

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

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 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. 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. The bill would provide that a witness who testified in a murder trial ~~who has a post office box designated as the address where he or she can be contacted shall be responsible for the cost of leasing~~

~~or renting the post office box would be charged a fee for enrolling in the program, and may be charged an annual fee, as specified, for participating in the program. The fee to enroll in the program and the annual fee to defray the costs of maintaining the program would not exceed the reasonable costs to the state.~~ 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.

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 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:

(1) Be considered a vote by mail voter for all subsequent elections or until the county elections official is notified otherwise by the Secretary of State or in writing by the voter. A voter requesting termination of vote by mail status thereby consents to placement of his or her residence address, telephone number, and e-mail address in the roster of voters.

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

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

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

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

CHAPTER 3.1. ADDRESS CONFIDENTIALITY FOR VICTIMS OF
DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING, AND FOR
MURDER WITNESSES

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

6205. The Legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, or stalking, or harm for testifying in a murder trial frequently establish new names or addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the changed name or location of a victim of domestic violence, sexual assault, or stalking, or of a

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

8 SEC. 4. Section 6205.5 of the Government Code is amended
9 to read:

10 6205.5. Unless the context clearly requires otherwise, the
11 definitions in this section apply throughout this chapter.

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

15 (b) "Domestic violence" means an act as defined in Section
16 6211 of the Family Code.

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

19 (d) "Sexual assault" means an act or attempt made punishable
20 by Section 220, 261, 261.5, 262, 264.1, 266c, 269, 285, 286, 288,
21 288.5, 288a, 289, or 647.6 of the Penal Code.

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

24 (f) "Murder witness" means a witness who testified in a murder
25 trial.

26 SEC. 5. Section 6206 of the Government Code is amended to
27 read:

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

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

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

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

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

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

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

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

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

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

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

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

38 (C) Any other evidence that supports the sworn statement, such
39 as a sworn statement from any other individual with knowledge

1 of the circumstances that provide the basis for the claim, or physical
2 evidence of the act or acts of stalking.

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

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

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

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

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

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

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

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

1 (8) The signature of the applicant and of any individual or
2 representative of any office designated in writing under Section
3 6208.5 who assisted in the preparation of the application, and the
4 date on which the applicant signed the application.

5 (b) Applications shall be filed with the office of the Secretary
6 of State.

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

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

24 ~~(e) If the applicant is a witness who testified in a murder trial,~~
25 ~~and the mailing address designated by the Secretary of State as~~
26 ~~the address where the applicant can be contacted is a post office~~
27 ~~box, the applicant shall be responsible for the cost of leasing or~~
28 ~~renting the post office box.~~

29 *(e) An application submitted by a witness who testified in a*
30 *murder trial shall be accompanied by payment of a fee to be*
31 *determined by the Secretary of State, which fee shall not exceed*
32 *the reasonable costs of enrolling the witness in the program. In*
33 *addition, an annual fee may also be assessed by the Secretary of*
34 *State for murder witnesses to defray the reasonable costs of*
35 *maintaining the program for the murder witness program*
36 *participants.*

37 (f) A person who falsely attests in an application that disclosure
38 of the applicant's address would endanger the applicant's safety
39 or the safety of the applicant's children or the minor or
40 incapacitated person on whose behalf the application is made, or

1 who knowingly provides false or incorrect information upon
2 making an application, is guilty of a misdemeanor. A notice shall
3 be printed in bold type and in a conspicuous location on the face
4 of the application informing the applicant of the penalties under
5 this subdivision.

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

15 However, if the Commission on State Mandates determines that
16 this act contains other costs mandated by the state, reimbursement
17 to local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.