

By Representative Hill

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 Secretary of State 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 second degree
16 misdemeanor penalties therefor; defining the
17 offense of attempting to gain access to a
18 program participant's actual address through
19 fraud, and providing third degree felony
20 penalties therefor; creating s. 741.404, F.S.;
21 providing for certification cancellation;
22 creating s. 741.405, F.S.; providing authority
23 of state and local agencies and other
24 governmental entities and guidelines relating
25 to use of designated address; creating s.
26 741.406, F.S.; providing for voting by program
27 participants in the same manner as absentee
28 voters; prohibiting the supervisor of elections
29 from disclosing certain information except
30 under specified circumstances; providing for
31 appeal by agency of requested waiver; creating

1 s. 741.407, F.S.; prohibiting disclosure of
2 addresses and certain information, except under
3 specified circumstances; requiring immediate
4 written notification by the Secretary of State
5 to a program participant with respect to
6 certain disclosure of information; creating s.
7 741.408, F.S.; providing for certain assistance
8 for program applicants; creating s. 741.409,
9 F.S.; providing for adoption of rules;
10 providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Section 741.401, Florida Statutes, is
15 created to read:

16 741.401 Legislative findings; purpose.--The
17 Legislature finds that persons attempting to escape from
18 actual or threatened domestic violence frequently establish
19 new addresses in order to prevent their assailants or probable
20 assailants from finding them. The purpose of ss.
21 741.401-741.409 is to enable state and local agencies to
22 respond to requests for public records without disclosing the
23 location of a victim of domestic violence, to enable
24 interagency cooperation with the Secretary of State in
25 providing address confidentiality for victims of domestic
26 violence, and to enable state and local agencies to accept a
27 program participant's use of an address designated by the
28 Secretary of State as a substitute mailing address.

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

31

1 741.402 Definitions.--Unless the context clearly
2 requires otherwise, as used in ss. 741.401-741.409, the term:

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

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

9 (3) "Domestic violence" means an act as defined in s.
10 741.28 and includes a threat of such acts committed against an
11 individual in a domestic situation, regardless of whether
12 these acts or threats have been reported to law enforcement
13 officers.

14 Section 3. Section 741.403, Florida Statutes, is
15 created to read:

16 741.403 Address confidentiality program; application;
17 certification.--

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

27 (a) A sworn statement by the applicant that the
28 applicant has good reason to believe that the applicant, or
29 the minor or incapacitated person on whose behalf the
30 application is made, is a victim of domestic violence; and
31 that the applicant fears for his or her safety or his or her

1 children's safety, or the safety of the minor or incapacitated
2 person on whose behalf the application is made.

3 (b) A designation of the Secretary of State as agent
4 for purposes of service of process and for the purpose of
5 receipt of mail.

6 (c) The mailing address where the applicant can be
7 contacted by the Secretary of State, and the phone number or
8 numbers where the applicant can be called by the Secretary of
9 State.

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

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

18 (2) Applications shall be filed with the office of the
19 Secretary of State, and there shall be no application fee.

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

26 (4) A person who falsely attests in an application
27 that disclosure of the applicant's address would endanger the
28 applicant's safety or the safety of the applicant's children
29 or the minor or incapacitated person on whose behalf the
30 application is made, or who knowingly provides false or
31 incorrect information upon making an application, commits a

1 misdemeanor of the second degree, punishable as provided in s.
2 775.082 or s. 775.083.

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

7 Section 4. Section 741.404, Florida Statutes, is
8 created to read:

9 741.404 Certification cancellation.--

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

12 (2) The Secretary of State may cancel a program
13 participant's certification if there is a change in the
14 residential address from the one listed on the application,
15 unless the program participant provides the Secretary of State
16 with 14 days' prior notice of the change of address.

17 (3) The Secretary of State may cancel certification of
18 a program participant if mail forwarded by the Secretary of
19 State to the program participant's address is returned as
20 nondeliverable.

21 (4) The Secretary of State shall cancel certification
22 of a program participant who applies using false information.

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

25 741.405 Agency use of designated address.--

26 (1) A program participant may request that state and
27 local agencies or other governmental entities use the address
28 designated by the Secretary of State as his or her address.
29 When creating a new public record, state and local agencies or
30 other governmental entities shall accept the address
31 designated by the Secretary of State as a program

1 participant's substitute address, unless the Secretary of
2 State has determined that:
3 (a) The agency or entity has a bona fide statutory or
4 administrative requirement for the use of the address which
5 would otherwise be confidential under ss. 741.401-741.409.
6 (b) This address will be used only for those statutory
7 and administrative purposes.
8 (c) The agency or entity has identified the specific
9 program participant's record for which the waiver is
10 requested.
11 (d) The agency or entity has identified the
12 individuals who will have access to the record.
13 (e) The agency or entity has explained how its
14 acceptance of a substitute address will prevent the agency
15 from meeting its obligations under the law and why it cannot
16 meet its statutory or administrative obligation by a change in
17 its internal procedures.
18 (3) During the review, evaluation, and appeal of an
19 agency's request, the agency shall accept the use of a program
20 participant's substitute address.
21 (4) The Secretary of State's determination to grant or
22 withhold a requested waiver shall be based on, but not limited
23 to, an evaluation of information provided under subsection
24 (1).
25 (5) If the Secretary of State determines that an
26 agency or entity has a bona fide statutory or administrative
27 need for the actual address and that the information will be
28 used only for that purpose, the Secretary of State may issue
29 the actual address to the agency or entity. When granting a
30 waiver, the Secretary of State shall notify and require the
31 agency or entity to:

1 (a) Maintain the confidentiality of a program
2 participant's address information;

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

4 (c) Designate an address disposition date after which
5 the agency or entity may no longer maintain the record of the
6 address; and

7 (d) Comply with any other provisions and
8 qualifications determined appropriate by the Secretary of
9 State.

10 (6) The Secretary of State's denial of an agency's or
11 entity's waiver request shall be made in writing and include a
12 statement of specific reasons for denial.

13 (7) An agency or entity may appeal the denial of its
14 request.

15 (8) A program participant may use the address
16 designated by the Secretary of State as his or her work
17 address.

18 (9) The office of the Secretary of State shall forward
19 all first class mail to the appropriate program participants
20 at no charge.

21 Section 6. Section 741.406, Florida Statutes, is
22 created to read:

23 741.406 Voting by program participant; use of
24 designated address by supervisor of elections.--

25 (1) A program participant who is otherwise qualified
26 to vote may request an absentee ballot pursuant to s. 101.62.
27 The program participant shall automatically receive absentee
28 ballots for all elections in the jurisdictions for which that
29 individual resides in the same manner as absentee voters,
30 except that program participants shall not be required to make
31 new requests for an absentee ballot each calendar year. The

1 supervisor of elections shall transmit the absentee ballot to
2 the program participant at the address designated by the
3 participant in his or her application as an absentee voter.
4 Neither the name nor the address or telephone number of a
5 program participant shall be included in any list of
6 registered voters available to the public.

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

11 (a) If requested by a law enforcement agency, to the
12 law enforcement agency.

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

15 Section 7. Section 741.407, Florida Statutes, is
16 created to read:

17 741.407 Disclosure of address prohibited;
18 exceptions.--The Secretary of State may not make a program
19 participant's name, address, other than the address designated
20 by the Secretary of State, or telephone number available for
21 inspection or copying, except under the following
22 circumstances:

23 (1) If requested by a law enforcement agency, to the
24 law enforcement agency.

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

27 (3) If certification has been canceled.

28
29 The Secretary of State immediately shall provide written
30 notification of disclosure to a program participant when a
31

1 disclosure takes place in one of the instances described in
2 this section.

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

5 741.408 Assistance for program applicants.--The
6 Secretary of State shall designate state and local agencies
7 and nonprofit agencies that provide counseling and shelter
8 services to victims of domestic violence to assist persons
9 applying to be program participants. Any assistance and
10 counseling rendered by the office of the Secretary of State or
11 its designees to applicants shall in no way be construed as
12 legal advice.

13 Section 9. Section 741.409, Florida Statutes, is
14 created to read:

15 741.409 Adoption of rules.--The Secretary of State may
16 adopt rules to facilitate the administration of this chapter
17 by state and local agencies and other governmental entities.

18 Section 10. This act shall take effect October 1,
19 1997.

20
21
22
23
24
25
26
27
28
29
30
31

504-132A-97

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

HOUSE SUMMARY

Provides for creation of the Address Confidentiality Program for Victims of Domestic Violence. Provides legislative findings and purpose and provides definitions. Provides for certification by the Secretary of State of applicants to participate in the program. Defines the offense of falsely attesting or knowingly providing false or incorrect information in such program application, and provides second degree misdemeanor penalties therefor. Defines the offense of attempting to gain access to a program participant's actual address through fraud, and provides third degree felony penalties therefor. Provides for certification cancellation. Provides authority of state and local agencies and other governmental entities and guidelines relating to use of designated addresses. Provides for voting by program participants in the same manner as absentee voters. Prohibits the supervisor of elections from disclosing certain information except under specified circumstances. Provides for appeal by agency of requested waiver. Prohibits disclosure of addresses and certain information, except under specified circumstances. Requires immediate written notification by the Secretary of State to a program participant with respect to certain disclosure of information. Provides for certain assistance for program applicants. Provides for adoption of rules.