

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 906

Introduced by Assembly Member Galgiani

February 17, 2011

An act to amend ~~Section 21000 of the Elections Code, relating to reapportionment~~ *Section 2166.5 of the Elections Code, and to amend Sections 6205, 6205.5, and 6206 of, and to amend the heading of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of, the Government Code, relating to protection of victims and witnesses.*

LEGISLATIVE COUNSEL'S DIGEST

AB 906, as amended, Galgiani. ~~Elections—reapportionment.~~ *Protection of victims and murder witnesses: address confidentiality.*

(1) Existing law authorizes victims of domestic violence, sexual assault, or stalking to complete an application in person at a community-based victims' assistance program to be approved by the Secretary of State for the purpose of enabling state and local agencies to respond to requests for public records without disclosing a program participant's residence address contained in any public record and otherwise provide for confidentiality of identity for that person, subject to specified conditions. Any person who makes a false statement in an application is guilty of a misdemeanor.

This bill would include witnesses who testified in a murder trial within these provisions. By including a new category of eligible persons, this bill would impose new duties on local public officials and expand the scope of an existing crime, thereby creating a state-mandated local program.

(2) *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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~Existing law requires the county elections official in each county to compile and make available to the Legislature, or an appropriate committee of the Legislature, information and statistics that may be necessary in connection with the reapportionment of legislative districts, as specified.~~

~~This bill would make nonsubstantive changes to that provision.~~

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

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

1 SECTION 1. *Section 2166.5 of the Elections Code is amended*
2 *to read:*

3 2166.5. (a) Any person filing with the county elections official
4 a new affidavit of registration or reregistration may have the
5 information relating to his or her residence address, telephone
6 number, and e-mail address appearing on the affidavit, or any list
7 or roster or index prepared therefrom, declared confidential upon
8 presentation of certification that the person is a participant in the
9 Address Confidentiality for Victims of Domestic Violence, Sexual
10 Assault, and Stalking, *and for Murder Witnesses* program pursuant
11 to Chapter 3.1 (commencing with Section 6205) of Division 7 of
12 Title 1 of the Government Code or a participant in the Address
13 Confidentiality for Reproductive Health Care Service Providers,
14 Employees, Volunteers, and Patients program pursuant to Chapter
15 3.2 (commencing with Section 6215) of that division.

16 (b) Any person granted confidentiality under subdivision (a)
17 shall:

18 (1) Be considered a vote by mail voter for all subsequent
19 elections or until the county elections official is notified otherwise

1 by the Secretary of State or in writing by the voter. A voter
2 requesting termination of vote by mail status thereby consents to
3 placement of his or her residence address, telephone number, and
4 e-mail address in the roster of voters.

5 (2) In addition to the required residence address, provide a valid
6 mailing address to be used in place of the residence address for
7 election, scholarly, or political research, and government purposes.
8 The elections official, in producing any list, roster, or index may,
9 at his or her choice, use the valid mailing address or the word
10 “confidential” or some similar designation in place of the residence
11 address.

12 (c) No action in negligence may be maintained against any
13 government entity or officer or employee thereof as a result of the
14 disclosure of the information that is the subject of this section
15 unless by a showing of gross negligence or willfulness.

16 (d) Subdivisions (a) and (b) shall not apply to any person granted
17 confidentiality upon receipt by the county elections official of a
18 written notice by the address confidentiality program manager of
19 the withdrawal, invalidation, expiration, or termination of the
20 program participant’s certification.

21 *SEC. 2. The heading of Chapter 3.1 (commencing with Section*
22 *6205) of Division 7 of Title 1 of the Government Code is amended*
23 *to read:*

24
25 CHAPTER 3.1. ADDRESS CONFIDENTIALITY FOR VICTIMS OF
26 DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING, AND FOR
27 MURDER WITNESSES
28

29 *SEC. 3. Section 6205 of the Government Code is amended to*
30 *read:*

31 6205. The Legislature finds that persons attempting to escape
32 from actual or threatened domestic violence, sexual assault, or
33 stalking, *or harm for testifying in a murder trial* frequently
34 establish new names or addresses in order to prevent their assailants
35 or probable assailants from finding them. The purpose of this
36 chapter is to enable state and local agencies to respond to requests
37 for public records without disclosing the changed name or location
38 of a victim of domestic violence, sexual assault, or stalking, *or of*
39 *a witness who testified in a murder trial* to enable interagency
40 cooperation with the Secretary of State in providing name and

1 address confidentiality for victims of domestic violence, sexual
2 assault, or stalking, *and for witnesses who testified in a murder*
3 *trial*, and to enable state and local agencies to accept a program
4 participant's use of an address designated by the Secretary of State
5 as a substitute mailing address.

6 *SEC. 4. Section 6205.5 of the Government Code is amended*
7 *to read:*

8 6205.5. Unless the context clearly requires otherwise, the
9 definitions in this section apply throughout this chapter.

10 (a) "Address" means a residential street address, school address,
11 or work address of an individual, as specified on the individual's
12 application to be a program participant under this chapter.

13 (b) "Domestic violence" means an act as defined in Section
14 6211 of the Family Code.

15 (c) "Program participant" means a person certified as a program
16 participant under Section 6206.

17 (d) "Sexual assault" means an act or attempt made punishable
18 by Section 220, 261, 261.5, 262, 264.1, 266c, 269, 285, 286, 288,
19 288.5, 288a, 289, or 647.6 of the Penal Code.

20 (e) "Stalking" means an act as defined in Section 646.9 of the
21 Penal Code.

22 (f) "*Murder witness*" means a witness who testified in a murder
23 trial.

24 *SEC. 5. Section 6206 of the Government Code is amended to*
25 *read:*

26 6206. (a) An adult person, a parent or guardian acting on behalf
27 of a minor, or a guardian acting on behalf of an incapacitated
28 person may apply to the Secretary of State to have an address
29 designated by the Secretary of State serve as the person's address
30 or the address of the minor or incapacitated person. An application
31 shall be completed in person at a community-based victims'
32 assistance program. The application process shall include a
33 requirement that the applicant shall meet with a victims' assistance
34 counselor and receive orientation information about the program.
35 The Secretary of State shall approve an application if it is filed in
36 the manner and on the form prescribed by the Secretary of State
37 and if it contains all of the following:

38 (1) A sworn statement by the applicant that the applicant has
39 good reason to believe both of the following:

1 (A) That the applicant, or the minor or incapacitated person on
2 whose behalf the application is made, is a victim of domestic
3 violence, sexual assault, or stalking, *or is a witness who testified*
4 *in a murder trial.*

5 (B) That the applicant fears for his or her safety or his or her
6 children's safety, or the safety of the minor or incapacitated person
7 on whose behalf the application is made.

8 (2) If the applicant alleges that the basis for the application is
9 that the applicant, or the minor or incapacitated person on whose
10 behalf the application is made, is a victim of domestic violence or
11 sexual assault, *or is a witness who testified in a murder trial*, the
12 application may be accompanied by evidence including, but not
13 limited to, any of the following:

14 (A) Police, court, or other government agency records or files.

15 (B) Documentation from a domestic violence or sexual assault
16 program if the person is alleged to be a victim of domestic violence
17 or sexual assault.

18 (C) Documentation from a legal, clerical, medical, or other
19 professional from whom the applicant or person on whose behalf
20 the application is made has sought assistance in dealing with the
21 alleged domestic violence or sexual assault *or possible harm for*
22 *testifying in a murder trial.*

23 (D) Any other evidence that supports the sworn statement, such
24 as a statement from any other individual with knowledge of the
25 circumstances that provides the basis for the claim, or physical
26 evidence of the act or acts of domestic violence or sexual assault.

27 (3) If the applicant alleges that the basis for the application is
28 that the applicant, or the minor or incapacitated person on whose
29 behalf the application is made, is a victim of stalking, the
30 application shall be accompanied by evidence including, but not
31 limited to, any of the following:

32 (A) Police, court, or other government agency records or files.

33 (B) Legal, clerical, medical, or other professional from whom
34 the applicant or person on whose behalf the application is made
35 has sought assistance in dealing with the alleged stalking.

36 (C) Any other evidence that supports the sworn statement, such
37 as a sworn statement from any other individual with knowledge
38 of the circumstances that provide the basis for the claim, or physical
39 evidence of the act or acts of stalking.

1 (4) A statement of whether there are any existing court orders
2 involving the applicant for child support, child custody, or child
3 visitation, and whether there are any active court actions involving
4 the applicant for child support, child custody, or child visitation,
5 the name and address of legal counsel of record, and the last known
6 address of the other parent or parents involved in those court orders
7 or court actions.

8 (5) A designation of the Secretary of State as agent for purposes
9 of service of process and for the purpose of receipt of mail.

10 (A) Service on the Secretary of State of any summons, writ,
11 notice, demand, or process shall be made by delivering to the
12 address confidentiality program personnel of the Office of the
13 Secretary of State two copies of the summons, writ, notice, demand,
14 or process.

15 (B) If a summons, writ, notice, demand, or process is served on
16 the Secretary of State, the Secretary of State shall immediately
17 cause a copy to be forwarded to the program participant at the
18 address shown on the records of the address confidentiality
19 program so that the summons, writ, notice, demand, or process is
20 received by the program participant within three days of the
21 Secretary of State's having received it.

22 (C) The Secretary of State shall keep a record of all summonses,
23 writs, notices, demands, and processes served upon the Secretary
24 of State under this section and shall record the time of that service
25 and the Secretary of State's action.

26 (D) The office of the Secretary of State and any agent or person
27 employed by the Secretary of State shall be held harmless from
28 any liability in any action brought by any person injured or harmed
29 as a result of the handling of first-class mail on behalf of program
30 participants.

31 (6) The mailing address where the applicant can be contacted
32 by the Secretary of State, and the phone number or numbers where
33 the applicant can be called by the Secretary of State.

34 (7) The address or addresses that the applicant requests not be
35 disclosed for the reason that disclosure will increase the risk *to the*
36 *applicant* of domestic violence, sexual assault, or stalking, *or the*
37 *risk of harm to a witness who testified in a murder trial*.

38 (8) The signature of the applicant and of any individual or
39 representative of any office designated in writing under Section

1 6208.5 who assisted in the preparation of the application, and the
2 date on which the applicant signed the application.

3 (b) Applications shall be filed with the office of the Secretary
4 of State.

5 (c) Upon filing a properly completed application, the Secretary
6 of State shall certify the applicant as a program participant.
7 Applicants shall be certified for four years following the date of
8 filing unless the certification is withdrawn or invalidated before
9 that date. The Secretary of State shall by rule establish a renewal
10 procedure.

11 (d) Upon certification, in any case where there are court orders
12 or court actions identified in paragraph (4) of subdivision (a) and
13 there is no other or superseding court order dictating the specific
14 terms of communication between the parties, the Secretary of State
15 shall, within 10 days, notify the other parent or parents of the
16 address designated by the Secretary of State for the program
17 participant and the designation of the Secretary of State as agent
18 for purposes of service of process. The notice shall be given by
19 mail, return receipt requested, postage prepaid, to the last known
20 address of the other parent to be notified. A copy shall also be sent
21 to that parent's counsel of record.

22 (e) A person who falsely attests in an application that disclosure
23 of the applicant's address would endanger the applicant's safety
24 or the safety of the applicant's children or the minor or
25 incapacitated person on whose behalf the application is made, or
26 who knowingly provides false or incorrect information upon
27 making an application, is guilty of a misdemeanor. A notice shall
28 be printed in bold type and in a conspicuous location on the face
29 of the application informing the applicant of the penalties under
30 this subdivision.

31 *SEC. 6. No reimbursement is required by this act pursuant to*
32 *Section 6 of Article XIII B of the California Constitution for certain*
33 *costs that may be incurred by a local agency or school district*
34 *because, in that regard, this act creates a new crime or infraction,*
35 *eliminates a crime or infraction, or changes the penalty for a crime*
36 *or infraction, within the meaning of Section 17556 of the*
37 *Government Code, or changes the definition of a crime within the*
38 *meaning of Section 6 of Article XIII B of the California*
39 *Constitution.*

1 *However, if the Commission on State Mandates determines that*
2 *this act contains other costs mandated by the state, reimbursement*
3 *to local agencies and school districts for those costs shall be made*
4 *pursuant to Part 7 (commencing with Section 17500) of Division*
5 *4 of Title 2 of the Government Code.*

6 SECTION 1. ~~Section 21000 of the Elections Code is amended~~
7 ~~to read:~~

8 ~~21000. The county elections official in each county shall~~
9 ~~compile and make available to the Legislature or any appropriate~~
10 ~~committee of the Legislature any information and statistics that~~
11 ~~may be necessary for use in connection with the reapportionment~~
12 ~~of legislative districts, including, but not limited to, precinct maps~~
13 ~~indicating the boundaries of municipalities, school districts, judicial~~
14 ~~districts, Assembly districts, senatorial districts and congressional~~
15 ~~districts, lists showing the election returns for each precinct, and~~
16 ~~election returns for each precinct reflecting the vote total for all~~
17 ~~ballots cast, including both vote by mail ballots and ballots cast at~~
18 ~~polling places, compiled pursuant to Section 15321 in the county~~
19 ~~at each statewide election. If the county elections official stores~~
20 ~~the information and statistics in data-processing files, he or she~~
21 ~~shall make the files available, along with whatever documentation~~
22 ~~is necessary to allow the use of the files by the appropriate~~
23 ~~committee of the Legislature and shall retain these files until the~~
24 ~~next reapportionment has been completed.~~

25 ~~Each precinct shall be identified according to the census tract~~
26 ~~or enumeration district in which it is located. When a precinct is~~
27 ~~divided among two or more census tracts or enumeration districts,~~
28 ~~the county elections official shall include an estimate of the~~
29 ~~proportion of the precinct's registered voters in each census tract~~
30 ~~or enumeration district. If the United States Census Bureau divides~~
31 ~~or alters any census tract or enumeration district between the time~~
32 ~~of an election and the census upon which the reapportionment is~~
33 ~~based, the county elections official shall provide whatever~~
34 ~~corrections or additional information may be necessary to reflect~~
35 ~~those changes.~~