven mostly by misdemeanors and infractions, and civil limited cases. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations.

- 2) Unknown, potentially significant costs (General Fund) to the Department of Corrections and Rehabilitation (CDCR) to incarcerate people for the crime expanded by this bill. The Legislative Analyst's Office (LAO) estimates the average annual cost to incarcerate one person in state prison is \$133,000. The annual cost of operating a mental health crisis bed at CDCR is around \$400,000. As part of the ongoing Coleman court case, CDCR has been incurring fines monthly since April 2023 for failing to reduce vacancy rates for five mental health classifications. The state has paid over \$200 million in fines to date, and is still accruing fines. Thus, if even if just one person is sentenced to state prison for one year under this bill, it will add significant costs pressures to CDCR.

- 3) Unknown, potentially significant costs (local funds, General Fund) to the counties to incarcerate people for the crime expanded by this bill. The average annual cost to incarcerate one person in county jail varies by county, but likely ranges from \$70,000 to \$90,000 per year. For example, in 2021, Los Angeles County budgeted \$1.3 billion for jail spending, including \$89,580 per incarcerated person. Actual incarceration costs to counties will depend on the number of convictions and the length of each sentence. Generally, county incarceration costs are not reimbursable state mandates pursuant to Proposition 30 (2012).
- 4) Potential cost pressures (General Fund) to the Department of State Hospitals (DSH), in order to adequately house, treat, and care for persons committed to DSH that otherwise would not. Cost pressures to DSH are connected with an increase in state prison sentences. Expanding a crime will increase the number of defendants declared incompetent to stand trial (IST), or committed to DSH due to their being not guilty by reason of insanity. DSH's proposed budget for fiscal year 2025-26 totals \$3.4 billion – an increase of \$3.4 million from the 2024 Budget Act. An increase the DSH population would result in the need for additional funding.
- 5) No significant fiscal impact to the Department of Justice (DOJ). However, DOJ notes to staff that, while the impact of this would not pose a significant impact to the DOJ, as numerous bills this session may result in no significant impact to the DOJ, should an aggregate of these bills chapter, the DOJ would submit a workload BCP for additional resources to process the increase to the DOJ workload.

VOTES:

ASM JUDICIARY: 12-0-0

YES: Kalra, Bauer-Kahan, Bryan, Connolly, Chen, Essayli, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

ASM APPROPRIATIONS: 14-0-1

YES: Wicks, Arambula, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache, Ta, Tangipa

ABS, ABST OR NV: Sanchez

ASSEMBLY FLOOR: 79-0-0

YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

SENATE FLOOR: 39-0-1

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNeerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson,

Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber
Pierson, Wiener

ABS, ABST OR NV: Reyes

UPDATED

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