

Chair Prozanski
Senate Committee on the Judiciary and Measure 110 Implementation
Oregon State Capitol
Salem, Oregon 97301

Re: Support for House Bill 3047 and the -A5 Amendment

Dear Senator Prozanski and Members of the Committee:

The League of Oregon Cities is aware of instances of doxing and subsequent harassment of municipal employees. They have been made to fear for their safety, the safety of members of their families and been put to significant inconvenience in having to change phone numbers, email address and take other steps to obtain peace of mind. They have suffered damages from malicious acts and should be allowed to seek damages.

The LOC also believes that the -A5 amendment is needed in order to make certain that public employees and volunteers have full utilization of the private right of action granted in the bill. HB 3047 provides in (2) that, "A plaintiff has a cause of action for improper disclosure of private information if the plaintiff establishes by a preponderance of the evidence that:..." I call your attention to the word "improper" because there is currently a court case to determine if some private contact information must be released when a public records request is filed. If private contact information is in fact a public record, it would most likely not be an improper release of those documents.

At issue is the Legislature's intent when it passed HB 3037A in 2015. That bill created ORS 192.355(3) which provides that:

"Upon compliance with ORS 192.363 (Contents of certain requests for disclosure), public body employee or volunteer residential addresses, residential telephone numbers, personal cellular telephone numbers, personal electronic mail addresses, driver license numbers, employer-issued identification card numbers, emergency contact information, Social Security numbers, dates of birth and other telephone numbers contained in personnel records maintained by the public body that is the employer or the recipient of volunteer services."

The LOC and the City of Portland believe that this language protects the private information of a public employee from disclosure if the information exists in a personnel file. If it happens to exist outside of a personnel record also does not remove the protection. This appears to be what the Legislature intended when 3037A (2015) was passed. The staff measure summary leading paragraph states:

WHAT THE MEASURE DOES: Extends current public records exemption on specific personal information of public body employees or volunteers to include residential address, residential telephone numbers, personal cellular phone numbers, personal email addresses, drivers license numbers, and other personal information. Removes disclosure based on clear and convincing evidence that public interest requires disclosure. Prohibits public body from disclosing such identifiers for home care workers, operators of child care facilities, family child care providers, or operators of adult foster homes. Specifies measure does not apply to disclosure by Judicial Department or Department of Transportation. Declares emergency; effective on passage.

We believe that the bill was described to the Legislature correctly. The description addresses personal information, not a specific personnel file. It is likely that legislators believed the bill to be an exemption of personal information and not a narrower exemption of information in a bill file.

The -A5 amendment simply deletes the word "personnel" from ORS 192.355(3) to make clear that private information of employees and volunteers is protected. Doing so appears to align the structure of the statute with what the Legislature intended in 2015.

Sincerely,
Scott Winkels
League of Oregon Cities