

Bill No. CS/CS/HB 1637

Amendment No.     

Senate

CHAMBER ACTION

House

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Senator Holzendorf moved the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

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

741.401 Legislative findings; purpose.--The Legislature finds that persons attempting to escape from actual or threatened domestic violence frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of ss. 741.401-741.409 is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, to enable interagency cooperation with the Attorney General in providing address confidentiality for victims of domestic violence, and to enable state and local agencies to accept a program participant's use of an address designated by the Attorney General as a substitute mailing address.

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

3           741.402 Definitions.--Unless the context clearly  
4 requires otherwise, as used in ss. 741.401-741.409, the term:

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

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

11           (3) "Domestic violence" means an act as defined in s.  
12 741.28 and includes a threat of such acts committed against an  
13 individual in a domestic situation, regardless of whether  
14 these acts or threats have been reported to law enforcement  
15 officers.

16           Section 3. Section 741.403, Florida Statutes, is  
17 created to read:

18           741.403 Address confidentiality program; application;  
19 certification.--

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

30           (a) A sworn statement by the applicant that the  
31 applicant has good reason to believe that the applicant, or

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1 the minor or incapacitated person on whose behalf the  
2 application is made, is a victim of domestic violence, and  
3 that the applicant fears for his or her safety or his or her  
4 children's safety or the safety of the minor or incapacitated  
5 person on whose behalf the application is made.

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

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

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

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

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

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

29 (4) A person who falsely attests in an application  
30 that disclosure of the applicant's address would endanger the  
31 applicant's safety or the safety of the applicant's children

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1 or the minor or incapacitated person on whose behalf the  
2 application is made, or who knowingly provides false or  
3 incorrect information upon making an application, commits a  
4 misdemeanor of the second degree, punishable as provided in s.  
5 775.082 or s. 775.083.

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

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

15 Section 4. Section 741.404, Florida Statutes, is  
16 created to read:

17 741.404 Certification cancellation.--

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

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

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

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

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

3           741.405 Agency use of designated address.--

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

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

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

17           (c) The agency or entity has identified the specific  
18 program participant's record for which the waiver is  
19 requested;

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

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

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

30           (4) The Attorney General's determination to grant or  
31 withhold a requested waiver must be based on, but not limited

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1 to, an evaluation of information provided under subsection  
2 (1).

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

10 (a) Maintain the confidentiality of a program  
11 participant's address information;

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

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

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

18 (6) The Attorney General's denial of an agency's or  
19 entity's waiver request must be made in writing and include a  
20 statement of specific reasons for denial. Acceptance or denial  
21 of an agency's or entity's waiver request shall constitute  
22 final agency action.

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

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

27 (9) The Office of the Attorney General shall forward  
28 all first class mail to the appropriate program participants  
29 at no charge.

30 Section 6. Section 741.406, Florida Statutes, is  
31 created to read:

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1           741.406 Voting by program participant; use of  
2 designated address by supervisor of elections.--

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

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

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

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

22           Section 7. Section 741.407, Florida Statutes, is  
23 created to read:

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

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

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

3           (3) If certification has been canceled.  
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5 The Attorney General shall provide immediate written  
6 notification of disclosure to a program participant when a  
7 disclosure takes place in one of the instances described in  
8 subsection (2) or subsection (3).

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

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

18           Section 9. Section 741.409, Florida Statutes, is  
19 created to read:

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

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



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1 expand this program.

2 Section 11. This act shall take effect October 1,  
3 1998.

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6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 Delete everything before the enacting clause

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10 and insert:

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A bill to be entitled

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An act relating to confidentiality of

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identifying information regarding domestic

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violence victims; creating s. 741.401, F.S.;

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providing legislative findings and purpose;

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creating s. 741.402, F.S.; providing

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definitions; creating s. 741.403, F.S.;

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providing for creation of the Address

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Confidentiality Program for Victims of Domestic

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Violence; providing for certification by the

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Attorney General of applicants to participate

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in the program; defining the offense of falsely

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attesting or knowingly providing false or

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incorrect information in such program

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application, and providing penalties therefor;

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defining the offense of attempting to gain

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access to a program participant's actual

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address through fraud, and providing penalties

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therefor; creating s. 741.404, F.S.; providing

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for certification cancellation; creating s.

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741.405, F.S.; providing authority of state and

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1 local agencies and other governmental entities  
2 and guidelines relating to use of designated  
3 address; creating s. 741.406, F.S.; providing  
4 for voting by program participants in the same  
5 manner as for absentee voters; prohibiting the  
6 supervisor of elections from disclosing certain  
7 information except under specified  
8 circumstances; providing for appeal by agency  
9 of requested waiver; creating s. 741.407, F.S.;  
10 prohibiting disclosure of addresses and certain  
11 information, except under specified  
12 circumstances; requiring immediate written  
13 notification by the Attorney General to a  
14 program participant with respect to certain  
15 disclosure of information; creating s. 741.408,  
16 F.S.; providing for certain assistance for  
17 program applicants; creating s. 741.409, F.S.;  
18 providing for adoption of rules; providing for  
19 limitations on an appropriation to fund the  
20 program; specifying the maximum percentage for  
21 an increase in the general appropriation for  
22 subsequent years; providing for the Attorney  
23 General to seek other funds; providing an  
24 effective date.

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