

By Senator Holzendorf

2-203-98

1 A bill to be entitled
2 An act relating to confidentiality of
3 identifying information regarding domestic
4 violence victims; creating s. 741.401, F.S.;
5 providing legislative findings and purpose;
6 creating s. 741.402, F.S.; providing
7 definitions; creating s. 741.403, F.S.;
8 providing for creation of the Address
9 Confidentiality Program for Victims of Domestic
10 Violence; providing for certification by the
11 Attorney General of applicants to participate
12 in the program; defining the offense of falsely
13 attesting or knowingly providing false or
14 incorrect information in such program
15 application, and providing penalties therefor;
16 defining the offense of attempting to gain
17 access to a program participant's actual
18 address through fraud, and providing penalties
19 therefor; creating s. 741.404, F.S.; providing
20 for certification cancellation; creating s.
21 741.405, F.S.; providing authority of state and
22 local agencies and other governmental entities
23 and guidelines relating to use of designated
24 address; creating s. 741.406, F.S.; providing
25 for voting by program participants in the same
26 manner as for absentee voters; prohibiting the
27 supervisor of elections from disclosing certain
28 information except under specified
29 circumstances; providing for appeal by agency
30 of requested waiver; creating s. 741.407, F.S.;
31 prohibiting disclosure of addresses and certain

1 information, except under specified
2 circumstances; requiring immediate written
3 notification by the Attorney General to a
4 program participant with respect to certain
5 disclosure of information; creating s. 741.408,
6 F.S.; providing for certain assistance for
7 program applicants; creating s. 741.409, F.S.;
8 providing for adoption of rules; providing for
9 limitations on an appropriation to fund the
10 program; specifying the maximum percentage for
11 an increase in the general appropriation for
12 subsequent years; providing for the Attorney
13 General to seek other funds; providing an
14 effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Section 741.401, Florida Statutes, is
19 created to read:

20 741.401 Legislative findings; purpose.--The
21 Legislature finds that persons attempting to escape from
22 actual or threatened domestic violence frequently establish
23 new addresses in order to prevent their assailants or probable
24 assailants from finding them. The purpose of ss.
25 741.401-741.409 is to enable state and local agencies to
26 respond to requests for public records without disclosing the
27 location of a victim of domestic violence, to enable
28 interagency cooperation with the Attorney General in providing
29 address confidentiality for victims of domestic violence, and
30 to enable state and local agencies to accept a program

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1 participant's use of an address designated by the Attorney
2 General as a substitute mailing address.

3 Section 2. Section 741.402, Florida Statutes, is
4 created to read:

5 741.402 Definitions.--Unless the context clearly
6 requires otherwise, as used in ss. 741.401-741.409, the term:

7 (1) "Address" means a residential street address,
8 school address, or work address of an individual, as specified
9 on the individual's application to be a program participant
10 under ss. 741.401-741.409.

11 (2) "Program participant" means a person certified as
12 a program participant under s. 741.403.

13 (3) "Domestic violence" means an act as defined in s.
14 741.28 and includes a threat of such acts committed against an
15 individual in a domestic situation, regardless of whether
16 these acts or threats have been reported to law enforcement
17 officers.

18 Section 3. Section 741.403, Florida Statutes, is
19 created to read:

20 741.403 Address confidentiality program; application;
21 certification.--

22 (1) An adult person, a parent or guardian acting on
23 behalf of a minor, or a guardian acting on behalf of a person
24 adjudicated incapacitated under chapter 744 may apply to the
25 Attorney General to have an address designated by the Attorney
26 General serve as the person's address or the address of the
27 minor or incapacitated person. The Attorney General shall
28 approve an application if it is filed in the manner and on the
29 form prescribed by the Attorney General and if it contains all
30 of the following:

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1 (a) A sworn statement by the applicant that the
2 applicant has good reason to believe that the applicant, or
3 the minor or incapacitated person on whose behalf the
4 application is made, is a victim of domestic violence, and
5 that the applicant fears for his or her safety or his or her
6 children's safety or the safety of the minor or incapacitated
7 person on whose behalf the application is made.

8 (b) A designation of the Attorney General as agent for
9 purposes of service of process and for the purpose of receipt
10 of mail.

11 (c) The mailing address where the applicant can be
12 contacted by the Attorney General, and the phone number or
13 numbers where the applicant can be called by the Attorney
14 General.

15 (d) A statement that the new address or addresses that
16 the applicant requests must not be disclosed for the reason
17 that disclosure will increase the risk of domestic violence.

18 (e) The signature of the applicant and of any
19 individual or representative of any office designated in
20 writing under s. 741.408 who assisted in the preparation of
21 the application, and the date on which the applicant signed
22 the application.

23 (2) Applications must be filed with the Office of the
24 Attorney General. An application fee may not be charged.

25 (3) Upon filing a properly completed application, the
26 Attorney General shall certify the applicant as a program
27 participant. Applicants shall be certified for 4 years
28 following the date of filing unless the certification is
29 withdrawn or invalidated before that date. The Attorney
30 General shall by rule establish a renewal procedure.

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1 (4) A person who falsely attests in an application
2 that disclosure of the applicant's address would endanger the
3 applicant's safety or the safety of the applicant's children
4 or the minor or incapacitated person on whose behalf the
5 application is made, or who knowingly provides false or
6 incorrect information upon making an application, commits a
7 misdemeanor of the second degree, punishable as provided in s.
8 775.082 or s. 775.083.

9 (5) Any person who attempts to gain access to a
10 program participant's actual address through fraud commits a
11 felony of the third degree, punishable as provided in s.
12 775.082, s. 775.083, or s. 775.084.

13 Section 4. Section 741.404, Florida Statutes, is
14 created to read:

15 741.404 Certification cancellation.--

16 (1) If the program participant obtains a name change,
17 he or she loses certification as a program participant.

18 (2) The Attorney General may cancel a program
19 participant's certification if there is a change in the
20 residential address from the one listed on the application,
21 unless the program participant provides the Attorney General
22 with 14 days' prior notice of the change of address.

23 (3) The Attorney General may cancel certification of a
24 program participant if mail forwarded by the Attorney General
25 to the program participant's address is returned as
26 nondeliverable.

27 (4) The Attorney General shall cancel certification of
28 a program participant who applies using false information.

29 Section 5. Section 741.405, Florida Statutes, is
30 created to read:

31 741.405 Agency use of designated address.--

1 (1) A program participant may request that state and
2 local agencies or other governmental entities use the address
3 designated by the Attorney General as his or her address.
4 When creating a new public record, state and local agencies or
5 other governmental entities shall accept the address
6 designated by the Attorney General as a program participant's
7 substitute address, unless the Attorney General has determined
8 that:

9 (a) The agency or entity has a bona fide statutory or
10 administrative requirement for the use of the address that
11 would otherwise be confidential under ss. 741.401-741.409.

12 (b) This address will be used only for those statutory
13 and administrative purposes.

14 (c) The agency or entity has identified the specific
15 program participant's record for which the waiver is
16 requested.

17 (d) The agency or entity has identified the
18 individuals who will have access to the record.

19 (e) The agency or entity has explained how its
20 acceptance of a substitute address will prevent the agency
21 from meeting its obligations under the law and why it cannot
22 meet its statutory or administrative obligation by a change in
23 its internal procedures.

24 (3) During the review, evaluation, and appeal of an
25 agency's request, the agency shall accept the use of a program
26 participant's substitute address.

27 (4) The Attorney General's determination to grant or
28 withhold a requested waiver must be based on, but not limited
29 to, an evaluation of information provided under subsection
30 (1).

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1 (5) If the Attorney General determines that an agency
2 or entity has a bona fide statutory or administrative need for
3 the actual address and that the information will be used only
4 for that purpose, the Attorney General may issue the actual
5 address to the agency or entity. When granting a waiver, the
6 Attorney General shall notify and require the agency or entity
7 to:

8 (a) Maintain the confidentiality of a program
9 participant's address information;

10 (b) Limit the use of and access to that address;

11 (c) Designate an address disposition date after which
12 the agency or entity may no longer maintain the record of the
13 address; and

14 (d) Comply with any other provisions and
15 qualifications determined appropriate by the Attorney General.

16 (6) The Attorney General's denial of an agency's or
17 entity's waiver request must be made in writing and include a
18 statement of specific reasons for denial.

19 (7) An agency or entity may appeal the denial of its
20 request.

21 (8) A program participant may use the address
22 designated by the Attorney General as his or her work address.

23 (9) The Office of the Attorney General shall forward
24 all first class mail to the appropriate program participants
25 at no charge.

26 Section 6. Section 741.406, Florida Statutes, is
27 created to read:

28 741.406 Voting by program participant; use of
29 designated address by supervisor of elections.--

30 (1) A program participant who is otherwise qualified
31 to vote may request an absentee ballot pursuant to s. 101.62.

1 The program participant shall automatically receive absentee
2 ballots for all elections in the jurisdictions in which that
3 individual resides in the same manner as absentee voters do,
4 except that program participants shall not be required to make
5 new requests for an absentee ballot each calendar year. The
6 supervisor of elections shall transmit the absentee ballot to
7 the program participant at the address designated by the
8 participant in his or her application as an absentee voter.
9 The name, address, and telephone number of a program
10 participant may not be included in any list of registered
11 voters available to the public.

12 (2) The supervisor of elections may not make the
13 participant's name, address, or telephone number contained in
14 voter registration records available for public inspection or
15 copying except under the following circumstances:

16 (a) If requested by a law enforcement agency, to the
17 law enforcement agency.

18 (b) If directed by a court order, to a person
19 identified in the order.

20 Section 7. Section 741.407, Florida Statutes, is
21 created to read:

22 741.407 Disclosure of address prohibited;
23 exceptions.--The Attorney General may not make a program
24 participant's name, address, other than the address designated
25 by the Attorney General, or telephone number available for
26 inspection or copying, except under the following
27 circumstances:

28 (1) If requested by a law enforcement agency, to the
29 law enforcement agency.

30 (2) If directed by a court order, to a person
31 identified in the order.

1 (3) If certification has been canceled.

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3 The Attorney General shall provide immediate written
4 notification of disclosure to a program participant when a
5 disclosure takes place in one of the instances described in
6 this section.

7 Section 8. Section 741.408, Florida Statutes, is
8 created to read:

9 741.408 Assistance for program applicants.--The
10 Attorney General shall designate state and local agencies and
11 nonprofit agencies that provide counseling and shelter
12 services to victims of domestic violence to assist persons
13 applying to be program participants. Assistance and
14 counseling rendered by the Office of the Attorney General or
15 its designees to applicants does not constitute legal advice.

16 Section 9. Section 741.409, Florida Statutes, is
17 created to read:

18 741.409 Adoption of rules.--The Attorney General may
19 adopt rules to facilitate the administration of this chapter
20 by state and local agencies and other governmental entities.

21 Section 10. This program may be implemented only to
22 the extent that it is funded by the Legislature. A general
23 revenue appropriation may not exceed \$150,000 for fiscal year
24 1998-1999. For fiscal years 1990-2000 and 2000-2001, any
25 general revenue appropriation for this program may not be
26 greater than the total of the initial funding and an increase
27 of 5 percent of the allocation from the previous year. This
28 provision in no way prohibits the Attorney General from
29 seeking federal funds, grants, or donations to implement or to
30 expand this program.

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1 Section 11. This act shall take effect October 1,
2 1998.

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5 SENATE SUMMARY

6 Provides for creation of the Address Confidentiality
7 Program for Victims of Domestic Violence. Provides
8 legislative findings and purpose. Provides definitions.
9 Provides for certification by the Attorney General of
10 applicants to participate in the program. Provides that
11 a person who falsely attests or knowingly provides false
12 or incorrect information in such program application
13 commits a second-degree misdemeanor. Provides penalties
14 therefor. Provides for certification cancellation.
15 Provides authority of state and local agencies and other
16 governmental entities and provides guidelines relating to
17 use of designated addresses. Provides for voting by
18 program participants in the same manner as by absentee
19 voters. Prohibits disclosure of addresses and certain
20 information, except under specified circumstances.
21 Provides for certain assistance and counseling for
22 program applicants. Provides for adoption of rules by
23 the Attorney General. Provides for a limitation on any
24 appropriation that the Legislature may enact to fund the
25 program. Authorizes the Attorney General to seek other
26 sources of funding.
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