ASSEMBLY, No. 2399

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:
Assemblyman BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)

SYNOPSIS

Requires safeguards for anonymity and confidentiality with respect to communications presented through phone lines, electronic communication systems, or websites dedicated to accepting anonymous tips for use by law enforcement in criminal investigations.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning anonymous informants and tips related to criminal investigations, and supplementing Title 2C of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. Any governmental entity, including a law enforcement agency, and any private entity that operates, or contracts or coordinates with another party that operates a phone line, electronic communications system, or website dedicated to accepting anonymous tips for use by law enforcement in criminal investigations, that are communicated aurally or through other means by telephone, cellular telephone, wireless mobile device, computer, or other electronic means shall utilize an electronic, mechanical or other device, as defined in subsection d. of section 2 of P.L.1968, c.409 (C.2A:156A-2), or a computer program, as defined in subsection e. of section 1 of P.L.1984, c.182 (C.2A:38A-1), to encrypt the communication so that the identity of the individual making the communication, the identifying information concerning the means of communication, and the location of the individual or means of communication, other than location within a municipality, are not included in the information made available to the investigating law enforcement agency. At the time of the communication and thereafter, the operator of the phone line, electronic communications system, or website, as well as the investigating law enforcement agency, shall not request the individual's identity, identifying information concerning the individual's means of communication, or location information that is more detailed than that provided with the communication as to municipality; however, nothing herein shall be deemed to prohibit the individual from volunteering any of this information to the operator or law enforcement agency.

b. (1) Any communication described in subsection a. of this section, and any report or information on that communication, if made, maintained or kept on file by the operator of the phone line, electronic communications system, or website, or by the investigating law enforcement agency, shall not be deemed a public record under P.L.1963, c.73 (C.47:1A-1 et seq.). Additionally, the communication, and any report or information on that communication shall not be subject to discovery or admissible in evidence in any criminal or civil action or proceeding undertaken by any governmental entity, private entity, or individual, except upon a subpoena issued by a grand jury or a court order for a matter concerning the crime or offense of false reports to law enforcement pursuant to N.J.S.2C:28-4, false public alarms pursuant to N.J.S.2C:33-3, or any other crime or offense committed by the individual making the communication.

(2) The provisions of this subsection shall not be deemed to prohibit an operator or law enforcement agency from disclosing the number of anonymous tips for use by law enforcement in criminal investigations that were received by a phone line, electronic communications system, or website dedicated to accepting these tips.

c. (1) An individual is guilty of a crime of the fourth degree if that individual discloses to another, in violation of this section, any communication described in subsection a. of this section, or any report or information on that communication, or attempts to obtain the communication, or report or information on that communication with the intent of making a disclosure to another in violation of this section.

(2) In addition, if the disclosing individual is a governmental official, officer, or employee acting under color of law, then the governmental entity for whom the individual is an official, officer, or employee shall be liable, in a civil action, to the individual whose anonymity or other information was disclosed, for damages arising from the disclosure, or $25,000, whichever amount is greater, plus attorney's fees and costs. The fact that a prosecution for a violation of paragraph (1) of this subsection is not instituted or, whenever instituted, terminates without a conviction, shall not preclude a civil action pursuant to this paragraph.

2. This act shall take effect on the first day of the fourth month next following the date of enactment.

STATEMENT

This bill imposes safeguards to preserve anonymity and confidentiality of anonymous tips that are used by law enforcement in criminal investigations.

Specifically, the safeguards:

- require private or governmental entities that operate, or coordinate with another party to operate, an anonymous tip system to encrypt the communication to ensure that information made available to the investigating law enforcement agency does not include: the identity of the tipster; information concerning the means of communication (such as a telephone number); and the location of the individual or means of communication, other than location within a municipality provided with the communication;

- prohibit the system operator and investigating law enforcement agency from requesting information concerning: the identity of the tipster; information concerning the means of communication; or location information, other than location within a municipality;

- provide that any communication and any related report or information that is maintained by the operator or law enforcement

agency is not deemed a public record under the State's Open Public Records Act, P.L.1963, c.73 (C.47:1A-1 et seq.); and

- provide that any communication and related report or information is not subject to discovery or admissible in evidence in any criminal or civil action or proceeding, except upon a subpoena issued by a grand jury, or a court order for a matter concerning a false report to law enforcement pursuant to N.J.S.2C:28-4, false public alarm pursuant to N.J.S.2C:33-3, or another offense committed by the individual disclosing the information.

An individual who violates the bill's provisions by disclosing a tipster's identity or other information is guilty of a crime of the fourth degree. A crime of the fourth degree is punishable by a term of imprisonment of up to 18 months, a fine of up to $10,000, or both. The bill also provides that if the disclosing individual is a governmental official, officer, or employee acting under color of law, the governmental entity is liable in a civil action to the individual whose information was disclosed. The entity is responsible for damages arising from the disclosure or $25,000, whichever amount is greater, in addition to attorney's fees and costs.