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HOUSE BILL NO. 2217

House Amendments in [] — February 6, 2017

A BILL to amend and reenact § 2.2-515.2 of the Code of Virginia, relating to address confidentiality program; victims of sexual violence and human trafficking.

Patron Prior to Engrossment — Delegate Toscano

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-515.2 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-515.2. Address confidentiality program established; victims of domestic violence, stalking, sexual violence, or human trafficking; 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, stalking, or sexual violence or is a parent or guardian of a minor child or incapacitated person who is the victim of domestic violence or, stalking, or sexual violence.

"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. Such threat must be a threat of force which would place any person in reasonable apprehension of death or bodily injury.

~~"Domestic violence programs" means public and not-for-profit agencies the primary mission of which is to provide services to victims of sexual or domestic violence or stalking.~~

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

~~"Sexual or domestic violence programs" means public and not-for-profit agencies the primary mission of which is to provide services to victims of sexual or domestic violence, [stalking, or human trafficking, or stalking. Such programs may also include specialized services for victims of human trafficking.]~~

~~"Sexual violence" means conduct that is prohibited under clause (ii), (iii), (iv), or (v) of § 18.2-48, or § 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.5, 18.2-348, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, or 18.2-368, regardless of whether the conduct has been reported to a law-enforcement officer or the assailant has been charged with or convicted of the alleged violation.~~

"Stalking" means conduct that is prohibited under § 18.2-60.3, regardless of whether the conduct has been reported to a law-enforcement officer or the assailant has been charged with or convicted for the alleged violation.

B. The Statewide Facilitator for Victims of Domestic Violence shall establish a program to be known as the "Address Confidentiality Program" to protect victims of domestic violence and, stalking, or sexual violence by authorizing the use of designated addresses for such victims. An individual who is at least 18 years of age, a parent or guardian acting on behalf of a minor, a guardian acting on behalf of an incapacitated person, or an emancipated minor may apply in person; at (i) sexual or domestic violence programs that provide services where the role of the services provider is (i) to have been accredited by the Virginia Sexual [and Domestic] Violence Program Professional Standards Committee established pursuant to § 9.1-116.3 and are qualified to (a) assist the eligible person in determining whether the address confidentiality program should be part of such person's overall safety plan; (ii) to, (b) explain the address confidentiality program services and limitations; (iii) to, (c) explain the program participant's responsibilities; and (iv) to, (d) assist the person eligible for participation with the completion of application materials or (ii) crime victim and witness assistance programs. The Office of 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 the application contains the following:

1. A sworn statement by the applicant declaring to be true and correct under penalty of perjury that the applicant has good reason to believe that:

a. The applicant, or the minor or incapacitated individual on whose behalf the application is made, is a victim of domestic violence or stalking;

b. The applicant fears further violent acts or acts of violence, stalking, retribution, or intimidation from the applicant's assailant, abuser, or trafficker; and

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59 c. The applicant is not on active parole or probation supervision requirements under federal, state, or
60 local law.

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

63 3. The applicant's actual address to which mail can be forwarded and a telephone number where the
64 applicant can be called;

65 4. A listing of any minor children residing at the applicant's actual address, each minor child's date
66 of birth, and each minor child's relationship to the applicant; and

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

69 C. Upon approval of a completed application, the Office of the Attorney General shall certify the
70 applicant as a program participant. An applicant shall be certified for ~~one year~~ *three years* following the
71 date of the approval, unless the certification is withdrawn or invalidated before that date. A program
72 participant may apply to be recertified every ~~year~~ *three years*.

73 D. Upon receipt of first-class mail addressed to a program participant, the Attorney General or his
74 designee shall forward the mail to the actual address of the program participant. The actual address of a
75 program participant shall be available only to the Attorney General and to those employees involved in
76 the operation of the Address Confidentiality Program and to law-enforcement officers. A program
77 participant's actual address may be entered into the Virginia Criminal Information Network (VCIN)
78 system so that it may be made known to law-enforcement officers accessing the VCIN system for
79 law-enforcement purposes.

80 E. The Office of the Attorney General may cancel a program participant's certification if:

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

82 2. The program participant obtains a name change through an order of the court and does not
83 provide notice and a copy of the order to the Office of the Attorney General within seven days after
84 entry of the order;

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

87 4. The mail forwarded by the Office of the Attorney General to the address provided by the program
88 participant is returned as undeliverable;

89 5. Any information contained in the application is false;

90 6. The program participant has been placed on parole or probation while a participant in the address
91 confidentiality program; or

92 7. The applicant is required to register as a sex offender pursuant to Chapter 9 (§ 9.1-900 et seq.) of
93 Title 9.1.

94 For purposes of the address confidentiality program, residents of temporary housing for 30 days or
95 less are not eligible to enroll in the address confidentiality program until a permanent residential address
96 is obtained.

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

99 F. A program participant may request that any state or local agency use the address designated by
100 the Office of the Attorney General as the program participant's address, except when the program
101 participant is purchasing a firearm from a dealer in firearms. The agency shall accept the address
102 designated by the Office of the Attorney General as a program participant's address, unless the agency
103 has received a written exemption from the Office of the Attorney General demonstrating to the
104 satisfaction of the Attorney General that:

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

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

109 A state agency may request an exemption by providing in writing to the Office of the Attorney
110 General identification of the statute or administrative rule that demonstrates the agency's bona fide
111 requirement and authority for the use of the actual address of an individual. A request for a waiver from
112 an agency may be for an individual program participant, a class of program participants, or all program
113 participants. The denial of an agency's exemption request shall be in writing and include a statement of
114 the specific reasons for the denial. Acceptance or denial of an agency's exemption request shall
115 constitute final agency action.

116 Any state or local agency that discloses the program participant's confidential address provided by
117 the Office of the Attorney General shall be immune from civil liability unless the agency acted with
118 gross negligence or willful misconduct.

119 A program participant's actual address shall be disclosed pursuant to a court order.

120 G. Records submitted to or provided by the Office of the Attorney General in accordance with this

121 section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et
122 seq.) to the extent such records contain information identifying a past or current program participant,
123 including such person's name, actual and designated address, telephone number, and any email address.
124 However, access shall not be denied to the person who is the subject thereof, or the parent or legal
125 guardian of a program participant in cases where the program participant is a minor child or an
126 incapacitated person, except when the parent or legal guardian is named as the program participant's
127 assailant.

128 H. Neither the Office of the Attorney General, its officers or employees, or others who have a
129 responsibility to a program participant under this section shall have any liability nor shall any cause of
130 action arise against them in their official or personal capacity from the failure of a program participant
131 to receive any first class mail forwarded to him by the Office of the Attorney General pursuant to this
132 section. Nor shall any such liability or cause of action arise from the failure of a program participant to
133 timely receive any first class mail forwarded by the Office of the Attorney General pursuant to this
134 section.

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