

By the Committee on Governmental Operations and
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 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 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; providing for
26 appeal by agency of requested waiver; creating
27 s. 741.406, F.S.; providing for voting by
28 program participants in the same manner as
29 absentee voters; prohibiting the supervisor of
30 elections from disclosing certain information,
31 except under specified circumstances; 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 Attorney General to
5 a program participant with respect to certain
6 disclosure of information; creating s. 741.408,
7 F.S.; providing for certain assistance for
8 program applicants; creating s. 741.409, F.S.;
9 providing for adoption of rules; providing an
10 effective date.

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

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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 Attorney General in providing
25 address confidentiality for victims of domestic violence, and
26 to enable state and local agencies to accept a program
27 participant's use of an address designated by the Attorney
28 General as a substitute mailing address.

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

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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 for Victims of
17 Domestic Violence; application; 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 Attorney General to have an address designated by the Attorney
22 General serve as the person's address or the address of the
23 minor or incapacitated person. The Attorney General shall
24 approve an application if it is filed in the manner and on the
25 form prescribed by the Attorney General and if it contains all
26 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 Attorney General as agent for
4 purposes of service of process and for the purpose of receipt
5 of mail.

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

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 Attorney General, and there shall be no application fee.

20 (3) Upon filing a properly completed application, the
21 Attorney General 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 Attorney
25 General 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 Attorney General 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 Attorney General
16 with 14 days' prior notice of the change of address.

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

21 (4) The Attorney General shall cancel certification of
22 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 Attorney General 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 Attorney General as a program participant's

1 substitute address, unless the Attorney General has determined
2 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 (2) 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 (3) The Attorney General'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 (4) If the Attorney General determines that an agency
26 or entity has a bona fide statutory or administrative need for
27 the actual address and that the information will be used only
28 for that purpose, the Attorney General may issue the actual
29 address to the agency or entity. When granting a waiver, the
30 Attorney General shall notify and require the agency or entity
31 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 Attorney General.

9 (5) The Attorney General's denial of an agency's or
10 entity's waiver request shall be made in writing and include a
11 statement of specific reasons for denial.

12 (6) An agency or entity may appeal the denial of its
13 request.

14 (7) A program participant may use the address
15 designated by the Attorney General as his or her work address.

16 (8) The Office of the Attorney General shall forward
17 all first class mail to the appropriate program participants
18 at no charge.

19 Section 6. Section 741.406, Florida Statutes, is
20 created to read:

21 741.406 Voting by program participant; use of
22 designated address by supervisor of elections.--

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

1 participant in his or her application as an absentee voter.
2 Neither the name nor the address or telephone number of a
3 program participant shall be included in any list of
4 registered voters available to the public.

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

9 (a) If requested by a law enforcement agency, to the
10 law enforcement agency.

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

13 Section 7. Section 741.407, Florida Statutes, is
14 created to read:

15 741.407 Disclosure of address prohibited;
16 exceptions.--The Attorney General may not make a program
17 participant's name, address, other than the address designated
18 by the Attorney General, or telephone number available for
19 inspection or copying, except under the following
20 circumstances:

21 (1) If requested by a law enforcement agency, to the
22 law enforcement agency.

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

25 (3) If certification has been canceled.

26
27 The Attorney General immediately shall provide written
28 notification of disclosure to a program participant when a
29 disclosure takes place in one of the instances described in
30 this section.

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1 Section 8. Section 741.408, Florida Statutes, is
2 created to read:
3 741.408 Assistance for program applicants.--The
4 Attorney General shall designate state and local agencies and
5 nonprofit agencies that provide counseling and shelter
6 services to victims of domestic violence to assist persons
7 applying to be program participants. Any assistance and
8 counseling rendered by the Office of the Attorney General or
9 its designees to applicants shall in no way be construed as
10 legal advice.

11 Section 9. Section 741.409, Florida Statutes, is
12 created to read:
13 741.409 Adoption of rules.--The Attorney General may
14 adopt rules to facilitate the administration of this chapter
15 by state and local agencies and other governmental entities.

16 Section 10. This act shall take effect October 1,
17 1997.

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