

## CHAPTER 98-404

### Committee Substitute for Committee Substitute for House Bill No. 1637

An act relating to confidentiality of identifying information regarding domestic violence victims; creating s. 741.401, F.S.; providing legislative findings and purpose; creating s. 741.402, F.S.; providing definitions; creating s. 741.403, F.S.; providing for creation of the Address Confidentiality Program for Victims of Domestic Violence; providing for certification by the Attorney General of applicants to participate in the program; defining the offense of falsely attesting or knowingly providing false or incorrect information in such program application, and providing penalties therefor; defining the offense of attempting to gain access to a program participant's actual address through fraud, and providing penalties therefor; creating s. 741.404, F.S.; providing for certification cancellation; creating s. 741.405, F.S.; providing authority of state and local agencies and other governmental entities and guidelines relating to use of designated address; creating s. 741.406, F.S.; providing for voting by program participants in the same manner as for absentee voters; prohibiting the supervisor of elections from disclosing certain information except under specified circumstances; providing for appeal by agency of requested waiver; creating s. 741.407, F.S.; prohibiting disclosure of addresses and certain information, except under specified circumstances; requiring immediate written notification by the Attorney General to a program participant with respect to certain disclosure of information; creating s. 741.408, F.S.; providing for certain assistance for program applicants; creating s. 741.409, F.S.; providing for adoption of rules; providing for limitations on an appropriation to fund the program; specifying the maximum percentage for an increase in the general appropriation for subsequent years; providing for the Attorney General to seek other funds; providing an effective date.

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

Section 1. Section 741.401, Florida Statutes, is created to read:

741.401 Legislative findings; purpose.—The Legislature finds that persons attempting to escape from actual or threatened domestic violence frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of ss. 741.401-741.409 is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, to enable interagency cooperation with the Attorney General in providing address confidentiality for victims of domestic violence, and to enable state and local agencies to accept a program participant's use of an address designated by the Attorney General as a substitute mailing address.

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

741.402 Definitions.—Unless the context clearly requires otherwise, as used in ss. 741.401-741.409, the term:

(1) “Address” means a residential street address, school address, or work address of an individual, as specified on the individual’s application to be a program participant under ss. 741.401-741.409.

(2) “Program participant” means a person certified as a program participant under s. 741.403.

(3) “Domestic violence” means an act as defined in s. 741.28 and includes a 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.

Section 3. Section 741.403, Florida Statutes, is created to read:

741.403 Address confidentiality program; application; certification.—

(1) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of a person adjudicated incapacitated under chapter 744 may apply to the Attorney General to have an address designated by the Attorney General serve as the person’s address or the address of the minor or incapacitated person. To the extent possible within funds appropriated for this purpose, 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 all of the following:

(a) A sworn statement by the applicant that the applicant has good reason to believe that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, and that the applicant fears for his or her safety or his or her children’s safety or the safety of the minor or incapacitated person on whose behalf the application is made.

(b) A designation of the Attorney General as agent for purposes of service of process and for the purpose of receipt of mail.

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

(d) A statement that the new address or addresses that the applicant requests must not be disclosed for the reason that disclosure will increase the risk of domestic violence.

(e) The signature of the applicant and of any individual or representative of any office designated in writing under s. 741.408 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications must be filed with the Office of the Attorney General. An application fee may not be charged.

(3) Upon filing a properly completed application, the Attorney General shall certify the applicant as a program participant. Applicants shall be certified for 4 years following the date of filing unless the certification is withdrawn or invalidated before that date. The Attorney General shall by rule establish a renewal procedure.

(4) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) Any person who attempts to gain access to a program participant's actual address through fraud commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) Any person who knowingly enters the address confidentiality program to evade prosecution of criminal laws or civil liability commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. Section 741.404, Florida Statutes, is created to read:

741.404 Certification cancellation.—

(1) If the program participant obtains a name change, he or she loses certification as a program participant.

(2) The Attorney General may cancel a program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant provides the Attorney General with 14 days' prior notice of the change of address.

(3) The Attorney General may cancel certification of a program participant if mail forwarded by the Attorney General to the program participant's address is returned and is undeliverable or if service of process documents are returned to the Attorney General.

(4) The Attorney General shall cancel certification of a program participant who applies using false information.

Section 5. Section 741.405, Florida Statutes, is created to read:

741.405 Agency use of designated address.—

(1) A program participant may request that state and local agencies or other governmental entities use the address designated by the Attorney General as his or her address. When creating a new public record, state and local agencies or other governmental entities shall accept the address desig-

nated by the Attorney General as a program participant's substitute address, unless the Attorney General has determined that:

(a) The agency or entity has a bona fide statutory or administrative requirement for the use of the address that would otherwise be confidential under ss. 741.401-741.409;

(b) This address will be used only for those statutory and administrative purposes;

(c) The agency or entity has identified the specific program participant's record for which the waiver is requested;

(d) The agency or entity has identified the individuals who will have access to the record; and

(e) The agency or entity has explained how its acceptance of a substitute address will prevent the agency from meeting its obligations under the law and why it cannot meet its statutory or administrative obligation by a change in its internal procedures.

(3) During the review, evaluation, and appeal of an agency's request, the agency shall accept the use of a program participant's substitute address.

(4) The Attorney General's determination to grant or withhold a requested waiver must be based on, but not limited to, an evaluation of information provided under subsection (1).

(5) If the Attorney General determines that an agency or entity has a bona fide statutory or administrative need for the actual address and that the information will be used only for that purpose, the Attorney General may issue the actual address to the agency or entity. When granting a waiver, the Attorney General shall notify and require the agency or entity to:

(a) Maintain the confidentiality of a program participant's address information;

(b) Limit the use of and access to that address;

(c) Designate an address disposition date after which the agency or entity may no longer maintain the record of the address; and

(d) Comply with any other provisions and qualifications determined appropriate by the Attorney General.

(6) The Attorney General's denial of an agency's or entity's waiver request must be made in writing and include a statement of specific reasons for denial. Acceptance or denial of an agency's or entity's waiver request shall constitute final agency action.

(7) Pursuant to chapter 120, an agency or entity may appeal the denial of its request.

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

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

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

741.406 Voting by program participant; use of designated address by supervisor of elections.—

(1) A program participant who is otherwise qualified to vote may request an absentee ballot pursuant to s. 101.62. The program participant shall automatically receive absentee ballots for all elections in the jurisdictions in which that individual resides in the same manner as absentee voters. The supervisor of elections shall transmit the absentee ballot to the program participant at the address designated by the participant in his or her application as an absentee voter. The name, address, and telephone number of a program participant may not be included in any list of registered voters available to the public.

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

(a) To a law enforcement agency for purposes of assisting in the execution of an arrest warrant.

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

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

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

(1) To a law enforcement agency for purposes of assisting in the execution of an arrest warrant.

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

(3) If certification has been canceled.

The Attorney General shall provide immediate written notification of disclosure to a program participant when a disclosure takes place in one of the instances described in subsection (2) or subsection (3).

Section 8. Section 741.408, Florida Statutes, is created to read:

741.408 Assistance for program applicants.—The Attorney General shall designate state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of domestic violence to assist persons applying to be program participants. Assistance and counseling rendered by the Office of the Attorney General or its designees to applicants does not constitute legal advice.

Section 9. Section 741.409, Florida Statutes, is created to read:

741.409 Adoption of rules.—The Attorney General may adopt rules to facilitate the administration of this chapter by state and local agencies and other governmental entities.

Section 10. This program may be implemented only to the extent that it is funded by the Legislature. A general revenue appropriation may not exceed \$150,000 for fiscal year 1998-1999. For fiscal years 1990-2000 and 2000-2001, any general revenue appropriation for this program may not be greater than the total of the initial funding and an increase of 5 percent of the allocation from the previous year. This provision in no way prohibits the Attorney General from seeking federal funds, grants, or donations to implement or to expand this program.

Section 11. This act shall take effect October 1, 1998.

Approved by the Governor June 11, 1998.

Filed in Office Secretary of State June 11, 1998.