

By the Committee on Children, Families and Seniors and Senator Holzendorf

300-497-98

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. To the extent possible within  
28 funds appropriated for this purpose, the Attorney General  
29 shall approve an application if it is filed in the manner and  
30 on the form prescribed by the Attorney General and if it  
31 contains all of the following:

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           (6) Any person who knowingly enters the address  
14 confidentiality program to evade prosecution of criminal laws  
15 or civil liability commits a felony of the third degree,  
16 punishable as provided in s. 775.082, s. 775.083, or s.  
17 775.084.

18           Section 4. Section 741.404, Florida Statutes, is  
19 created to read:

20           741.404 Certification cancellation.--

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

23           (2) The Attorney General may cancel a program  
24 participant's certification if there is a change in the  
25 residential address from the one listed on the application,  
26 unless the program participant provides the Attorney General  
27 with 14 days' prior notice of the change of address.

28           (3) The Attorney General may cancel certification of a  
29 program participant if mail forwarded by the Attorney General  
30 to the program participant's address is returned and is  
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1 undeliverable or if service of process documents are returned  
2 to the Attorney General.

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

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

7 741.405 Agency use of designated address.--

8 (1) A program participant may request that state and  
9 local agencies or other governmental entities use the address  
10 designated by the Attorney General as his or her address.

11 When creating a new public record, state and local agencies or  
12 other governmental entities shall accept the address  
13 designated by the Attorney General as a program participant's  
14 substitute address, unless the Attorney General has determined  
15 that:

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

19 (b) This address will be used only for those statutory  
20 and administrative purposes;

21 (c) The agency or entity has identified the specific  
22 program participant's record for which the waiver is  
23 requested;

24 (d) The agency or entity has identified the  
25 individuals who will have access to the record; and

26 (e) The agency or entity has explained how its  
27 acceptance of a substitute address will prevent the agency  
28 from meeting its obligations under the law and why it cannot  
29 meet its statutory or administrative obligation by a change in  
30 its internal procedures.

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

4           (4) The Attorney General's determination to grant or  
5 withhold a requested waiver must be based on, but not limited  
6 to, an evaluation of information provided under subsection  
7 (1).

8           (5) If the Attorney General determines that an agency  
9 or entity has a bona fide statutory or administrative need for  
10 the actual address and that the information will be used only  
11 for that purpose, the Attorney General may issue the actual  
12 address to the agency or entity. When granting a waiver, the  
13 Attorney General shall notify and require the agency or entity  
14 to:

15           (a) Maintain the confidentiality of a program  
16 participant's address information;

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

18           (c) Designate an address disposition date after which  
19 the agency or entity may no longer maintain the record of the  
20 address; and

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

23           (6) The Attorney General's denial of an agency's or  
24 entity's waiver request must be made in writing and include a  
25 statement of specific reasons for denial. Acceptance or denial  
26 of an agency's or entity's waiver request shall constitute  
27 final agency action.

28           (7) Pursuant to chapter 120, an agency or entity may  
29 appeal the denial of its request.

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

1           (9) The Office of the Attorney General shall forward  
2 all first class mail to the appropriate program participants  
3 at no charge.

4           Section 6. Section 741.406, Florida Statutes, is  
5 created to read:

6           741.406 Voting by program participant; use of  
7 designated address by supervisor of elections.--

8           (1) A program participant who is otherwise qualified  
9 to vote may request an absentee ballot pursuant to s. 101.62.  
10 The program participant shall automatically receive absentee  
11 ballots for all elections in the jurisdictions in which that  
12 individual resides in the same manner as absentee voters. The  
13 supervisor of elections shall transmit the absentee ballot to  
14 the program participant at the address designated by the  
15 participant in his or her application as an absentee voter.  
16 The name, address, and telephone number of a program  
17 participant may not be included in any list of registered  
18 voters available to the public.

19           (2) The supervisor of elections may not make the  
20 participant's name, address, or telephone number contained in  
21 voter registration records available for public inspection or  
22 copying except:

23           (a) To a law enforcement agency for purposes of  
24 assisting in the execution of an arrest warrant.

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

27           Section 7. Section 741.407, Florida Statutes, is  
28 created to read:

29           741.407 Disclosure of address prohibited;  
30 exceptions.--The Attorney General may not make a program  
31 participant's name, address, other than the address designated



1 by the Attorney General, or telephone number available for  
2 inspection or copying, except under the following  
3 circumstances:

4 (1) To a law enforcement agency for purposes of  
5 assisting in the execution of an arrest warrant.

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

8 (3) If certification has been canceled.

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10 The Attorney General shall provide immediate written  
11 notification of disclosure to a program participant when a  
12 disclosure takes place in one of the instances described in  
13 subsection (2) or subsection (3).

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

16 741.408 Assistance for program applicants.--The  
17 Attorney General shall designate state and local agencies and  
18 nonprofit agencies that provide counseling and shelter  
19 services to victims of domestic violence to assist persons  
20 applying to be program participants. Assistance and  
21 counseling rendered by the Office of the Attorney General or  
22 its designees to applicants does not constitute legal advice.

23 Section 9. Section 741.409, Florida Statutes, is  
24 created to read:

25 741.409 Adoption of rules.--The Attorney General may  
26 adopt rules to facilitate the administration of this chapter  
27 by state and local agencies and other governmental entities.

28 Section 10. This program may be implemented only to  
29 the extent that it is funded by the Legislature. A general  
30 revenue appropriation may not exceed \$150,000 for fiscal year  
31 1998-1999. For fiscal years 1990-2000 and 2000-2001, any

1 general revenue appropriation for this program may not be  
2 greater than the total of the initial funding and an increase  
3 of 5 percent of the allocation from the previous year. This  
4 provision in no way prohibits the Attorney General from  
5 seeking federal funds, grants, or donations to implement or to  
6 expand this program.

7 Section 11. This act shall take effect October 1,  
8 1998.

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10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
11 COMMITTEE SUBSTITUTE FOR  
12 Senate Bill 118

- 13 - Limiting language is included in section 3, consistent  
14 with section 10, to ensure that the Attorney General's  
15 office is able to serve as many persons as it can  
reasonably accommodate within the constraints of the  
budget.
- 16 - It is a felony of the third degree to knowingly access  
17 the program to avoid criminal prosecution or civil  
liability.
- 18 - The term "nondeliverable" is changed to "undeliverable"  
19 and returned service of process is included as a reason  
for certification cancellation.
- 20 - Acceptance or denial of an agency's or entity's waiver  
21 request constitutes final agency action; appeal is  
pursuant to chapter 120, F.S.
- 22 - Program participants, like other absentee voters, must  
23 request an absentee ballot each year.
- 24 - Disclosure to a law enforcement agency is allowed only as  
necessary to assist in executing an arrest warrant.
- 25 - The Attorney General is not required to provide written  
26 notification of disclosure of an address to a program  
participant when disclosure is due to the existence of an  
27 arrest warrant.
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