

HOUSE FLOOR AMENDMENT EXPLANATION



Bill Number: **SB 1445**

Borrelli Floor Amendment

SB 1445 stipulates that public records laws do not require the disclosure of and a law enforcement agency is prohibited from releasing the name of a peace officer who is involved in a deadly use of physical force incident for 90 days unless specified conditions are met. The bill also permits a law enforcement agency to refuse to respond to a public records request for the name that is more than 30 days old.

The Borrelli floor amendment to SB 1445 reduces the timeframe in which the peace officer's name may not be released via a public records request or by a law enforcement agency from 90 days to 60 days. The amendment specifies that the peace officer's next of kin, or the head of the law enforcement agency if there is no next of kin, may consent to the release of the name prior to 60 days if the peace officer is incapacitated. The amendment also provides a law enforcement agency with the discretion in releasing the name of a peace officer who has died in the line of duty prior to 60 days.

The amendment specifies that the release of any information relating to disciplinary actions taken against the peace officer must be redacted in a way that will not identify the officer.

Additionally, the amendment removes language that permits a law enforcement agency to refuse to respond to a public records request for the name that is more than 30 days old.

The amendment also specifies that a law enforcement agency has discretion in releasing the name of a peace officer who is involved in a deadly use of physical force incident after the 60 days have lapsed and at any time if the officer is not involved in a deadly use of physical force incident, with some exceptions outlined in current law, such as if releasing the name is not in the best interest of the state after taking into consideration the privacy, confidentiality, and safety of the peace officer.

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BORRELLI FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1445
(Reference to Senate engrossed bill)

1 Page 1, between lines 1 and 2, insert:

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.

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

4 F. For the purposes of this section:

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

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

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

12 4. "Eligible person" means a former public official, peace officer,
13 spouse of a peace officer, spouse or minor child of a deceased peace officer,
14 border patrol agent, justice, judge, commissioner, public defender,
15 prosecutor, code enforcement officer, adult or juvenile corrections officer,
16 corrections support staff member, probation officer, member of the board of
17 executive clemency, law enforcement support staff member, national guard
18 member who is acting in support of a law enforcement agency, person who is
19 protected under an order of protection or injunction against harassment,
20 firefighter who is assigned to the Arizona counterterrorism center in the
21 department of public safety or victim of domestic violence or stalking who is
22 protected under an order of protection or injunction against harassment.

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

27 6. "Judge" means a judge of the United States district court, the
28 United States court of appeals, the United States magistrate court, the
29 United States bankruptcy court, the Arizona court of appeals, the superior
30 court or a municipal court.

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

33 8. "Law enforcement support staff member" means a person who serves in
34 the role of an investigator or prosecutorial assistant in an agency that
35 investigates or prosecutes crimes, who is integral to the investigation or

1 prosecution of crimes and whose name or identity will be revealed in the
2 course of public proceedings.

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

4 10. "Prosecutor" means a county attorney, a municipal prosecutor, the
5 attorney general or a United States attorney and includes an assistant or
6 deputy United States attorney, county attorney, municipal prosecutor or
7 attorney general.

8 11. "Public defender" means a federal public defender, county public
9 defender, county legal defender or county contract indigent defense counsel
10 and includes an assistant or deputy federal public defender, county public
11 defender or county legal defender."

12 Renumber to conform

13 Line 5, after "A." insert "NOTWITHSTANDING SECTION 39-123,"

14 Line 9, strike "NINETY" insert "SIXTY"

15 Strike lines 17 through 20, insert:

16 "5. THE PEACE OFFICER'S NEXT OF KIN, OR THE CHIEF EXECUTIVE OFFICER OF
17 THE LAW ENFORCEMENT AGENCY IF THERE IS NO NEXT OF KIN, CONSENTS TO THE
18 RELEASE OF THE PEACE OFFICER'S NAME IN WRITING IF THE PEACE OFFICER IS
19 INCAPACITATED.

20 6. THE PEACE OFFICER HAS DIED IN THE LINE OF DUTY AND THE LAW
21 ENFORCEMENT AGENCY HAS CONSENTED TO THE RELEASE.

22 B. ANY RELEASE OF DISCIPLINARY ACTION TAKEN AGAINST THE PEACE OFFICER
23 MUST BE REDACTED IN A WAY THAT WILL NOT IDENTIFY THE OFFICER."

24 Amend title to conform

SONNY BORRELLI

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