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SENATE BILL NO. 1092

Offered January 8, 2025

Prefiled January 7, 2025

A BILL to amend and reenact § 2.2-515.2 of the Code of Virginia, relating to Department of Law; Address Confidentiality Program; removal of Program participant; penalty.

Patron—Jordan

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 as follows:****§ 2.2-515.2. Address Confidentiality Program established; victims of domestic violence, stalking, child abduction, human trafficking, or sexual 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~~ Program participant.

"Agency" means each component part of the legislative, executive, or judicial branches of state and local government, including each office, department, authority, post, commission, or committee and each institution or board created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or duties.

"Applicant" means a person who is a victim of ~~domestic violence, stalking, child abduction, or sexual violence~~ a covered offense or is a parent or guardian of a minor child or incapacitated person who is the victim of ~~domestic violence, stalking, child abduction, or sexual violence~~ a covered offense or is a covered employee.

"Child abduction" means conduct that is prohibited under § 18.2-47, 18.2-48, 18.2-48.1, or 18.2-49 when such prohibited conduct is committed against a minor.

"Covered employee" means an individual, including a volunteer, who provides services at an organization whose primary purpose is serving victims of a covered offense.

"Covered offense" means domestic violence, stalking, child abduction, human trafficking, 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.

"Human trafficking" means conduct that is prohibited under § 18.2-47, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-356.1, 18.2-357, or 18.2-357.1, 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.

"Program" means the Address Confidentiality Program established in this section.

"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, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1~~ 18.2-361, 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, child abduction, human trafficking, or sexual violence by authorizing the use of designated addresses for such victims or covered employees. ~~And~~ To apply for the Program pursuant to this subsection, 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~~ shall apply in person at (i) sexual or domestic violence programs that

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SB1092

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~~ *Program* should be part of such person's overall safety plan, (b) explain the ~~address confidentiality program~~ *Program* services and limitations, (c) explain the ~~program~~ *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. *A covered employee may apply directly with the Office of the Attorney General.* 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, stalking, child abduction, *human trafficking*, or sexual violence;

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 local law; ~~and~~

d. *The applicant is not currently on bond with requirements to report physical address to the courts;*

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 and a telephone number where the applicant can be called;

4. A listing of any minor children residing at the applicant's actual address, each minor child's date of birth, and each minor child's relationship to the applicant; 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 Office of the Attorney General shall certify the applicant as a ~~program~~ *Program* participant. An applicant shall be certified for three years following the date of the approval, unless the certification is withdrawn or invalidated before that date. A ~~program~~ *Program* participant may apply to be recertified every three years.

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

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

1. The ~~program~~ *Program* participant requests withdrawal from the ~~program~~ *Program*;

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

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

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

5. Any information contained in the application is false;

6. The ~~program~~ *Program* participant has been placed on parole or probation while a participant in the ~~address confidentiality program~~ *Program*; ~~or~~

7. The applicant is required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;

8. *The Program participant for whom the application was filed has reached the age of 18, is not incapacitated, and has not submitted recertification for participation in the Program within 60 days of his eighteenth birthday; or*

9. *The Program participant initiates any legal action against the Office of the Attorney General.*

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

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

F. A ~~program~~ *Program* participant may request that any state or local agency use the address designated

by the Office of the Attorney General as the ~~program~~ Program participant's address, except when the ~~program~~ Program participant is purchasing a firearm from a dealer in firearms. The agency shall accept the address designated by the Office of the Attorney General as a ~~program~~ Program participant's address, unless the agency has received a written exemption from the Office of the Attorney General demonstrating to the satisfaction of the Attorney General that:

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

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

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

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

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

G. 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~~ 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~~ Program participant in cases where the ~~program~~ Program participant is a minor child or an incapacitated person, except when the parent or legal guardian is named as the ~~program~~ Program participant's assailant.

H. Neither the Office of the Attorney General, its officers or employees, or others who have a responsibility to a ~~program~~ 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~~ Program participant to receive any ~~first class~~ 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~~ Program participant to timely receive any ~~first class~~ first-class mail forwarded by the Office of the Attorney General pursuant to this section.

I. 1. Notwithstanding any other provision of law, participation in the Program shall not affect custody or visitation orders in effect prior to or during Program participation.

2. Program participation does not constitute evidence of domestic abuse, stalking, human trafficking, or any sexual offense and shall not be considered for purposes of making an order allocating parental responsibilities or parenting time, except that a court may consider practical measures to keep a Program participant's confidential address confidential when making an order allocating parental responsibilities or parenting time.

J. Any individual who knowingly discloses or publishes a Program participant's confidential address, or any other confidential information belonging to a Program participant, with intent to coerce, intimidate, or harass the Program participant or any other person commits a violation of § 18.2-186.4.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.