

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH45033-LL-121 (4/2)

Short Title: Law Enforcement Officers' Security Act. (Public)

Sponsors: Representative Justice.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A LAW ENFORCEMENT OFFICERS' SECURITY PROGRAM TO PROTECT THE PERSONAL INFORMATION OF LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES AND TO PROHIBIT THE DISTRIBUTION OR PUBLICATION OF LAW ENFORCEMENT OFFICERS' PERSONAL INFORMATION AND PROVIDE CIVIL AND CRIMINAL PENALTIES FOR SUCH DISTRIBUTION OR PUBLICATION.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

Chapter 17F.

"Law Enforcement Officers' Security.

"Article 1.

"Law Enforcement Officers' Security Program.

"§ 17F-1. Purpose.

The purpose of this Chapter is to provide law enforcement officers and their families with the ability to protect their personal information from release or availability to any person or persons except under specified circumstances and thus to protect officers and their families from physical or financial harm, threat of harm, or coercion.

"§ 17F-2. Definitions.

The following definitions apply in this Chapter:

- (1) Actual address or address. – A residential, work, or school street address as specified on an officer's notice of participation in the Program.
- (2) Agency of North Carolina or agency. – Every elected or appointed State or local public office, public officer, or official; institution, board, commission, bureau, council, department, authority, or other

1 unit of government of the State or of any local government; or unit,
2 special district, or other political subdivision of State or local
3 government.

4 (3) Family. – A law enforcement officer's spouse, ex-spouse, children,
5 parents, and parents-in-law.

6 (4) Law enforcement agency. – Any State or local law enforcement
7 agency.

8 (5) Law enforcement identification card. – A card issued by a law
9 enforcement agency to provide proof of a law enforcement officer's
10 employment by that agency.

11 (6) Law enforcement officer. – An employee of a State or local law
12 enforcement agency who is actively serving in a position with assigned
13 primary duties and responsibilities for prevention and detection of
14 crime, for the general enforcement of the criminal laws of the State, or
15 for serving civil processes and who possesses the power of arrest by
16 virtue of an oath administered under the authority of the State.

17 (7) Law enforcement officers' security program or program. – A program
18 within each State and local law enforcement agency to protect the
19 confidentiality of the address of a law enforcement officer or extended
20 family member of a law enforcement officer.

21 (8) Participating officer. – A law enforcement officer electing to
22 participate in the law enforcement officers' security program in
23 accordance with this Chapter.

24 (9) Person. – Any individual, corporation, limited liability company,
25 partnership, trust, estate, or other association or any state, the United
26 States, or any subdivision thereof.

27 (10) Protected information. – Personal information of a law enforcement
28 officer listed in a notice of participation in the law enforcement
29 officers' security program that is not to be released to the general
30 public.

31 (11) Public record. – A public record as defined in Chapter 132 of the
32 General Statutes.

33 (12) Substitute address. – The address of the agency employing the law
34 enforcement officer.

35 **"§ 17F-3. Law enforcement officers' security program.**

36 There is established a law enforcement officers' security program in every law
37 enforcement agency in this State to protect the confidentiality of the address and other
38 protected information of a law enforcement officer and the officer's family members by
39 preventing the disclosure of the address and other protected information through public
40 records except under specified circumstances. Under this program, each law
41 enforcement agency shall designate the address of the agency as the substitute address
42 for a participating officer and shall act as the agent of the participating officer for
43 purposes of service of process and of receiving and forwarding first-class mail or
44 certified or registered mail. The law enforcement agency shall not be required to

1 forward any mail other than first-class mail or certified or registered mail to the
2 participating officer and shall only be required to forward such mail until 60 days after
3 the officer has left the employment of the law enforcement agency. The law
4 enforcement agency shall not maintain records of any mail received on behalf of a
5 participating officer unless the mail is certified or registered mail.

6 **"§ 17F-4. Filing of notice of participation; authorization card.**

7 (a) Any law enforcement officer who wants to participate in the law enforcement
8 officers' security program shall file a notice of participation with the law enforcement
9 agency employing the officer.

10 (b) The notice of participation shall be on the letterhead of the employing law
11 enforcement agency and shall be dated and signed by the officer and by the head of the
12 employing law enforcement agency, and both signatures shall be notarized.

13 (c) The application shall contain all of the following:

14 (1) The name of the law enforcement officer.

15 (2) The substitute address.

16 (3) A statement that the named participant is a law enforcement officer
17 with the named law enforcement agency and is entitled under Chapter
18 17F of the General Statutes to have the information listed in the notice
19 of participation protected from release to any persons or agencies
20 except through the specific written permission of the participating
21 officer, by judicial order, or as otherwise provided in this Chapter.

22 (4) A statement by the applicant that to the best of the participating
23 officer's knowledge the information contained in the notice of
24 participation is true.

25 (d) The notice of participation shall list, at the discretion of the participating
26 officer, any of the following information as protected information that is not to be
27 released:

28 (1) Birth date of the officer.

29 (2) Social security number of the officer.

30 (3) Names of the officer's family members.

31 (4) Birth dates of the officer's family members.

32 (5) Social security numbers of the officer's family members.

33 (6) Residential addresses of the officer and the officer's family members.

34 (7) Residential telephone numbers of the officer and the family members.

35 (e) A participating officer may withdraw the notice of participation by filing a
36 request for withdrawal acknowledged before a notary with the employing law
37 enforcement agency and upon notification to all other agencies that were originally
38 notified of the officer's participation in the program.

39 **"§ 17F-5. Cancellation of notice of participation; records.**

40 (a) The employing law enforcement agency shall cancel the notice of
41 participation of a participating officer under any of the following circumstances:

42 (1) The participating officer files a request for withdrawal pursuant to G.S.
43 17F-4.

1 (2) The participating officer submitted false information in applying for
2 certification to the program.

3 (3) The participating officer is no longer employed by the law
4 enforcement agency, in which case it shall be the responsibility of the
5 law enforcement agency to contact the former officer or the family
6 members named in the notice of participation when the agency has
7 received mail addressed to them. The agency shall keep any such mail
8 and notify the officer or family member to whom the mail is addressed
9 for up to 60 days after the date of the officer's separation from
10 employment. The employing law enforcement agency shall give
11 written notice of this 60-day deadline to the former officer and all
12 family members named on the notice of participation.

13 (b) The employing law enforcement agency shall send notice of cancellation to
14 the participating officer. Notice of cancellation shall set out the reasons for cancellation.
15 The program participant shall have 30 days to appeal the cancellation decision under
16 procedures developed by the law enforcement agency.

17 (c) A law enforcement officer who ceases to be a participating officer is
18 responsible for notifying or persons agencies who use the substitute address as the
19 participating officer's address that the substitute address is no longer the officer's
20 address. Such notification shall be made to all affected agencies within at least 30 days.

21 **"§ 17F-6. Address use by State or local agencies.**

22 (a) The participating officer, and not the employing law enforcement agency, is
23 responsible for requesting that agencies of North Carolina use the substitute address of
24 the participating officer.

25 (b) Except as otherwise provided in this section, when a participating officer
26 submits a copy of the notice of participation completed pursuant to G.S. 17F-4 to an
27 agency of North Carolina, the agency shall accept the address designation on the notice
28 of participation as the participating officer's substitute address when creating a new
29 public record. Once an agency has received the notice of participation, it shall amend its
30 public records to eliminate any correlation, connection, or identification between the
31 law enforcement officer and any of the names, addresses, telephone numbers, birth
32 dates, or social security numbers listed on the notice of participation as protected
33 information that is not to be released.

34 (c) An agency may request a waiver from the requirements of the law
35 enforcement officers' security program by submitting a waiver request to a participating
36 officer. The waiver request shall be in writing and shall include an explanation of why
37 the person or agency cannot meet its statutory or administrative obligations by
38 possessing or using the substitute address and an affirmation that, if the participating
39 officer accepts the waiver, the agency will only use the participating officer's actual
40 address for those statutory or administrative purposes.

41 (d) The participating officer's acceptance or denial of an agency's waiver request
42 shall be made in writing and shall include a statement of specific reasons for acceptance
43 or denial. Acceptance or denial of an agency's waiver request is not subject to further
44 review.

1 (e) A participating officer shall provide a copy of the notice of participation and
2 the officer's law enforcement identification card to the board of elections in the officer's
3 county of residence. A board of elections shall use the actual address of a participating
4 officer and any family member residing at the same address for all election-related
5 purposes and shall keep the address confidential from the public under the provisions of
6 G.S. 163-82.10(d). Use of the actual address on letters placed in the United States mail
7 by a board of elections shall not be considered a breach of confidentiality. The
8 substitute address shall not be used as an address for voter registration or verification
9 purposes. Once a board of elections has received the notice of participation, it shall
10 amend its public records to eliminate any correlation, connection, or identification
11 between the law enforcement officer and any of the names, addresses, telephone
12 numbers, birth dates, or social security numbers listed on the notice of participation as
13 protected information that is not to be released.

14 (f) For purposes of levying and collecting property taxes, a participating officer
15 shall provide a copy of the notice of participation and the officer's law enforcement
16 identification card to the county, city, or town assessor or tax collector. The officer's
17 actual address shall only be used for the purposes of listing, appraising, or assessing
18 taxes and collecting property taxes in the county, city, or town. The county, city, or
19 town assessor or tax collector or any current or former officer, employee, or agent of
20 any county, city, or town who, in the course of service to or employment by the county,
21 city, or town, has access to the name and actual address or telephone number of a
22 participating officer shall not disclose this information to any other person or agency
23 unless specifically permitted under this Chapter. Once a city, county, or town has
24 received the notice of participation, it shall amend its public records to eliminate any
25 correlation, connection, or identification between the law enforcement officer and any
26 of the names, addresses, telephone numbers, birth dates, or social security numbers
27 listed on the notice of participation as protected information that is not to be released.

28 (g) A participating officer shall provide a copy of the notice of participation and
29 the officer's law enforcement identification card to the register of deeds in the officer's
30 county of residence. The substitute address shall not be used as an address by any
31 register of deeds on recorded documents or for the purpose of indexing land registered
32 under Article 4 of Chapter 43 of the General Statutes in the index of registered
33 instruments pursuant to G.S. 161-22. Any employee of the register of deeds who, in the
34 course of service to or employment by the register of deeds, has access to the name and
35 actual address or telephone number of a participating officer shall not disclose this
36 information to any other person or agency unless specifically permitted under this
37 Chapter. Once a register of deeds has received the notice of participation, it shall amend
38 its public records to eliminate any correlation, connection, or identification between the
39 law enforcement officer and any of the names, addresses, telephone numbers, birth
40 dates, or social security numbers listed on the notice of participation as protected
41 information that is not to be released.

42 (h) A local school administrative unit shall use the actual address of a program
43 participant for any purpose related to admission or assignment pursuant to Article 25 of
44 Chapter 115C of the General Statutes and shall keep the actual address confidential

1 from the public under the provisions of this Article. The substitute address shall not be
2 used as an address for admission or assignment purposes. For purposes of student
3 records created under Chapter 115C of the General Statutes, the substitute address shall
4 be used. There shall be no documentation of the participating officer's job, job title, or
5 career in any school records. Any employee of a school or school board who, in the
6 course of service to or employment by the school or school board, has access to the
7 name and actual address or telephone number of a participating officer shall not disclose
8 this information to any other person or agency unless specifically permitted under this
9 Chapter. Once a local school administrative unit has received the notice of participation,
10 it shall amend its public records to eliminate any correlation, connection, or
11 identification between the law enforcement officer and any of the names, addresses,
12 telephone numbers, birth dates, or social security numbers listed on the notice of
13 participation as protected information that is not to be released.

14 (i) A participating officer shall provide a copy of the notice of participation and
15 the officer's law enforcement identification card to the Division of Motor Vehicles. The
16 substitute address shall be used as the printed address on any operator's license or
17 registration card provided by the Division of Motor Vehicles to the officer or to any of
18 the family members listed on the notice of participation who reside at the officer's actual
19 address. Any employee of the Division of Motor Vehicles who, in the course of service
20 to or employment by the Division of Motor Vehicles, has access to the name and actual
21 address or telephone number of a participating officer shall not disclose this information
22 to any other person or agency unless specifically permitted under this Chapter. Once the
23 Division of Motor Vehicles has received the notice of participation, it shall amend its
24 public records to eliminate any correlation, connection, or identification between the
25 law enforcement officer and any of the names, addresses, telephone numbers, birth
26 dates, or social security numbers listed on the notice of participation as protected
27 information that is not to be released.

28 (j) Except as otherwise provided in this section, a participating officer's actual
29 address and telephone number maintained by an agency of North Carolina is not a
30 public record within the meaning of Chapter 132 of the General Statutes.

31 **§ 17F-7. Disclosure of information prohibited.**

32 (a) The employing law enforcement agency is prohibited from disclosing any of
33 the protected information contained in the notice of participation, other than the name of
34 the officer in connection with an incident arising out of the officer's employment as a
35 law enforcement officer, except under the following circumstances:

- 36 (1) The information is requested by a federal, state, or local law
37 enforcement agency for official use only.
38 (2) The information is required by direction of a court order. However,
39 any person to whom protected information has been disclosed shall not
40 disclose that information to any other person unless permitted to do so
41 by court order.
42 (3) The information is requested by a person or an agency to verify the
43 participation of a specific program participant when the verification is
44 for official use only.

1 (4) The information is requested by an agency, in the manner provided for
2 by G.S. 17F-6(c).

3 (b) The employing law enforcement agency shall provide immediate notification
4 of disclosure to a participating officer when disclosure is made pursuant to subdivision
5 (2) or (4) of subsection (a) of this section.

6 (c) No person shall knowingly and intentionally obtain a participating officer's
7 actual address or other protected information from the employing law enforcement
8 agency or other agency knowing that the person is not authorized to obtain the address
9 information.

10 (d) No employee of the employing law enforcement agency or other agency shall
11 knowingly and intentionally disclose a participating officer's actual address or other
12 protected information to a person known to the employee to be prohibited from
13 receiving the participating officer's actual address or other protected information, unless
14 the disclosure is permissible by law. This subsection applies only when an employee
15 obtains a participating officer's actual address or other protected information during the
16 course of the employee's official duties and, at the time of disclosure, the employee has
17 specific knowledge that the actual address or other protected information disclosed
18 belongs to a participating officer.

19 (e) Any person who knowingly and intentionally obtains or discloses information
20 in violation of this Chapter shall be guilty of a Class 1 misdemeanor and shall be
21 assessed a fine not to exceed two thousand five hundred dollars (\$2,500).

22 **"§ 17F-8. Additional time for action.**

23 Whenever the laws of this State provide a participating officer with a legal right to
24 act within a prescribed period of 10 days or less after the service of a notice or other
25 paper upon the participating officer, and the notice or paper is served upon the
26 participating officer by mail pursuant to this Chapter, five days shall be added to the
27 prescribed period.

28 **"§ 17F-9. Court order required for disclosure of protected information.**

29 Before any protected information under this Chapter may be released to a party in a
30 criminal or civil action, the party shall obtain a court order for its release. Such
31 information shall be released only after a finding by the court that the disclosure of the
32 requested information is reasonable and necessary to the matters at issue in the legal
33 action.

34 "Article 2.

35 "Distribution or Publication of Law Enforcement Officers' Personal Information.

36 **"§ 17F-10. Civil action to prevent distribution or publication of law enforcement**
37 **officers' personal information.**

38 (a) No person shall, with the intent to harm or intimidate, sell, trade, give,
39 publish, distribute, post on the Internet, or otherwise release the personal information of
40 any law enforcement officer, or that of a person with a similar name categorizing them
41 as a law enforcement officer, without the express written permission of the officer,
42 unless specifically exempted by law or court order. For purposes of this section,
43 "personal information" means the linking of a law enforcement officer's name with the
44 officer's residential address, date of birth, social security number, or residential

1 telephone number or with the residential address, date of birth, social security number,
2 or residential telephone number of the officer's spouse, children, parents, or
3 parents-in-law.

4 (b) Whenever it appears that any person is engaged in or about to engage in any
5 act that constitutes a violation of this section, the district attorney or any person who
6 would be harmed by a violation of this section may initiate a civil proceeding in
7 superior court to enjoin such violation and may petition the court to issue an order for
8 the discontinuance of the distribution or publication of information in violation of this
9 section. An action under this section shall be brought in the county in which the
10 violation is alleged to have taken place and shall be commenced by the filing of a
11 verified complaint accompanied by an affidavit.

12 (c) If the court finds that a person is engaged in or is about to engage in any acts
13 that constitute a violation of this section, the court may issue a temporary restraining
14 order to abate or prevent the continuance or recurrence of the acts. The court may issue
15 a permanent injunction to restrain, abate, or prevent the continuance or recurrence of the
16 acts in violation of this section and may grant any other relief the court deems necessary
17 to accomplish the purposes of the injunction. The court may retain jurisdiction of the
18 case for the purpose of enforcing its orders.

19 **"§ 17F-11. Damages for distribution or publication of law enforcement officers'**
20 **personal information.**

21 Any person whose personal information is protected by the provisions of G.S.
22 17F-11(a) and who suffers damages as a proximate result of the selling, trading, giving,
23 publishing, distributing, or otherwise releasing of that person's protected information in
24 violation of that subsection may bring an action for damages suffered against the person
25 or persons violating that subsection, plus reasonable attorneys' fees and punitive
26 damages of up to five thousand dollars (\$5,000) per violation of that subsection.
27 Nothing in this section shall diminish the rights or remedies available under other
28 statutory or common law.

29 **"§ 17F-12. Criminal penalties for distribution or publication of law enforcement**
30 **officers' personal information.**

31 No person shall, with the intent to harm or intimidate, sell, trade, give, publish,
32 distribute, post on the Internet, or otherwise release the personal information of any law
33 enforcement officer, or that of a person with a similar name categorizing them as a law
34 enforcement officer, without the express written permission of the officer, unless
35 specifically exempted by law or court order. Violation of this section is a Class I
36 felony."

37 **SECTION 2.** G.S. 1A-1, Rule 6(f) reads as rewritten:

38 "(f) Additional time for Address Confidentiality Program participants. –
39 Whenever a person participating in the Address Confidentiality Program established by
40 Chapter 15C or a law enforcement officers' security program established under Chapter
41 17F of the General Statutes has a legal right to act within a prescribed period of 10 days
42 or less after the service of a notice or other paper upon the program participant, and the
43 notice or paper is served upon the program participant by mail, five days shall be added
44 to the prescribed period."

1 **SECTION 3.** G.S. 115C-366(g) reads as rewritten:

2 "(g) Any local school administrative unit may use the actual address of a program
3 participant for any purpose related to admission or assignment pursuant to this Article
4 as long as the address is kept confidential from the public under the provisions of
5 Chapter 15C or Chapter 17F of the General Statutes. The substitute address designated
6 by the Attorney General or a law enforcement agency shall not be used as an address for
7 admission or assignment purposes."

8 **SECTION 4.** G.S. 115C-402(f) reads as rewritten:

9 "(f) The actual address and telephone number of a student who is a participant in
10 the Address Confidentiality Program established pursuant to Chapter 15C of the
11 General Statutes or Statutes, a student with a parent who is a participant in the Address
12 Confidentiality Program established pursuant to Chapter 15C of the General Statutes
13 Statutes, or a student with a parent who is a participant in a law enforcement officers'
14 security program established under Chapter 17F of the General Statutes shall be kept
15 confidential from the public and shall not be disclosed except as provided in Chapter
16 15C of the General Statutes."

17 **SECTION 5.** G.S. 132-1.1 is amended by adding a new subsection to read:

18 "(e) Law Enforcement Confidential Information. – The protected information of a
19 program participant in a law enforcement officers' security program established under
20 Chapter 17F of the General Statutes is not a public record within the meaning of
21 Chapter 132 of the General Statutes. The protected information of a program participant
22 may not be disclosed except as provided in Chapter 17F of the General Statutes."

23 **SECTION 6.** G.S. 163-82.10(d) reads as rewritten:

24 "(d) Exception for Address of Certain Registered Voters. – Notwithstanding
25 subsections (b) and (c) of this section, if a registered voter submits to the county board
26 of elections ~~a elections~~:

27 (1) A copy of a protective order without attachments, if any, issued to that
28 person under G.S. 50B-3 or a G.S. 50B-3;

29 (2) A lawful order of any court of competent jurisdiction restricting the
30 access or contact of one or more persons with a registered voter or a
31 voter;

32 (3) A current and valid Address Confidentiality Program authorization
33 card issued pursuant to the provisions of Chapter 15C of the General
34 Statutes, accompanied by a signed statement that the voter has good
35 reason to believe that the physical safety of the voter or a member of
36 the voter's family residing with the voter would be jeopardized if the
37 voter's address were open to public inspection, inspection; or

38 (4) A notice of participation in a law enforcement officers' security
39 program established under Chapter 17F of the General Statutes;

40 that voter's address is a public record but shall be kept confidential as long as the
41 protective order remains in effect or the voter remains a certified program participant in
42 the Address Confidentiality Program. Program or a participant in a law enforcement
43 officers' security program. That voter's name, precinct, and the other data contained in
44 that voter's registration record shall remain a public record. That voter's signed

1 statement submitted under this subsection is a public record but shall be kept
2 confidential as long as the protective order remains in effect or the voter remains a
3 certified program participant in the Address Confidentiality ~~Program.~~ Program or a
4 participant in a law enforcement officers' security program. It is the responsibility of the
5 voter to provide the county board with a copy of the valid protective order in ~~effect or~~
6 effect, a current and valid Address Confidentiality Program authorization card issued
7 pursuant to the provisions of Chapter 15C of the General ~~Statutes.~~ Statutes, or a notice
8 of participation in a law enforcement officers' security program. The voter's actual
9 address shall be used for any election-related purpose by any board of elections. That
10 voter's address shall be available for inspection by a law enforcement agency or by a
11 person identified in a court order, if inspection of the address by that person is directed
12 by that court order. It shall not be a violation of this section if the address of a voter who
13 is participating in the Address Confidentiality Program or a law enforcement officers'
14 security program is discovered by a member of the public in public records disclosed by
15 a county board of elections prior to December 1, 2001."

16 **SECTION 7.** This act becomes effective January 1, 2004.