# SENATE COMMITTEE ON PUBLIC SAFETY

**Senator Loni Hancock, Chair**
**2015 - 2016 Regular**

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| **Bill No:** | SB 1131 | **Hearing Date:** | April 12, 2016 |
| **Author:** | Galgiani | | |
| **Version:** | March 28, 2016 | | |
| **Urgency:** | No | **Fiscal:** | Yes |
| **Consultant:** | MK | | |

**Subject:** ***Department of Motor Vehicles: Records: Confidentiality***

## HISTORY

Source: California Association of Code Enforcement Officers

Prior Legislation:
SB 372 (Galgiani) 2015 this version held in Senate Appropriations
SB 767 (Lieu) (as amended in the Assembly) failed Assembly Transportation, 2014
AB 2687 (Bocanegra) – Ch. 273, Stats. 2014
AB 1270 (Eggman) – failed Assembly Appropriations, 2013
AB 923 (Swanson) – failed Assembly Appropriations, 2009
AB 529 (Lowenthal) – failed Assembly Appropriations, 2009
AB 1958 (Swanson) – failed Assembly Appropriations, 2008
AB 1311 (Berryhill) – not heard Assembly Transportation, 2007
AB 1706 (Strickland) – failed Assembly Transportation, 2005
AB 2012 (Chu) – section amended out of the bill, 2004
AB 130 (Campbell) – not heard Assembly Transportation, 2003
AB 246 (Cox) – not heard Assembly Transportation, 2003
AB 1775 (Ortiz) – no vote in Senate Public Safety, 2002
AB 84 (Hertzberg) – Ch. 809, Stats. 2001
AB 1029 (Oropeza) – Ch. 486, Stats. 2001
AB 151 (Longville) – vetoed, 2000
AB 298 (Battin) – held in Assembly Transportation, 2000
AB 1310 (Granlund) – vetoed, 2000
AB 1358 (Shelley) – Ch. 808, Stats. 2000
AB 1864 (Correa) – held Assembly Appropriations, 2000
SB 171 (Knight) – vetoed, 1998
AB 1941 (Bordonaro) – Ch. 880, Stats. 1996
AB 191(Cannella) – died in Sen. Committee on Criminal Procedure, 1996
AB 3033 (Baca) – died in Sen. Committee on Criminal Procedure, 1996
AB 3391 (Ducheny) – never heard, 1996
AB 688 (Frusetta) – died in Sen. Committee on Criminal Procedure, 1996
AB 1396 (Poochigian) – died in Sen. Committee on Criminal Procedure, 1996

AB 1931 (Conroy) – Ch. 77, Stats. 1994
AB 3454 (Speier) – Ch. 395, Stats. 1994
AB 3161 (Frazee) – Ch. 838, Stats. 1994
AB 1268 (Martinez) – Ch. 1268, Stats. 1993
AB 2367 (Polanco) – Ch. 1291, Stats. 1993
SB 274 (Committee on Transportation) – Ch. 1292, Stats. 1993
SB 602 (1992) – Chaptered
AB 1779 (1989) – Chaptered

Support: Association for Los Angeles Deputy Sheriffs, California College and University Police Chiefs Association; California Narcotic Officers Association; Los Angeles County Professional Peace Officers Association; Los Angeles Police Protective League; Riverside Sheriffs Association

Opposition: None known

**PURPOSE**

***The purpose of this bill is to add code enforcement officers, parking control officers and non-sworn investigators with the Department of Insurance to those who may request an additional level of confidentiality from the Department of Motor Vehicles.***

*Under existing law* the residential addresses of certain public employees and their families are confidential. (Vehicle Code §§ 1808.4 and 1808.6 - began in 1977.)

*Existing law* states that all residence addresses in any record of the Department of Motor Vehicles (DMV) are confidential and shall not be disclosed to any person, except a court, law enforcement agency, or other governmental agency, or as authorized in section 1808.22 of the Vehicle Code. (Vehicle Code §§ 1808.21 - added in 1989.)

*Existing law* states that any person may seek suppression of any DMV registration or driver's license record if he or she can show that he or she is the subject of stalking or a threat of death or great bodily injury. The suppression will be for a period of one year renewable for two more one year periods. (Vehicle Code § 1808.21(d).)

*Existing law* provides that the home address of specified persons which appear in the records of DMV is confidential upon the request of the person and that it not be disclosed except as specified. (Vehicle Code §§ 1808.4 and 1808.6.)

*Existing law* provides that the willful, unauthorized disclosure of this information as it relates to specified law enforcement (peace officers, employees of city police departments, and county sheriffs' offices and their families) that results in the bodily injury to the individual or individuals whose specified information was confidential, is a felony. (Vehicle Code §§ 1808.4.)

*Existing law* provides that the release of such confidential information, for all other persons specified, is a misdemeanor and punishable by a fine of up to $5,000 and/or by up to one year in a county jail. (Vehicle Code § 1808.45.)

*This bill* would add code enforcement officers, parking enforcement officers and non-sworn investigators with the Department of Insurance to those who can request an additional layer of confidentiality from the DMV.

## RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past several years this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In December of 2015 the administration reported that as "of December 9, 2015, 112,510 inmates were housed in the State's 34 adult institutions, which amounts to 136.0% of design bed capacity, and 5,264 inmates were housed in out-of-state facilities. The current population is 1,212 inmates below the final court-ordered population benchmark of 137.5% of design bed capacity, and has been under that benchmark since February 2015." (Defendants' December 2015 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).) One year ago, 115,826 inmates were housed in the State's 34 adult institutions, which amounted to 140.0% of design bed capacity, and 8,864 inmates were housed in out-of-state facilities. (Defendants' December 2014 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).)

While significant gains have been made in reducing the prison population, the state must stabilize these advances and demonstrate to the federal court that California has in place the "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee's consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and

- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

## COMMENTS

### 1. Need for This Bill

According to the author:

> This bill will extend the option for a Code Enforcement Officer, Parking Control Officers and Non-Sworn Investigators at the Department of Insurance to enroll in the Department of Motor Vehicles (DMV) confidentiality protections, specifically to protect their home addresses.
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> Code enforcement officers are on the front line of code compliance, and sometimes drug trafficking and gang-related enforcement efforts in local governments and are frequently required to deal with hostile, non-compliant persons. Ironically, if a Code Enforcement Officer is employed under their local police department, their information will fall under the DMV confidentiality requirement.
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> Parking control officers also face clear and present danger in the fulfillment of their job duties and have received credible threats and have been victims of physical assaults.
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> Non-sworn investigators at the Department of Insurance regularly conduct investigations of licensees and non-licensees which may result in administrative action and/or criminal charges. These Investigators should be afforded the same protections from potential retaliation.

### 2. Background of DMV Confidentiality

Vehicle Code section 1808.4 was added by statute in 1977 to provide confidentiality of home addresses to specified public employees and their families.

In 1989, Vehicle Code section 1808.21 was added to make all residence addresses contained within the Department of Motor Vehicle files confidential. Vehicle Code section 1808.21(a) states the following:

> The residence address in any record of the department is confidential and cannot be disclosed to any person except a court, law enforcement agency, or other governmental agency, or as authorized in Section 1808.22 or 1808.23.

This section was further amended in 1994 to allow individuals under specific circumstances to request that their entire records be suppressed. Any individual who is the subject of stalking or who is experiencing a threat of death or great bodily injury to his or her person may request their entire record to be suppressed under this section.

Upon suppression of a record, each request for information about that record has to be authorized by the subject of the record or verified as legitimate by other investigative means by the DMV before the information is released.

A record is suppressed for a one-year period. At the end of the one year period, the suppression is continued for a period determined by the department and if the person submits verification acceptable to the department that he or she continues to have reasonable cause to believe that he or she is the subject of stalking or that there exists a threat of death or great bodily injury to his or her person.

DMV has long maintained that all residence addresses are suppressed and only persons authorized by statute can access this information.

Under sections 1808.4 and 1808.6 the home addresses of specific individuals are suppressed and can only be accessed through the Confidential Records Unit of the Department of Motor Vehicles while under section 1808.21, the residence address portion of all individuals' records are suppressed but can be accessed by a court, law enforcement agency, or other governmental agency or other authorized persons.

**3. The Department of Motor Vehicles**

There have been a number of bills adding or attempting to add various public employees to the enhanced confidentiality provisions of the Vehicle Code.

According to a Senate Committee on Public Safety analysis for June 11, 1996 of AB 1941 (Bordonaro):

> According to a letter dated June 9, 1995 from the Department of Motor Vehicles concerning related measures initially set for hearing last year (AB 191, AB 688, AB 1396) on this issue, AB 1941 "is just one of four bills slated for the Criminal Procedure Committee hearing on June 13 which seek to include various professions within the category of confidential records that have historically been reserved for law enforcement personnel. When names are added to this special category, they cannot be accessed except through a telephone procedure utilized in one particular file security area in the DMV's Sacramento headquarters location. Currently, we estimate that this file contains close to half a million individual records which must be manually entered and individually retrieved when access is authorized.
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> The DMV has stated that approximately 1000 requests for confidentiality of home addresses are made each week. The Confidential Records Unit of the DMV consists of 12 people and only two of these people review these forms to determine whether the individuals requesting confidentiality are in fact qualified to do so.

According to the DMV, a majority of these requests are granted due to the fact that the DMV restricts the release of the request forms to qualifying agencies and individuals only. The Confidential Records Unit of the DMV updated "5900 records in May 1995 and only 273 applications were rejected."

**4. Adding Code Enforcement Officers to Enhanced DMV Confidentiality**

This bill adds Code Enforcement Officers, parking enforcement officers and non-sworn investigators to the Department of Insurance to the provision that suppresses residence information that can only then be accessed by the Confidential Records Unit.

In spite of the legitimate concerns about the safety of these officers, since a member of the public can *never* access anyone's information from DMV, is the expansion of those in the additional suppression section, which adds to the workload of DMV, necessary?

**-- END –**