

AMENDED IN SENATE JULY 6, 2011
AMENDED IN SENATE JUNE 20, 2011
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~~ 6206, *and* 6206.7 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. *Existing law allows the address confidentiality program manager to terminate a program participant's certification for, among other things, the participant's use of false information in the application process.*

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 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. The bill would require the applicant to provide a letter from the prosecuting attorney stating that the applicant was a witness in a murder trial and that the applicant's testimony was substantially related to the murder charge. The bill would provide that the decision of whether to provide the letter shall be within the discretion of the prosecuting attorney. *This bill would require the address confidentiality program manager to terminate the certification of a program participant who entered the program as a murder witness upon the participant's conviction of a misdemeanor or felony when the misdemeanor or felony was committed on or after the date of the participant's application to participate in the program.* 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:

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

(b) Any person granted confidentiality under subdivision (a) 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:

1 CHAPTER 3.1. ADDRESS CONFIDENTIALITY FOR VICTIMS OF
2 DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING, AND FOR
3 MURDER WITNESSES
4

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

7 6205. The Legislature finds that persons attempting to escape
8 from actual or threatened domestic violence, sexual assault, or
9 stalking, or harm for testifying in a murder trial frequently establish
10 new names or addresses in order to prevent their assailants or
11 probable assailants from finding them. The purpose of this chapter
12 is to enable state and local agencies to respond to requests for
13 public records without disclosing the changed name or location of
14 a victim of domestic violence, sexual assault, or stalking, or of a
15 witness who testified in a murder trial to enable interagency
16 cooperation with the Secretary of State in providing name and
17 address confidentiality for victims of domestic violence, sexual
18 assault, or stalking, and for witnesses who testified in a murder
19 trial, and to enable state and local agencies to accept a program
20 participant's use of an address designated by the Secretary of State
21 as a substitute mailing address.

22 SEC. 4. Section 6205.5 of the Government Code is amended
23 to read:

24 6205.5. Unless the context clearly requires otherwise, the
25 definitions in this section apply throughout this chapter.

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

29 (b) "Domestic violence" means an act as defined in Section
30 6211 of the Family Code.

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

33 (d) "Sexual assault" means an act or attempt made punishable
34 by Section 220, 261, 261.5, 262, 264.1, 266c, 269, 285, 286, 288,
35 288.5, 288a, 289, or 647.6 of the Penal Code.

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

38 (f) "Murder witness" means a witness who testified in a murder
39 trial.

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

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

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

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

(B) 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.

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

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

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

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

(D) Any other evidence that supports the sworn statement, such as a statement from any other individual with knowledge of the

1 circumstances that provides the basis for the claim, or physical
2 evidence of the act or acts of domestic violence or sexual assault.

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

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

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

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

16 (4) A statement of whether there are any existing court orders
17 involving the applicant for child support, child custody, or child
18 visitation, and whether there are any active court actions involving
19 the applicant for child support, child custody, or child visitation,
20 the name and address of legal counsel of record, and the last known
21 address of the other parent or parents involved in those court orders
22 or court actions.

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

25 (A) Service on the Secretary of State of any summons, writ,
26 notice, demand, or process shall be made by delivering to the
27 address confidentiality program personnel of the Office of the
28 Secretary of State two copies of the summons, writ, notice, demand,
29 or process.

30 (B) If a summons, writ, notice, demand, or process is served on
31 the Secretary of State, the Secretary of State shall immediately
32 cause a copy to be forwarded to the program participant at the
33 address shown on the records of the address confidentiality
34 program so that the summons, writ, notice, demand, or process is
35 received by the program participant within three days of the
36 Secretary of State's having received it.

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

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

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

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

13 (8) The signature of the applicant and of any individual or
14 representative of any office designated in writing under Section
15 6208.5 who assisted in the preparation of the application, and the
16 date on which the applicant signed the application.

17 (b) Applications shall be filed with the office of the Secretary
18 of State.

19 (c) Upon filing a properly completed application, the Secretary
20 of State shall certify the applicant as a program participant.
21 Applicants shall be certified for four years following the date of
22 filing unless the certification is withdrawn or invalidated before
23 that date. The Secretary of State shall by rule establish a renewal
24 procedure.

25 (d) Upon certification, in any case where there are court orders
26 or court actions identified in paragraph (4) of subdivision (a) and
27 there is no other or superseding court order dictating the specific
28 terms of communication between the parties, the Secretary of State
29 shall, within 10 days, notify the other parent or parents of the
30 address designated by the Secretary of State for the program
31 participant and the designation of the Secretary of State as agent
32 for purposes of service of process. The notice shall be given by
33 mail, return receipt requested, postage prepaid, to the last known
34 address of the other parent to be notified. A copy shall also be sent
35 to that parent's counsel of record.

36 (e) (1) An application submitted by a witness who testified in
37 a murder trial shall be accompanied by both of the following:

38 (A) A letter from the prosecuting attorney stating that the
39 applicant was a witness in a murder trial and that his or her
40 testimony was substantially related to the murder charge. The

1 decision of whether to provide the letter shall be within the
2 discretion of the prosecuting attorney.

3 (B) Payment of a fee to be determined by the Secretary of State,
4 which fee shall not exceed the reasonable costs of enrolling the
5 witness in the program.

6 (2) In addition, an annual fee may also be assessed by the
7 Secretary of State for murder witnesses to defray the reasonable
8 costs of maintaining the program for the murder witness program
9 participants.

10 (f) A person who falsely attests in an application that disclosure
11 of the applicant's address would endanger the applicant's safety
12 or the safety of the applicant's children or the minor or
13 incapacitated person on whose behalf the application is made, or
14 who knowingly provides false or incorrect information upon
15 making an application, is guilty of a misdemeanor. A notice shall
16 be printed in bold type and in a conspicuous location on the face
17 of the application informing the applicant of the penalties under
18 this subdivision.

19 *SEC. 6. Section 6206.7 of the Government Code is amended*
20 *to read:*

21 6206.7. (a) A program participant may withdraw from program
22 participation by submitting to the address confidentiality program
23 manager written notification of withdrawal and his or her current
24 identification card. Certification shall be terminated on the date
25 of receipt of this notification.

26 (b) The address confidentiality program manager may terminate
27 a program participant's certification and invalidate his or her
28 authorization card for any of the following reasons:

29 (1) The program participant's certification term has expired and
30 certification renewal has not been completed.

31 (2) The address confidentiality program manager has determined
32 that false information was used in the application process or that
33 participation in the program is being used as a subterfuge to avoid
34 detection of illegal or criminal activity or apprehension by law
35 enforcement.

36 (3) The program participant no longer resides at the residential
37 address listed on the application, and has not provided at least
38 seven days' prior notice in writing of a change in address.

1 (4) A service of process document or mail forwarded to the
2 program participant by the address confidentiality program
3 manager is returned as nondeliverable.

4 (5) The program participant obtains a legal name change and
5 fails to notify the Secretary of State within seven days.

6 *(c) The address confidentiality program manager shall terminate*
7 *the certification of a program participant who entered the program*
8 *as a murder witness and invalidate the authorization card of the*
9 *participant upon the participant's conviction of a misdemeanor*
10 *or felony when the misdemeanor or felony was committed on or*
11 *after the date of the participant's application to participate in the*
12 *program.*

13 ~~(e)~~
14 *(d) If termination is a result of paragraph (1), (3), (4), or (5) of*
15 *subdivision (b) or a result of subdivision (c), the address*
16 *confidentiality program manager shall send written notification of*
17 *the intended termination to the program participant. The program*
18 *participant shall have five business days in which to appeal the*
19 *termination under procedures developed by the Secretary of State.*

20 ~~(d)~~
21 *(e) The address confidentiality program manager shall notify*
22 *in writing the county elections official and authorized personnel*
23 *of the appropriate county clerk's office, county recording office,*
24 *and department of health of the program participant's certification*
25 *withdrawal, invalidation, expiration, or termination.*

26 ~~(e)~~
27 *(f) Upon receipt of this termination notification, authorized*
28 *personnel shall transmit to the address confidentiality program*
29 *manager all appropriate administrative records pertaining to the*
30 *program participant and the record transmitting agency is no longer*
31 *responsible for maintaining the confidentiality of a terminated*
32 *program participant's record.*

33 ~~(f)~~
34 *(g) Following termination of program participant certification*
35 *as a result of subdivision (b) or (c), the address confidentiality*
36 *program manager may disclose information contained in the*
37 *participant's application.*

38 ~~SEC. 6.~~

39 *SEC. 7.* No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution for certain

1 costs that may be incurred by a local agency or school district
2 because, in that regard, this act creates a new crime or infraction,
3 eliminates a crime or infraction, or changes the penalty for a crime
4 or infraction, within the meaning of Section 17556 of the
5 Government Code, or changes the definition of a crime within the
6 meaning of Section 6 of Article XIII B of the California
7 Constitution.

8 However, if the Commission on State Mandates determines that
9 this act contains other costs mandated by the state, reimbursement
10 to local agencies and school districts for those costs shall be made
11 pursuant to Part 7 (commencing with Section 17500) of Division
12 4 of Title 2 of the Government Code.