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HOUSE BILL NO. 942

Offered January 10, 2018

Prefiled January 9, 2018

A BILL to amend and reenact § 2.2-515.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 55-106.6, relating to Address Confidentiality Program; real property records.

 Patron—Lopez

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-515.2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 55-106.6 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, stalking, or sexual violence or is a parent or guardian of a minor child or incapacitated person who is the victim of domestic violence, 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.

"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, 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, 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 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, (b) explain the address confidentiality program services and limitations, (c) explain the program participant's responsibilities, and, (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, sexual violence, or stalking;

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

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

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59 local law.

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

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

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

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

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70 the approval, unless the certification is withdrawn or invalidated before that date.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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

119 G. *A program participant may notify the circuit court of any county or city, or the clerk of any such*
120 *court, or his duly qualified deputy, not to disclose the program participant's identifying information,*

including the participant's actual address, in conjunction with real property records identified by the program participant in the request. Upon receipt of such notification, the circuit court, or the clerk of any such court, or his duly qualified deputy, shall not disclose the program participant's identifying information unless:

1. The program participant has consented, in writing, to the sharing or dissemination of the information for a specific purpose;

2. The information is subject to sharing or dissemination pursuant to a court order; or

3. There is a bona fide request for a title examination that includes (i) the name, title, address, and affiliated organization, if applicable, of the person requesting the data; (ii) the purpose for requesting the data; (iii) the requestor's relationship, if any, to the program participant subject to the data; and (iv) the legal description of the property subject to the title examination.

A circuit court in receipt of a bona fide request for a title examination of an address protected under this section shall submit a request for an exemption, including the reason for the exemption and the information provided in the request for a title examination, to the Office of the Attorney General. The Office of the Attorney General shall provide notice in writing to the circuit court of acceptance or denial of the request for an exemption. If the circuit court receives notice from the Office of the Attorney General that the request for an exemption is approved, the circuit court shall provide the identifying information solely for the purposes of the title examination. If the circuit court receives notice from the Office of the Attorney General that the request for an exemption is denied, the circuit court shall not disclose the program participant's identifying information pursuant to this section.

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

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

§ 55-106.6. Real property records of Address Confidentiality Program participants.

The clerk of each circuit court of any county or city shall establish procedures for recording or filing real property documents in compliance with § 2.2-515.2.