

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1538 Session of 2015

INTRODUCED BY WHITE, READSHAW, BAKER, BARRAR, BENNINGHOFF, BLOOM, CORBIN, DAY, DIGIROLAMO, EVERETT, FARRY, FEE, GINGRICH, GREINER, GROVE, HEFFLEY, IRVIN, JOZWIAK, KAUFFMAN, MARSHALL, MILNE, MURT, O'NEILL, D. PARKER, PETRI, QUIGLEY, M. QUINN, RADER, REGAN, SANTORA, SAYLOR, SONNEY, TALLMAN, TAYLOR, TOEPEL, TOOHIL, VEREB, WARD, WARNER, ZIMMERMAN, BIZZARRO, BOYLE, D. COSTA, DAVIS, DRISCOLL, KORTZ, NEILSON, YOUNGBLOOD, SACCONI, FLYNN, WHEELAND, GABLER, DELOZIER, ROAE, CUTLER, HARPER, BARBIN AND RAPP, SEPTEMBER 11, 2015

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 25, 2016

AN ACT

1 Amending Title 44 (Law and Justice) of the Pennsylvania
2 Consolidated Statutes, adding provisions for law enforcement
3 activities by providing for release of law enforcement
4 officer information when firearm discharged or use of force.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Part I of Title 44 of the Pennsylvania
8 Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 5

LAW ENFORCEMENT ACTIVITIES

Subchapter

A. Preliminary Provisions (Reserved)

B. General Provisions

SUBCHAPTER A

PRELIMINARY PROVISIONS

1 (Reserved)

2 SUBCHAPTER B

3 GENERAL PROVISIONS

4 Sec.

5 511. Release of law enforcement officer information when
6 firearm discharged or use of force.

7 § 511. Release of law enforcement officer information when
8 firearm discharged or use of force.

9 ~~(a) General rule. Pending the conclusion of an official~~ <--
10 ~~investigation that involves the discharge of a firearm or use of~~
11 ~~force by a law enforcement officer during the performance of the~~
12 ~~law enforcement officer's official duties, the name and~~
13 ~~identifying information of the law enforcement officer may not~~
14 ~~be released to the public by any public official or public~~
15 ~~employee conducting or participating in the official~~
16 ~~investigation or any person acting on behalf of such public~~
17 ~~official or public employee.~~

18 ~~(b) Conclusion of official investigation. After the~~
19 ~~official investigation concludes:~~

20 ~~(1) The law enforcement officer's name and identifying~~
21 ~~information shall be released to the public if the law~~
22 ~~enforcement officer is charged with a criminal offense~~
23 ~~relating to the discharge of the firearm or use of force. The~~
24 ~~release of the information must occur in accordance with~~
25 ~~applicable law.~~

26 ~~(2) If the law enforcement officer is not charged with a~~
27 ~~criminal offense relating to the discharge of the firearm or~~
28 ~~the use of force, the law enforcement officer's name and~~
29 ~~identifying information may not be released to the public, if~~
30 ~~the release of the information can reasonably be expected to~~

~~1 create a risk of harm to the person or property of the law
2 enforcement officer or an immediate family member of the law
3 enforcement officer.~~

~~4 (c) Definitions. The following words and phrases when used
5 in this section shall have the meanings given to them in this
6 subsection unless the context clearly indicates otherwise:~~

~~7 "Immediate family member." The spouse, child, parent or
8 sibling of a law enforcement officer.~~

~~9 "Law enforcement officer." The term shall have the meaning
10 given to the term "peace officer" in section 501 (relating to
11 definitions).~~

~~12 (A) GENERAL RULE.--~~

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~~13 (1) EXCEPT AS PROVIDED UNDER PARAGRAPHS (2), (3) AND
14 (4), IF AN OFFICIAL INVESTIGATION HAS BEEN INITIATED INTO THE
15 DISCHARGE OF A FIREARM OR USE OF FORCE BY A LAW ENFORCEMENT
16 OFFICER DURING THE PERFORMANCE OF THE LAW ENFORCEMENT
17 OFFICER'S OFFICIAL DUTIES THAT RESULTS IN DEATH OR SERIOUS
18 BODILY INJURY OF AN INDIVIDUAL, THE NAME AND IDENTIFYING
19 INFORMATION OF THE LAW ENFORCEMENT OFFICER MAY NOT BE
20 RELEASED TO THE PUBLIC BY:~~

~~21 (I) A PUBLIC EMPLOYEE OF THE LAW ENFORCEMENT
22 OFFICER'S EMPLOYING AGENCY.~~

~~23 (II) THE AGENCY CONDUCTING OR PARTICIPATING IN THE
24 OFFICIAL INVESTIGATION.~~

~~25 (III) A PERSON ACTING ON BEHALF OF A PUBLIC
26 EMPLOYEE UNDER SUBPARAGRAPH (I) OR AN AGENCY UNDER
27 SUBPARAGRAPH (II).~~

~~28 (2) A PUBLIC EMPLOYEE OF THE OFFICER'S EMPLOYING AGENCY,
29 THE AGENCY CONDUCTING OR PARTICIPATING IN THE OFFICIAL
30 INVESTIGATION OR A PERSON ACTING ON BEHALF OF THE PUBLIC~~

1 EMPLOYEE OR AGENCY SHALL RELEASE THE NAME OR IDENTIFYING
2 INFORMATION OF THE LAW ENFORCEMENT OFFICER AT THE CONCLUSION
3 OF THE INVESTIGATION IF THE LAW ENFORCEMENT OFFICER IS
4 CHARGED WITH A CRIMINAL OFFENSE ARISING OUT OF THE DISCHARGE
5 OF THE FIREARM OR USE OF FORCE.

6 (3) EXCEPT DURING ANY PERIOD IN WHICH THE RELEASE OF THE
7 INFORMATION CAN REASONABLY BE EXPECTED TO CREATE A RISK OF
8 HARM TO THE PERSON OR PROPERTY OF THE LAW ENFORCEMENT OFFICER
9 OR AN IMMEDIATE FAMILY MEMBER OF THE LAW ENFORCEMENT OFFICER,
10 A PUBLIC EMPLOYEE OF THE OFFICER'S EMPLOYING AGENCY, THE
11 AGENCY CONDUCTING OR PARTICIPATING IN THE OFFICIAL
12 INVESTIGATION OR A PERSON ACTING ON BEHALF OF THE PUBLIC
13 EMPLOYEE OR AGENCY MAY RELEASE THE NAME OR IDENTIFYING
14 INFORMATION OF THE LAW ENFORCEMENT OFFICER:

15 (I) THIRTY DAYS AFTER THE DISCHARGE OF THE FIREARM
16 OR USE OF FORCE; OR

17 (II) AFTER COMPLETION OF THE OFFICIAL INVESTIGATION.

18 (4) THE NAME OR IDENTIFYING INFORMATION OF THE LAW
19 ENFORCEMENT OFFICER MAY BE RELEASED IF:

20 (I) ~~THE~~ THE LAW ENFORCEMENT OFFICER CONSENTS IN <--
21 WRITING TO THE RELEASE OF THE INFORMATION; <--

22 (II) ~~DISCLOSURE~~ DISCLOSURE IS MADE PURSUANT TO COURT <--
23 RULES.

24 (B) PENALTY.--A PERSON WHO VIOLATES THIS SECTION COMMITS A
25 MISDEMEANOR OF THE SECOND DEGREE.

26 (C) EXCEPTION.--THIS SECTION SHALL NOT APPLY TO THE OFFICE
27 OF THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY'S OFFICE.

28 ~~(D) DEFINITION. AS USED IN THIS SECTION, THE TERM "LAW~~ <--
29 ~~ENFORCEMENT OFFICER" HAS THE MEANING GIVEN TO THE TERM "PEACE~~
30 ~~OFFICER" IN 18 PA.C.S. § 501 (RELATING TO DEFINITIONS).~~

1 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
2 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
3 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

4 "LAW ENFORCEMENT OFFICER." HAS THE MEANING GIVEN TO THE TERM
5 "PEACE OFFICER" IN 18 PA.C.S. § 501 (RELATING TO DEFINITIONS).

6 "SERIOUS BODILY INJURY." AS DEFINED IN 18 PA.C.S. § 2301
7 (RELATING TO DEFINITIONS).

8 "USE OF FORCE." ANY APPLICATION OF FORCE BY A LAW
9 ENFORCEMENT OFFICER AGAINST ANOTHER INDIVIDUAL.

10 Section 2. This act shall take effect in 60 days.