

AMENDED IN SENATE APRIL 28, 2009

AMENDED IN SENATE APRIL 15, 2009

AMENDED IN SENATE APRIL 1, 2009

SENATE BILL

No. 748

Introduced by Senator Leno

February 27, 2009

An act to add Section 14029.5 to the Penal Code, relating to witness relocation and assistance.

LEGISLATIVE COUNSEL'S DIGEST

SB 748, as amended, Leno. Witness Relocation and Assistance Program: address records.

Existing law establishes the Witness Relocation and Assistance Program.

This bill would provide that no person, state, or local public agency, or private entity shall knowingly post the home address or, the telephone number, or *personal identifying information that discloses the location* of any witness or witness family member participating in the Witness Relocation and Assistance Program (WRAP) *with the intent that another person imminently use that information to commit a crime involving violence or a threat of violence against that witness or witness' family member*, and that a violation of these provisions would be a misdemeanor punishable by a fine of up to \$2,500, or up to 6 months in a county jail, or by both that fine and imprisonment. The bill would also provide that a violation that leads to the bodily injury of the witness, or the witness' family members who are participating in the program, is a misdemeanor punishable by a fine of up to \$5,000, or up to one year in a county jail, or by both that fine and imprisonment. The bill

would authorize participants in the program to submit opt-out forms to Internet search engine providers to notify those providers of the participants, and to prevent inclusion of the participants addresses and telephone numbers in public Internet search databases, as specified. The bill would require a business, state or local agency, private entity, or person to remove the home address or telephone number of a WRAP participant from its public Internet search databases upon receipt of the opt-out form, and the failure to do so would be subject to a \$5,000 civil fine, as specified. The bill would authorize a witness whose home address or telephone number is made public as a result of a violation, as specified, to bring an action seeking injunctive or declaratory relief. The bill would further provide that no person, business, or association *that has received an opt-out form from WRAP participant* shall solicit, sell, or trade on the Internet the home address or telephone number of ~~a witness, as specified~~ *that participant*, and would authorize an action for damages, as specified, for a violation of this prohibition.

By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14029.5 is added to the Penal Code, to
2 read:
3 14029.5. (a) (1) No person or private entity shall post on the
4 Internet ~~with the intent to cause bodily harm~~, the home address,
5 the telephone number, or personal identifying information ~~intended~~
6 ~~to disclose that discloses~~ the location of any witness or witness'
7 family member participating in the California Witness Relocation
8 and Assistance Program (WRAP) *with the intent that another*
9 *person imminently use that information to commit a crime involving*
10 *violence or a threat of violence against that witness or witness'*
11 *family member.*

1 (2) A violation of this subdivision is a misdemeanor punishable
2 by a fine of up to two thousand five hundred dollars (\$2,500), or
3 imprisonment of up to six months in a county jail, or by both that
4 fine and imprisonment.

5 (3) A violation of this subdivision that leads to the bodily injury
6 of the witness, or of any of the witness' family members who are
7 participating in the program, is a misdemeanor punishable by a
8 fine of up to five thousand dollars (\$5,000), or imprisonment of
9 up to one year in a county jail, or by both that fine and
10 imprisonment.

11 (b) Upon admission to the WRAP program, local or state
12 prosecutors shall give each participant a written opt-out form for
13 submission to relevant Internet search engine companies or entities.
14 This form shall notify entities of the protected person and prevent
15 the inclusion of the participant's addresses and telephone numbers
16 in public Internet search databases.

17 (c) A business, state or local agency, private entity, or person
18 shall remove the home address and telephone number of a WRAP
19 participant from its public Internet search databases upon receipt
20 of the opt-out form. No person, business, or association *that has*
21 *received an opt-out form from a WRAP participant* shall solicit,
22 sell, or trade on the Internet the home address or telephone number
23 of a ~~WRAP~~ *that* participant.

24 (d) A person, business, or private entity that violates subdivision
25 (c) shall be subject to a civil penalty for each violation in the
26 amount of five thousand dollars (\$5,000). An action for a civil
27 penalty under this subdivision may be brought by any public
28 prosecutor in the name of the people of the State of California and
29 the penalty imposed shall be enforceable as a civil judgment.

30 (e) A witness whose home address or telephone number is made
31 public as a result of a violation of subdivision (c) may bring an
32 action seeking injunctive or declaratory relief in any court of
33 competent jurisdiction. If a jury or court finds that a violation has
34 occurred, it may grant injunctive or declaratory relief and shall
35 award the witness court costs and reasonable attorney's fees.

36 (f) Notwithstanding any other provision of law, a witness whose
37 home address or telephone number is solicited, sold, or traded in
38 violation of subdivision (c) may bring an action in any court of
39 competent jurisdiction. If a jury or court finds that a violation has
40 occurred, it shall award damages to that witness in an amount up

1 to a maximum of three times the actual damages, but in no case
2 less than four thousand dollars (\$4,000).

3 (g) Nothing in this section shall preclude prosecution under any
4 other provision of law.

5 SEC. 2. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.