

COMMITTEE ON TRANSPORTATION AND PUBLIC SAFETY

SENATE AMENDMENTS TO H.B. 2611

(Reference to House engrossed bill)

1 Page 1, strike lines 2 through 45

2 Strike pages 2 through 4

3 Page 5, strike lines 1 through 21, insert:

4 "Section 1. Section 11-483, Arizona Revised Statutes, as amended by  
5 Laws 2019, chapter 256, section 1 and chapter 321, section 1, is amended to  
6 read:

7 11-483. Records maintained by county recorder;  
8 confidentiality; definitions

9 A. Notwithstanding any other provision of this article, in any  
10 county an eligible person may request that the general public be prohibited  
11 from accessing the unique identifier and the recording date contained in  
12 indexes of recorded instruments maintained by the county recorder and may  
13 request the county recorder to prohibit access to that person's identifying  
14 information, including any of that person's documents, instruments or  
15 writings recorded by the county recorder.

16 B. An eligible person may request this action by filing an affidavit  
17 that states all of the following on an application form developed by the  
18 administrative office of the courts in agreement with an association of  
19 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. Unless the person is the spouse of a peace officer or the spouse  
25 or minor child of a deceased peace officer or the person is a former public

1 official or former judge, the position the person currently holds and a  
2 description of the person's duties, except that an eligible person who is  
3 protected under an order of protection or injunction against harassment  
4 shall instead attach a copy of the order of protection or injunction  
5 against harassment or an eligible person who is a participant in the  
6 address confidentiality program shall instead attach a copy of the  
7 participant's current and valid address confidentiality program  
8 authorization card issued pursuant to section 41-163 and a statement of  
9 certification provided by the secretary of state's office.

10 4. The reasons the person reasonably believes that the person's life  
11 or safety or that of another person is in danger and that restricting  
12 access pursuant to this section will serve to reduce the danger.

13 5. The document locator number and recording date of each instrument  
14 for which the person requests access restriction pursuant to this section.

15 6. A copy of pages from each instrument that includes the document  
16 locator number and the person's identifying information, including the  
17 person's full legal name and residential address or full legal name and  
18 telephone number.

19 C. If an eligible person is also requesting pursuant to section  
20 11-484 that the general public be prohibited from accessing records  
21 maintained by the county assessor and county treasurer, the eligible person  
22 may combine the request pursuant to subsection B of this section with the  
23 request pursuant to section 11-484 by filing one affidavit. The affidavit  
24 and subsequent action by the appropriate authorities shall meet all of the  
25 requirements of this section and section 11-484.

26 D. The affidavit shall be filed with the presiding judge of the  
27 superior court in the county in which the affiant resides. To prevent  
28 multiple filings, an eligible person who is a peace officer, spouse of a  
29 peace officer, spouse or minor child of a deceased peace officer, public  
30 defender, prosecutor, code enforcement officer, corrections or detention  
31 officer, corrections support staff member or law enforcement support staff  
32 member shall deliver the affidavit to the peace officer's commanding

1 officer, or to the head of the prosecuting, public defender, code  
2 enforcement, law enforcement, corrections or detention agency, as  
3 applicable, or that person's designee, who shall file the affidavits at one  
4 time. In the absence of an affidavit that contains a request for immediate  
5 action and that is supported by facts justifying an earlier presentation,  
6 the commanding officer, or the head of the prosecuting, public defender,  
7 code enforcement, law enforcement, corrections or detention agency, as  
8 applicable, or that person's designee, shall not file affidavits more often  
9 than quarterly.

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

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

1 instruments maintained by the county recorder and identified pursuant to  
2 subsection B of this section.

3 G. On motion to the court, if the presiding judge of the superior  
4 court concludes that an instrument or writing recorded by the county  
5 recorder has been redacted or sealed in error, that the original affiant no  
6 longer lives at the address listed in the original affidavit, that the  
7 cause for the original affidavit no longer exists or that temporary access  
8 to the instrument or writing is needed, the presiding judge may temporarily  
9 stay or permanently vacate all or part of the court order prohibiting  
10 public access to the recorded instrument or writing.

11 H. On entry of the court order, the clerk of the superior court  
12 shall file the court order and a copy of the affidavit required by  
13 subsection B of this section with the county recorder. Not more than ten  
14 days after the date on which the county recorder receives the court order,  
15 the county recorder shall restrict access to the information as required by  
16 subsection F of this section.

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

20 J. The county recorder shall remove the restrictions on all records  
21 restricted pursuant to this section by January 5 in the year after the  
22 court order expires. The county recorder shall send by mail one notice to  
23 either the former public official, peace officer, spouse of a peace  
24 officer, spouse or minor child of a deceased peace officer, public  
25 defender, prosecutor, code enforcement officer, corrections or detention  
26 officer, corrections support staff member, law enforcement support staff  
27 member, employee of the department of child safety or employee of adult  
28 protective services who has direct contact with families in the course of  
29 employment or the employing agency of a peace officer, public defender,  
30 prosecutor, code enforcement officer, corrections or detention officer,  
31 corrections support staff member, law enforcement support staff member or  
32 employee of adult protective services who was granted an order pursuant to

1 this section of the order's expiration date at least six months before the  
2 expiration date. If the notice is sent to the employing agency, the  
3 employing agency shall immediately notify the person who was granted the  
4 order of the upcoming expiration date. The county recorder may coordinate  
5 with the county assessor and county treasurer to prevent multiple notices  
6 from being sent to the same person.

7 K. To include subsequent recordings in the court order, the eligible  
8 person shall present to the county recorder at the time of recordation a  
9 certified copy of the court order or shall provide to the county recorder  
10 the recording number of the court order. The county recorder shall ensure  
11 that public access is restricted pursuant to subsection A of this section.

12 L. This section does not restrict access to public records for the  
13 purposes of perfecting a lien pursuant to title 12, chapter 9, article 2.

14 M. This section does not prohibit access to the records of the  
15 county recorder by parties to the instrument, a law enforcement officer  
16 performing the officer's official duties pursuant to subsection N of this  
17 section, a title insurer, a title insurance agent or an escrow agent  
18 licensed by the department of insurance ~~or the department of financial~~  
19 ~~institutions~~ AND FINANCIAL INSTITUTIONS.

20 N. A law enforcement officer is deemed to be performing the  
21 officer's official duties if the officer provides a subpoena, court order  
22 or search warrant for the records.

23 O. 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 2. "Commissioner" means a commissioner of the superior OR MUNICIPAL  
29 court.

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

1           4. "Eligible person" means a former public official, peace officer,  
2 spouse of a peace officer, spouse or minor child of a deceased peace  
3 officer, justice, judge, commissioner, HEARING OFFICER, public defender,  
4 prosecutor, code enforcement officer, adult or juvenile corrections  
5 officer, corrections support staff member, probation officer, MEMBER OF THE  
6 COMMISSION ON APPELLATE COURT APPOINTMENTS, member of the board of  
7 executive clemency, law enforcement support staff member, employee of the  
8 department of child safety or employee of adult protective services who has  
9 direct contact with families in the course of employment, national guard  
10 member who is acting in support of a law enforcement agency, person who is  
11 protected under an order of protection or injunction against harassment,  
12 person who is a participant in the address confidentiality program pursuant  
13 to title 41, chapter 1, article 3 or firefighter who is assigned to the  
14 Arizona counter terrorism information center in the department of public  
15 safety.

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

20           6. "HEARING OFFICER" MEANS A HEARING OFFICER WHO IS APPOINTED  
21 PURSUANT TO SECTION 28-1553.

22           ~~6.~~ 7. "Indexes" means only those indexes that are maintained by and  
23 located in the office of the county recorder, that are accessed  
24 electronically and that contain information beginning from and after  
25 January 1, 1987.

26           ~~7.~~ 8. "Judge" means a judge or former judge of the United States  
27 district court, the United States court of appeals, the United States  
28 magistrate court, the United States bankruptcy court, the United States  
29 immigration court, the Arizona court of appeals, the superior court or a  
30 municipal court.

31           ~~8.~~ 9. "Justice" means a justice of the United States or Arizona  
32 supreme court or a justice of the peace.

1           ~~9.~~ 10. "Law enforcement support staff member" means a person who  
2 serves in the role of an investigator or prosecutorial assistant in an  
3 agency that investigates or prosecutes crimes, who is integral to the  
4 investigation or prosecution of crimes and whose name or identity will be  
5 revealed in the course of public proceedings.

6           ~~10.~~ 11. "Peace officer":

7           (a) Means any person vested by law, or formerly vested by law, with  
8 a duty to maintain public order and make arrests.

9           (b) Includes a federal law enforcement officer or agent who resides  
10 in this state and who has the power to make arrests pursuant to federal  
11 law.

12           ~~11.~~ 12. "Prosecutor" means a CURRENT OR FORMER county attorney,  
13 ~~a~~ municipal prosecutor, ~~the~~ attorney general or ~~a~~ United States attorney  
14 and includes ~~an~~ A CURRENT OR FORMER assistant or deputy United States  
15 attorney, county attorney, municipal prosecutor or attorney general.

16           ~~12.~~ 13. "Public defender" means a federal public defender, county  
17 public defender, county legal defender or county contract indigent defense  
18 counsel and includes an assistant or deputy federal public defender, county  
19 public defender or county legal defender.

20           Sec. 2. Repeal

21           Section 11-483, Arizona Revised Statutes, as amended by Laws 2019,  
22 chapter 252, section 19, is repealed."

23 Renumber to conform

24 Page 8, line 11, after the third comma insert "MEMBER OF THE COMMISSION ON  
25 APPELLATE COURT APPOINTMENTS,"

26 Page 9, line 15, after the second comma insert "HEARING OFFICER,"; after the  
27 third comma insert "MEMBER OF THE COMMISSION ON APPELLATE COURT  
28 APPOINTMENTS,"

29 Line 20, after the second comma insert "MEMBER'S,"

Senate Amendments to H.B. 2611

- 1 Page 10, line 2, after the second comma insert "HEARING OFFICER'S,"; after  
2 "defender's" insert ", COMMISSION ON APPELLATE COURT APPOINTMENTS MEMBER'S"  
3 Page 12, line 41, after the third comma insert "MEMBER OF THE COMMISSION ON  
4 APPELLATE COURT APPOINTMENTS,"  
5 Page 15, line 40, after the first comma insert "MEMBER OF THE COMMISSION ON  
6 APPELLATE COURT APPOINTMENTS,"  
7 Page 17, line 34, after the first comma insert "MEMBER OF THE COMMISSION ON  
8 APPELLATE COURT APPOINTMENTS,"  
9 Page 19, line 15, after the first comma insert "MEMBER OF THE COMMISSION ON  
10 APPELLATE COURT APPOINTMENTS,"  
11 Amend title to conform

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