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SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 2797 and 2925

STATE OF NEW JERSEY

DATED: OCTOBER 22, 2020

The Senate Judiciary Committee reports favorably a Senate Committee Substitute for Senate Bill Nos. 2797 and 2925.

This substitute bill would: (1) prohibit the disclosure, by both governmental entities and private parties, of the home addresses of any active, formerly active, or retired federal, State, county, or municipal judicial officer, prosecutor, or law enforcement officer (the expansive definition of "judicial officer" includes judges of the Office of Administrative Law and of the Division of Workers' Compensation); (2) expand an existing crime concerning the disclosure of home addresses and unlisted telephone numbers for active or retired law enforcement officers to also cover formerly active law enforcement officers, as well as active, formerly active, or retired judicial officers or prosecutors; and (3) would permit criminal prosecutions and statutory civil actions concerning any prohibited disclosure. The bill represents legislative action directly related to, and intended to honor, Daniel Anderl, the son of a federal judge, who was shot and killed in July 2020 at the judge's family home by a person who had complied a dossier of personal information about the judge, including the judge's home address; the bill's scope, as described above, would expand beyond just protecting federal and State judges, and their families, but would provide protections for a multitude of federal, state (from all states), and local public officials involved with administering public safety and justice.

The bill's new protections for judicial officers and prosecutors would take effect immediately, and would begin 18 months after the bill's effective date for law enforcement officers, who under current law are already provided some protections to be expanded by the bill; the bill would allow for executive branch administrative action to be taken in advance of that future date that would be necessary for the implementation of the bill concerning law enforcement officers.

To prohibit the government's disclosure of a home address (all persons' unlisted telephone numbers are already protected from disclosure), the bill would exclude those portions of any document identifying an address, whether a primary or secondary residence, from the definition of "government record" pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the Open Public Records Act, thereby deeming such information confidential. The bill would also require custodians of government records under that act to redact a judicial officer's, prosecutor's, or law enforcement officer's address from any record prior to granting access to the record by a member of the public. However, an address would still be shared if it was sought for use by a governmental agency in carrying out its functions, or a private person or entity seeking to enforce a child support order.

The bill would also prohibit the State or a local governmental agency from posting or publishing on the Internet, or reposting, republishing, or otherwise making available, a home address or unlisted telephone number of an active, formerly active, or retired judicial officer or prosecutor, expanding the scope of section 2 of P.L.2015, c.226 (C.47:1-17) which already prohibits such actions with respect to law enforcement officers.

It would establish the same prohibition for individuals, businesses, and associations, who under current law are prohibited from posting or publishing such information about current and retired law enforcement officers, and would subject a party who violated the law to the same criminal and civil liabilities that apply to violations involving law enforcement officers.

Specifically, it would be a crime to knowingly, with purpose to expose another to harassment or risk of harm to life or property, or in reckless disregard of the probability of this exposure, to post or publish on the Internet, repost, republish, or otherwise make available, the home address or unpublished telephone number of an active, formerly active, or retired judicial officer, prosecutor, or law enforcement officer, or any such person's spouse or child. A reckless violation would be graded a crime of the fourth degree, punishable by a term of imprisonment of up to 18 months, a fine of up to $10,000, or both. A purposeful violation would be a crime of the third degree, punishable by a term of imprisonment of three to five years, a fine of up to $15,000, or both.

As to potential civil liability, individuals, businesses, and associations would be prohibited from disclosing on the Internet, or re-disclosing or otherwise making available, the information about an active, formerly active, or retired judicial officer, prosecutor, or law enforcement officer under any circumstances in which a reasonable person would believe that providing such information would expose another to harassment or risk of harm to life or

property. As a result of a violation, a court could award: (1) actual damages, but not less than liquidated damages computed at the rate of $1,000 for each violation; (2) punitive damages upon proof of willful or reckless disregard of the law; (3) reasonable attorney's fees and other litigation costs reasonably incurred; and (4) any other preliminary and equitable relief as the court determines to be appropriate.

Additionally, the bill would provide a means by which a judicial officer, prosecutor, or law enforcement officer would be able to make a request to cease a disclosure to an individual, business, or association that disclosed that public officer's home address or unpublished phone number, or the name, home address, or unpublished number of an immediate family member of that public officer (someone residing in the same residence); with respect to a family member's name or home address, the basis for ceasing the disclosure would be that the disclosed information, alone or in conjunction with any other information, could be used to identify the person as the family member of the public officer. The request would be required to be made in writing by the public officer, or that public officer's employer with the officer's consent. The recipient of the request would have 72 hours to remove any disclosed information from the Internet or where otherwise made available, and refrain from disclosing the information to any other person or entity through any medium.

If the recipient did not timely remove the information from the Internet or where otherwise made available, or made a subsequent disclosure in any medium after receipt of the request to cease disclosure, the aggrieved public officer could bring an action seeking injunctive or declaratory relief in the Superior Court. The party responsible for the continued disclosure would be required to pay reasonable attorney's fees and other litigation costs reasonably incurred for the action brought.

The substitute bill, as reported by the committee, is identical to the First Reprint of Assembly Bill No. 1649, as amended and also reported by the committee today.