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## SENATE BILL NO. 764

Offered January 18, 2008

A BILL to amend and reenact §§ 2.2-515.1 and 2.2-515.2 of the Code of Virginia, relating to victims of domestic violence.

Patrons—Ticer, Locke, Lucas, Puller and Whipple

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-515.1 and 2.2-515.2 of the Code of Virginia are amended and reenacted 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 who is the victim of domestic 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 service provider" means a public or private non-profit agency that provides counseling, referral, shelter or other services to victims of domestic violence.

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

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 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 a domestic violence service provider in the localities described in subsection H. The role of the domestic victim services provider is (a) assist the eligible person in determining whether the address confidentiality program should be part of such person's overall safety plan; (b) to explain the address confidentiality program services and limitations; (d) to explain the program participant's responsibilities; and (e) to assist the person eligible for participation with the completion of application materials. ~~to the Office of the Attorney General to have an address designated by the Office of the Attorney General as the applicant's address.~~ 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 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; ~~and~~

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

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

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

3. *The applicant's actual address to which mail can be forwarded* ~~mailing address where the applicant can be contacted by the Office of the Attorney General~~ and a telephone number where the applicant can be called;

4. *A listing of any minor children residing at the Actual Address, each minor child's date of birth minor and each minor child's relationship to the applicant; and*

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

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

63 C. Upon approval of a completed application, the Office of the Attorney General shall certify the  
64 applicant as a program participant. An applicant shall be certified for one year following the date of the  
65 institution of the program, unless the certification is withdrawn or invalidated before that date. A  
66 program participant may apply to be recertified every year.

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

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

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

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

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

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

81 5. *For purpose of the address confidentiality program, residents of temporary housing (30 days or*  
82 *less), such as domestic violence shelter, are not eligible to enroll in the address confidentiality program*  
83 *until a permanent, residential address is obtained; or*

84 5 6. Any information contained in the application is false;

85 7. *The program participant has been placed on parole and/or probation while a participant in*  
86 *the address confidentiality program; and*

87 8. *The applicant is required to register as a Sex Offender pursuant to Chapter 9 (§ 9.1-900 et seq.)*  
88 *of Title 9.1; and*

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

91 F. A program participant may request that any state or local agency use the address designated by  
92 the Office of the Attorney General as the program participant's address, *except when the program*  
93 *participant is applying for a handgun permit and purchasing a firearm from a gun dealership.* The  
94 agency shall accept the address designated by the Office of the Attorney General as a program  
95 participant's address, unless the agency has *received a written exemption from the Office of the Attorney*  
96 *General demonstrating demonstrated* to the satisfaction of the Attorney General that:

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

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

101 3. *A state agency may request an exemption by providing in writing to the Office of the Attorney*  
102 *General Office, identification of the statute or administrative rule which demonstrates the agency's bona*  
103 *fide requirement and authority for the use of the actual address of an individual and the information*  
104 *required. A request for a waiver from an agency may be for an individual program participant, for a*  
105 *class of program participants or for all program participants. The denial of an agency's waiver request*  
106 *must be made in writing and include a statement of specific reasons for denial. Acceptance or denial of*  
107 *an agency's waiver request shall constitute final agency action.*

108 4. *A program participant actual address shall be disclosed pursuant to a court order.*

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

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

120 H. 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.

*Any person who attests falsely and willfully in an application that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant or the minor or incapacitated person on whose behalf the application is made, or who willfully provides false or incorrect information upon making an application, may be found guilty of perjury pursuant to § 18.2-434.*

*2. That the provisions of this act shall be continued within the County of Arlington and expanded to Albemarle County, Charlottesville, Roanoke (City), Henry County, Martinsville, Norfolk, Fairfax County, Scott County, Lee County, Dickenson County, Wise County, Washington County, and Russell County and implemented solely in these cities and counties. An evaluation of the program shall be prepared by the Office of the Attorney General and the results forwarded to the members of the Senate Committee on General Laws and the House Committee on General Laws by December 31, 2009, 2010.*

*3. That following the evaluation of the program by the Office of the Attorney General in accordance with the third enactment of this act, the continuation of the address confidentiality program on a statewide basis shall be conditioned upon an appropriation effectuating the purposes of this act in the appropriation act passed during the 2010 2011 Session of the General Assembly and signed into law by the Governor.*