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SENATE BILL NO. 938

Senate Amendments in [] — January 29, 2007

A *BILL to amend and reenact § 2.2-515.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-515.2, relating to address confidentiality for victims of domestic violence.*

Patrons Prior to Engrossment—Senators Ticer, Howell and Puller; Delegates: Albo, Amundson, Bulova, Caputo, Marsden, Moran, Plum, Scott, J.M. and Watts

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-515.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-515.2 as follows:

§ 2.2-515.1. Statewide Facilitator for Victims of Domestic Violence.

The Attorney General shall establish a Statewide Facilitator for Victims of Domestic Violence within the Office of the Attorney General. The Statewide Facilitator shall have the responsibility to (i) *establish an address confidentiality program in accordance with § 2.2-515.2*, (ii) assist agencies in implementing domestic violence programs, and (iii) report on the status of such programs to the House Committee on Courts of Justice and the Senate Committee on Courts of Justice and the Virginia State Crime Commission by January 1 of each year.

§ 2.2-515.2. *Address confidentiality program established; victims of domestic violence; application; disclosure of records.*

A. *As used in this section:*

"Address" means a residential street address, school address, or work address of a person as specified on the person's application to be a program participant.

"Applicant" means a person who is a victim of domestic violence or is a parent or guardian of a minor child or incapacitated person.

"Domestic violence" means an act as defined in § 38.2-508 and includes threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law-enforcement officers.

"Program participant" means a person certified by the Attorney General as eligible to participate in the Address Confidentiality Program.

B. The Statewide Facilitator for Victims of Domestic Violence in the Office of the Attorney General shall establish a program to be known as the "Address Confidentiality Program" to protect victims of domestic violence by authorizing the use of designated addresses for such victims. Any person 18 years of age or older, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person may apply to the Attorney General to have an address designated by the Attorney General as the applicant's address. The Attorney General shall approve an application if it is filed in the manner and on the form prescribed by the Attorney General and if it contains:

1. A sworn statement by the applicant that the applicant has good reason to believe that:

a. The applicant is a victim of domestic violence; and

b. The applicant fears further violent acts from the applicant's assailant;

2. A designation of the Attorney General as agent for the purpose of receiving mail on behalf of the applicant;

3. The mailing address where the applicant can be contacted by the Attorney General and a telephone number where the applicant can be called;

4. The new address or addresses that the applicant requests not be disclosed because of the increased risk of domestic violence; and

5. The signature of the applicant and any person who assisted in the preparation of the application and the date.

C. Upon approval of a completed application, the Attorney General shall certify the applicant as a program participant. An applicant shall be certified for four years following the date of filing, unless the certification is withdrawn or invalidated before that date. A program participant may apply to be recertified every four years thereafter and may use the address designated by the Attorney General as his work address.

D. Upon receipt of first-class mail addressed to a program participant, the Attorney General or his designee shall forward the mail to the actual address of the program participant. The Attorney General may arrange to receive and forward other kinds and classes of mail for any program participant at the

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58 participant's expense. The actual address of a program participant shall be available only to the
59 Attorney General and to those employees involved in the operation of the Address Confidentiality
60 Program and to law-enforcement officers for law-enforcement purposes.

61 E. The Attorney General may cancel a program participant's certification if:

62 1. The program participant requests withdrawal from the program;

63 2. The program participant obtains a name change through an order of the court;

64 3. The program participant changes his residence address and does not provide seven days' notice to
65 the Attorney General prior to the change of address;

66 4. The mail forwarded by the Attorney General to the address or addresses provided by the program
67 participant is returned as undeliverable; or

68 5. Any information contained in the application is false.

69 The application form shall contain a statement notifying each applicant of the provisions of this
70 subsection.

71 F. A program participant may request that any state or local agency use the address designated by
72 the Attorney General as the program participant's address. The agency shall accept the address
73 designated by the Attorney General as a program participant's address, unless the agency has
74 demonstrated to the satisfaction of the Attorney General that:

75 1. The agency has a bona fide statutory basis for requiring the program participant to disclose to it
76 the actual location of the program participant; and

77 2. The disclosed confidential address of the program participant will be used only for that statutory
78 purpose and will not be disclosed or made available in any way to any other person or agency.

79 Any state or local agency that discloses the program participant's confidential address provided by
80 the Attorney General pursuant to this subsection shall be immune from civil liability unless the agency
81 acted with gross negligence or willful misconduct.

82 G. Records submitted to or provided by the Attorney General in accordance with this section shall
83 be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) to the
84 extent such records contain information identifying a past or current program participant, including
85 such person's name, actual and designated address, telephone number, and any email address. However,
86 access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of a
87 program participant in cases where the program participant is a minor child or an incapacitated person
88 [except when the parent or legal guardian is named as the program participant's assailant] .