



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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H.B. 406

132nd General Assembly
(As Introduced)

Reps. Lanese, Hughes, Riedel, Goodman, Kent, Ginter, Young

BILL SUMMARY

- Adds forensic evaluation examiners and mental health evaluation providers to the list of professions whose residential and familial information is exempted from disclosure under the Public Records Law.
- Defines "forensic evaluation examiner" as an individual providing a forensic evaluation service under a rule adopted by the Director of Mental Health and Addiction Services.
- Defines "mental health evaluation provider" as an individual who examines a respondent who is alleged to be a mentally ill person subject to court order, and reports to the probate court on the respondent's mental condition.
- Consolidates the list of exempted professions into the term "designated public service worker."
- Permits a forensic evaluation examiner or mental health evaluation provider to request that the examiner or provider's address be redacted from any public office's record that is publicly available on the Internet in which the examiner or provider's residential and familial information appears, except for county auditor records.
- Permits a forensic evaluation examiner or mental health evaluation provider to request that the county auditor replace the examiner or provider's name with the examiner or provider's initials in records publicly available on the Internet or in a database.

CONTENT AND OPERATION

Forensic evaluation examiner or mental health evaluation provider's residential and familial information not a public record

Under continuing Public Records Law, any person may request to inspect or obtain copies of public records from a public office. When it receives a public records request, and unless part or all of a record is exempt from release, a public office must provide inspection of the requested records promptly and at no cost, or provide copies at cost within a reasonable period of time.¹ The bill exempts a forensic evaluation examiner or mental health evaluation provider's residential and familial information from disclosure under the Public Records Law, and consolidates the list of professions whose residential and familial information is exempt from disclosure as a public record into the term "designated public service worker."²

The bill defines "designated public service worker" as a "peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, *forensic evaluation examiner*, *mental health evaluation provider*, or federal law enforcement officer." Also, the bill defines "forensic evaluation examiner" as an individual providing a forensic evaluation service under a rule adopted by the Director of Mental Health and Addiction Services. The rule allows a person qualified as a forensic evaluation examiner to conduct an evaluation of an individual and prepare a written expert opinion regarding a legal issue. Finally, the bill defines "mental health evaluation provider" as an individual who, under the law regarding the hospitalization of the mentally ill, examines a respondent who is alleged to be a mentally ill person subject to court order, and reports to the probate court the respondent's mental condition.

Under continuing law, and generally under the bill for forensic evaluation examiners and mental health evaluation providers, designated public service worker's residential and familial information exempt from the Public Records Law includes:

- The address of the actual personal residence of a designated public service worker (other than a prosecuting attorney), except for the state or political subdivision in which the worker resides;

¹ R.C. 149.43(B).

² R.C. 149.43(A)(7).



- Information compiled from referral to or participation in an employee assistance program;
- The Social Security number, residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information of a designated public service worker;
- The name of any beneficiary of employment benefits, including life insurance benefits, provided to a designated public service worker by the worker's employer;
- The identity and amount of any charitable or employment benefit deduction made by the designated public service worker's employer from the worker's compensation, unless state or federal law requires the deduction;
- The name, residential address, employer, employer's address, Social Security number, residential telephone number, bank account, debit card, charge card, or credit card number, or emergency telephone number of the spouse, former spouse, or any child of a designated public service worker; and
- A photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace officer's appointing authority.³

There is one exception to the general exemption of a designated public service worker's residential and familial information from disclosure under the Public Records Law. Continuing law allows a journalist to submit a written request to a public office that employs a person whose residential and familial information is exempted from the Public Records Law for the actual personal address of the person.⁴ The journalist may also request the name and address of the employer of the person's spouse, former spouse, or child if they are also employed by a public office. Therefore, this process applies to a forensic evaluation examiner or mental health evaluation provider under the bill.

³ R.C. 149.43(A)(8) and (A)(9); see O.A.C. 5122-29-07.

⁴ R.C. 149.43(B)(9)(a).



Forensic evaluation examiner or mental health evaluation provider may request address be redacted from available online records

Under the bill, a forensic evaluation examiner or mental health evaluation provider may request that the examiner or provider's address be redacted from a record in which the examiner or provider's residential and familial information appears and that is available to the public on the Internet. Continuing law allows a designated public service worker to submit a request to a public office, except for a county auditor, to redact the worker's address from any record in which the worker's residential and familial information appears that is publicly available on the Internet.⁵ The request must be made in writing by the designated public service worker whose information appears in the online record. The public office must redact the worker's address from the public record, or if the redaction is impractical, provide an explanation of the impracticality of the request within five business days of receiving the request. The bill includes forensic evaluation examiners and mental health evaluation providers in this process.

Forensic evaluation examiner or mental health evaluation provider may request name be replaced with initials in county auditor records

The bill also permits a forensic evaluation examiner or mental health evaluation provider to request that the examiner or provider's name be redacted from public records by the county auditor and replaced with the person's initials. Under continuing law, any person whose residential and familial information is exempt from the Public Records Law may submit an affidavit to the person's county auditor requesting that the person's name be removed from records available to the public online or in a database, and instead replaced with the person's initials.⁶ The county auditor must replace the person's name with their initials as they appear on the deed for the relevant property, or if the removal is impractical, provide a written explanation of the impracticality of the request within five business days of receiving the request.

HISTORY

ACTION	DATE
Introduced	11-07-17

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⁵ R.C. 149.45(D)(1).

⁶ R.C. 319.28(B), not in the bill.

