



SPONSOR: Rep. Yearick & Sen. Lawson
Reps. Jones Giltner, Morris, Schwartzkopf,
Michael Smith; Sen. Huxtable

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 412

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO LAW ENFORCEMENT OFFICER
PRIVACY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Part V, Title 11 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 Chapter 80. Law-enforcement Officer Privacy

4 § 8001. Definitions.

5 For purposes of this chapter:

6 (1) “Family” means as defined in § 901 of Title 10.

7 (2) “Family member” means a member of a law-enforcement officer’s family.

8 (3) “Government agency” includes all of the following:

9 a. Any of the following, whether in the executive, judicial, or legislative branch:

10 1. Agency.

11 2. Authority.

12 3. Board.

13 4. Commission.

14 5. Department.

15 6. Institution.

16 7. Other body of the State created by constitution or by statute.

17 b. Any unit and corporate outgrowth created by the following:

18 1. Executive order of the Governor.

19 2. A constitutional officer.

20 3. The Supreme Court.

21 4. Resolution of the General Assembly.

22 c. Any of the following bodies of a unit of local government or school district:

- 23 1. Agency.
- 24 2. Board.
- 25 3. Commission.
- 26 4. Department.
- 27 5. Institution.
- 28 6. Office.
- 29 7. Other political or corporate body.

30 (3) “Home address” includes a law-enforcement officer’s permanent residence and any secondary residence
31 affirmatively identified by the law-enforcement officer under § 8004 of this title but does not include the law-
32 enforcement officer’s work address.

33 (4) “Law-enforcement agency” means a government agency that employs a law-enforcement officer.

34 (5) “Law-enforcement officer” includes the following:

- 35 a. A member of the Delaware State Police.
- 36 b. A member of the New Castle County Police.
- 37 c. A member of the police department, bureau, or force of any incorporated city or town.
- 38 d. A member of the Delaware River and Bay Authority Police.
- 39 e. A member of the Capitol Police.
- 40 f. A member of the University of Delaware Police.
- 41 g. A law-enforcement officer of the Department of Natural Resources and Environmental Control.
- 42 h. An agent of the State Division of Alcohol and Tobacco Enforcement.
- 43 i. An officer or agent of the State Police Drug Diversion Unit.
- 44 j. A state detective or special investigator of the Department of Justice.
- 45 k. A member of the Delaware State University Police.
- 46 l. A member of the Office of the State Fire Marshal.

47 (6) “Online privacy vendor” means a company that specializes in or offers services that continuously conduct
48 a basic search and removal of personal information from people finding and database websites.

49 (7) “Personal information” means all of the following:

- 50 a. Birth record.
- 51 b. Checking and savings account number.
- 52 c. Credit card number.

- 53 d. Debit card number.
- 54 e. Direct telephone to a law-enforcement officer's private office.
- 55 f. Federal tax identification number.
- 56 g. Home address.
- 57 h. Home telephone number.
- 58 i. Identity of children under the age of 18.
- 59 j. Marital record.
- 60 k. Mobile telephone number.
- 61 l. Personal e-mail address.
- 62 m. Property tax record.
- 63 n. Social security number.

64 (8) "Publicly available content" means any written, printed, or electronic document or record that is
65 maintained, controlled, or in the possession of a government agency or that provides information, which a person can
66 obtain in any of the following ways:

- 67 a. From the Internet.
- 68 b. From the government agency upon request either free of charge or for a fee.
- 69 c. In response to a request under the Freedom of Information Act [Chapter 100 of Title 29].

70 (9) "Publicly release" means to communicate to another person or otherwise make available to the general
71 public.

72 (10) "Written request" means a notice in writing that is made in accordance with §8004 of this title, that is
73 signed by a law-enforcement officer, or a representative of a law-enforcement agency, and that requests a government
74 agency or person to refrain from publicly releasing the personal information of the law-enforcement officer or a family
75 member in publicly available content.

76 §8002. Public release of a law-enforcement officer's personal information by a government agency.

77 (a) If a law-enforcement officer submits a written request to a government agency, that government agency shall
78 remove the personal information from publicly available content within 72 hours.

79 (b) After receiving a written request, a government agency may not publicly release, subject to paragraph (f)(3) of
80 § 8004 of this title, the law-enforcement officer or a family member's personal information in publicly available content.

81 §8003. Public release of a law-enforcement officer's personal information by a person.

82 (a) A person may not do any of the following:

83 (1) After receiving a written request, publicly release a law-enforcement officer or a family member's
84 personal information.

85 (2) Publicly release, share, solicit, sell, or trade a law-enforcement officer or a family member's personal
86 information of with the intent to pose an imminent and serious threat to the health and safety of the law-enforcement
87 officer or the law-enforcement officer's family.

88 (b)(1) After receiving a written request, a person shall remove the personal information specified in the written
89 request from publicly available content within 72 hours. If the personal information is publicly released in a printed
90 directory, then the person shall remove the personal information from the printed directory before its next update.

91 (2) After receiving a written request, a person shall ensure that the law-enforcement officer's personal
92 information is not publicly released, including on any website or subsidiary website controlled by that person.

93 (3) After receiving a written request, a person may not transfer the law-enforcement officer's personal
94 information to another person through any medium.

95 (c)(1) A law-enforcement officer or a family member whose personal information is publicly released in
96 violation of this section may bring an action seeking injunctive or declaratory relief in a court of competent
97 jurisdiction. If the court grants injunctive or declaratory relief, then the court shall award costs and reasonable
98 attorneys' fees to the law-enforcement officer or family member.

99 (2) A law-enforcement officer or a family member who is aggrieved by a violation of this section may bring
100 an action in a court of competent jurisdiction. If a law-enforcement officer or family member prevails in such action,
101 then the Court shall award damages to the law-enforcement officer or family member in an amount not greater than 3
102 times the actual damages but not less than \$10,000.

103 (3) A person may face criminal penalties under this title if all of the following occur:

104 a. After a person receives a written request, that person publicly releases a law-enforcement officer or a
105 family member's personal information.

106 b. The person's actions meet the elements of a crime defined under this title.

107 (4) Nothing in this section limits or enlarges the protections, under 47 U.S.C § 230, on an interactive computer
108 service for content provided by another information content provider, as those terms are defined in 47 U.S.C. § 230.

109 §8004. Procedure for completing a written request.

110 (a) Unless a law-enforcement officer submits a written request to a government agency or person, that government
111 agency or person does not violate any provision of this chapter by publicly releasing a law-enforcement officer or a family
112 member's personal information.

113 (b)(1) A written request is valid if any of the following occurs:

114 a. The law-enforcement officer submits a written request directly to a government agency or person.

115 b. The law-enforcement officer files a written request with the law-enforcement agency to notify

116 government agencies and persons.

117 (2) A law-enforcement agency shall develop a policy and procedure for a law-enforcement officer to file a

118 written request with the law-enforcement agency for the law-enforcement agency to notify the government agencies

119 and persons and shall enroll the law-enforcement officer in the services for an online privacy vendor.

120 (c)(1) In each quarter of a calendar year, a law-enforcement agency shall give a written-request list of all law-

121 enforcement officers who file a written request under paragraph (b)(1)b. of this section to the head of a government agency.

122 (2) After receiving a written-request list, the head of the government agency shall promptly give a copy of the

123 written-request list to all government agencies under their supervision.

124 (3) A written-request list acts as a written request for each law-enforcement officer on the written-request list.

125 (d) A representative of a law-enforcement officer may submit a written request on behalf of that law-enforcement

126 officer if the law-enforcement officer gives written consent to the representative and the representative does all of the

127 following:

128 (1) Agrees to give a copy of the written consent when making a written request.

129 (2) Submits the written request in accordance with subsection (b) of this section.

130 (e) A written request must include all of the following information:

131 (1) What personal information a government agency or person may not publicly release.

132 (2) If applicable, a designation of a secondary residence a law-enforcement officer wants to identify as a home

133 address.

134 (3) Which family member's personal information a government agency or person may not publicly release to

135 the extent that it could reasonably be expected to reveal the law-enforcement officer's personal information.

136 (f)(1) A law-enforcement officer's written request is valid for 2 years. But if a law-enforcement officer is removed

137 for cause or fired, then the law-enforcement agency shall immediately remove that law-enforcement officer's name.

138 (2) While they are employed as a law-enforcement officer, a law-enforcement officer may renew their written

139 request an unlimited number of times.

140 (3) A law-enforcement officer may revoke a written request by giving written permission to the law-enforcement

141 agency, government agency, or person to release the personal information.

142 (4) A law-enforcement officer who retires or leaves a law-enforcement agency in good standing may request a 2-
143 year extension of their written request from the date of retirement or the date of leave.

144 Section 2. This Act takes effect 180 days following its enactment into law and applies to law-enforcement officers
145 who serve on or after the [effective date of this Act].

SYNOPSIS

Like Chapter 19 of Title 10, covering judicial officers, and a similar provision pending for correctional officers, this Act allows law enforcement officers to submit a written request that their personal information not be publicly released. The written request may be submitted directly by a law enforcement officer to a person or government agency or the law enforcement agency employing the officer may submit a written request on behalf of the officer.

This Act also directs the law enforcement agency employing covered law enforcement officers to develop a policy and procedure for law enforcement officers to apply for the employer to submit a written request on behalf of the law enforcement officer. The employer would also be required to enroll a law enforcement officer who opts into the employer's process to enroll the law enforcement officer in the services for an online privacy vendor.

This Act applies to law enforcement officers who serve on or after its enactment date and takes effect 180 days after its enactment into law.