



SPONSOR: Sen. Hoffner & Rep. Carson
Sens. Sokola, Pettyjohn, Richardson, Buckson, Hocker,
Wilson, Paradee, Hansen, Huxtable, Lawson; Reps.
Osienski, Lynn, Cooke, Yearick, Hilovsky

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 164

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO PRIVACY FOR CORRECTIONAL OFFICERS, PROBATION OFFICERS, AND PAROLE OFFICERS.

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

1 Section 1. Amend Chapter 65, Part IV, Title 11 of the Delaware Code by making deletions as shown by strike
2 through and insertions as shown by underline as follows:

3 Subchapter XII. Privacy for Correctional Officers, Probation and Parole Officers.

4 § 6594. Definitions.

5 As used in this subchapter:

6 (1) “Correctional officer” means any active, formerly active, or retired individual who serves or served as
7 a correctional officer or a probation and parole officer with the Department of Correction.

8 (2) “Family” means as defined in § 901 of Title 10.

9 (3) “Government agency” includes all agencies, authorities, boards, commissioner, departments,
10 institutions, offices, and any other bodies of the State created by the constitution or statute, whether in the
11 executive, judicial, or legislative branch; all units and corporate outgrowths created by executive order of the
12 Governor or any constitutional officer, by the Supreme Court, or by resolution of the General Assembly; and
13 agencies, authorities, boards, commissions, departments, institutions, offices, and any other bodies politic and
14 corporate of a unit of local government, or school district.

15 (4) “Home address” includes a correctional officer’s permanent residence and any secondary residence
16 affirmatively identified by the correctional officer, but does not include a correctional officer’s work address.

17 (5) “Person” means as defined in § 302 of Title 1.

18 (6) “Personal information” means a home address, home telephone number, mobile telephone number,
19 direct telephone number to a correctional officer’s private office, personal e-mail address, social security number,

20 federal tax identification number, checking and savings account numbers, credit or debit card numbers, birth or
21 marital records, property tax records, and identity of children under the age of 18.

22 (7) “Publicly available content” means any written, printed, or electronic document or record that
23 provides information or that serves as a document or record maintained, controlled, or in the possession of a
24 government agency that may be obtained by any person, from the Internet, from the government agency upon
25 request either free of charge or for a fee, or in response to a request under the Freedom of Information Act
26 [Chapter 100 of Title 29].

27 (8) “Publicly post” or “publicly display” means to communicate to another or otherwise make available to
28 the general public.

29 (9) “Written request” means written notice signed by a correctional officer or a representative of the
30 correctional officer’s employer requesting a government agency or person to refrain from posting or displaying
31 publicly available content that includes the personal information of the correctional officer or of their family.

32 § 6595. Applicability.

33 This subchapter applies to correctional officers who serve or served on or after [the effective date of this Act].

34 § 6596. Public display or public posting of a correctional officer’s personal information by government agencies.

35 Government agencies may not publicly post or publicly display content that includes the personal information of
36 the correctional officer or their family if the correctional officer has made a written request under § 6598 of this title that
37 the government agency not disclose such personal information. After a government agency has received a written request,
38 that agency shall remove the personal information from publicly available content within 72 hours. After the government
39 agency has removed the correctional officer’s personal information from publicly available content, the agency shall not
40 publicly post, display or otherwise release the information unless the government agency has received the correctional
41 officer’s consent to make the personal information available to the public.

42 § 6597. Public display or public posting of a correctional officer’s personal information by persons.

43 (a) Prohibited conduct.

44 (1) No person shall publicly post or publicly display the personal information of a correctional officer or
45 their family if the correctional officer has made a written request under § 6598 of this title of that person not to
46 disclose such personal information.

47 (2) No person shall share, solicit, sell, or trade the personal information of a correctional officer or their
48 family with the intent to pose an imminent and serious threat to the health and safety of the correctional officer or
49 their family.

50 (b) Required conduct.

51 (1) After a person has received a written request from a correctional officer to protect the personal
52 information of the correctional officer or their family, that person must remove the personal information from
53 public display within 72 hours or, in the case of a printed directory, no later than the next update to the directory.

54 (2) After a person has received a written request from a correctional officer, that person shall ensure that
55 the correctional officer's personal information is not publicly displayed, including on any website or subsidiary
56 website controlled by that person.

57 (3) After receiving a correctional officer's written request, a person may not transfer the correctional
58 officer's personal information to any other person through any medium.

59 (c) Remedies.

60 (1) Equitable relief.

61 A correctional officer or family member whose personal information is made public as a result of a
62 violation of this subchapter may bring an action seeking injunctive or declaratory relief in any court of competent
63 jurisdiction. If the court grants injunctive or declaratory relief, the person responsible for the violation shall be
64 required to pay the correctional officer's costs and reasonable attorneys' fees.

65 (2) Private right of action.

66 A correctional officer or family member who is aggrieved by a violation of this subsection may bring an
67 action in any court of competent jurisdiction. A prevailing plaintiff in such action shall be awarded damages in an
68 amount not greater than 3 times the actual damages to the plaintiff and not less than \$10,000.

69 (3) Criminal penalties.

70 Public posting or display of a correctional officer's personal information after receipt of a written request
71 may result in criminal penalties under Title 11 where the statutory elements of a crime defined under that title are
72 met.

73 (d) Affirmative defense.

74 Nothing in this section shall be construed to limit or enlarge the protections that 47 U.S.C § 230 confers
75 on an interactive computer service for content provided by another information content provider, as those terms
76 are defined in 47 U.S.C. § 230.

77 § 6598. Procedure for completing a written request.

78 (a) Requirement that a correctional officer make a written request.

79 No government agency or person shall be found to have violated any provision of this subchapter if the
80 correctional officer has not submitted a written request calling for the protection of the correctional officer's personal
81 information.

82 (b) Written request procedure.

83 A written request shall be valid if 1 of the following occurs:

84 (1) The correctional officer sends a written request directly to a government agency or person.

85 (2) The Department of Correction develops a policy and procedure for a correctional officer to file the
86 written request with the Department of Correction to notify government agencies, and a correctional officer sends
87 a written request to the Department of Correction.

88 (c) In each quarter of a calendar year, the Department of Correction shall provide a list of all correctional officers
89 who have submitted a written request to it, to the appropriate officer with ultimate supervisory authority for a government
90 agency. The officer shall promptly provide a copy of the list to all government agencies under the officer's supervision.
91 Receipt of the written request list compiled by the Department of Correction by a government agency shall constitute a
92 written request to that agency for the purposes of this subchapter.

93 (d) A representative from the correctional officer may submit a written request on the correctional officer's behalf,
94 provided that the correctional officer gives written consent to the representative and provided that the representative agrees
95 to furnish a copy of that consent when a written request is made. The representative shall submit the written request as
96 provided in subsection (b) of this section.

97 (e) Information to be included in the written request.

98 (1) A correctional officer's written request shall specify what personal information shall be maintained
99 private.

100 (2) If a correctional officer wishes to identify a secondary residence as a home address as that term is
101 defined in this subchapter, the designation shall be made in the written request.

102 (3) A correctional officer shall disclose the identity of the correctional officer's family and indicate that
103 the personal information of these family members shall also be excluded to the extent that it could reasonably be
104 expected to reveal the personal information of the correctional officer.

105 (f) Duration of the written request, removal for cause, renewals, revocations, and good standing clause.

106 (1) A correctional officer's written request is valid for two years, unless the correctional officer is
107 removed for cause or fired, in which case that correctional officer's name must be immediately removed by the
108 Department of Correction.

109 (2) A correctional officer may renew their written request an unlimited number of times so long as they
110 remain employed with the Department of Correction.

111 (3) A correctional officer may revoke their written request by providing notice to the Department of
112 Correction or the government agency, person, business, or association with written permission to release the
113 private information.

114 (4) Any correctional officer who retires or leaves the Department of Correction in good standing is
115 eligible to request a two-year extension of their written request from the date of retirement or date of leave.

116 Section 2. This Act takes effect 180 days following its enactment into law.

SYNOPSIS

This Act allows for correctional officers employed with the Department of Correction to make a written request that their personal information not be published and remain confidential. The Act takes effect 180 days following its enactment.

The substitute bill changes the following from the original bill:

(1) Adds an applicability section clarifying these privacy protections only apply for correctional officers who serve or have served with the Department of Correction on the enactment date.

(2) Retains the original language of “publicly posts” as opposed to “knowingly posts”.

(3) Changes the duration period of the written request to two years.

(4) Clarifies that a correctional officer that is removed for cause or fired will have their written request immediately removed.

(5) Allows for renewal of written requests by correctional officers who remain employed with the Department of Correction.

(6) Allows for a correctional officer to revoke their written request.

(7) Allows for a correctional officer who retires or leaves the job in good standing to obtain a two-year extension of their written request from the date of their retirement or date of leave.

Author: Senator Hoffner