

107TH CONGRESS  
1ST SESSION

# H. R. 199

To amend rule 26 of the Federal Rules of Civil Procedure to provide for the confidentiality of a personnel record or personal information of a law enforcement officer.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2001

Mr. SWEENEY introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend rule 26 of the Federal Rules of Civil Procedure to provide for the confidentiality of a personnel record or personal information of a law enforcement officer.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Law Enforcement Offi-  
5 cers Privacy Protection Act”.

6 **SEC. 2. AMENDMENTS.**

7 Rule 26 of the Federal Rules of Civil Procedure (28  
8 U.S.C. App.) is amended by inserting after subdivision  
9 (b)(5) the following:

1           “(6)    LAW    ENFORCEMENT    PERSONNEL  
2   RECORDS.—

3           “(A) A party may obtain discovery of law  
4   enforcement personnel records otherwise discov-  
5   erable under subdivision (b)(1) of this rule only  
6   upon a showing by the party seeking discovery  
7   that there exists a reasonable basis, supported  
8   by facts, for contending that the records sought  
9   are necessary and material to an issue involved  
10  in the pending action.

11          “(B) The court may, in the court’s discre-  
12  tion and after in camera review of such records,  
13  order discovery of such records when the re-  
14  quired showing has been made, subject to a  
15  protective order.

16          “(C) Notwithstanding subdivision (b)(1) of  
17  this rule, a party may not obtain discovery of  
18  any matter by reason of its relevance with re-  
19  spect to, or its use in leading to the discovery  
20  of admissible evidence as to, the existence of the  
21  reasonable basis referred to in subdivision  
22  (b)(6)(A) of this rule.

23          “(D) For purposes of this subdivision  
24  (b)(6), the term ‘law enforcement personnel  
25  records’ means documents in the custody of any

1 public or private entity (including an individual  
2 law enforcement officer) carrying out a law en-  
3 forcement function, or any element of the Fed-  
4 eral Government, a State, or a unit of local gov-  
5 ernment by whose authority that entity carries  
6 out that function, to the extent they contain  
7 any of the following information:

8 “(i) Information collected or main-  
9 tained for the purpose of evaluating the  
10 performance of a law enforcement officer  
11 with respect to that officer’s continued em-  
12 ployment or promotion.

13 “(ii) Information collected or main-  
14 tained for the purpose of evaluating a can-  
15 didate for hire as a law enforcement offi-  
16 cer.

17 “(iii) Information of a personal nature  
18 concerning a law enforcement officer or a  
19 member of that officer’s immediate family.

20 “(E) For purposes of this subdivision  
21 (b)(6), the term ‘law enforcement officer’ means  
22 an individual involved in crime and juvenile de-  
23 linquency control or reduction, or enforcement  
24 of the laws, including, but not limited to, police,

1            corrections, probation, parole, and judicial offi-  
2            cers.”.

3 **SEC. 3. APPLICATION OF AMENDMENT.**

4            The amendment made by this Act shall apply to any  
5 civil action filed after the date of the enactment of this  
6 Act.

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