

AMENDED IN SENATE AUGUST 29, 2011

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**

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**Introduced by Assembly Member Galgiani**

February 17, 2011

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An act to amend Section 2166.5 of the Elections Code, and to amend Sections 6205, 6205.5, ~~6206, and 6206.7~~ *and 6206* of, ~~and to amend the heading of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of, and to add Section 6209.8 to,~~ 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 *or has been subpoenaed to testify 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 bill would prohibit the fee to enroll in the program and the annual fee to defray the costs of maintaining the program would not exceed from exceeding the reasonable costs to the state. The bill would require the applicant to provide a letter from the prosecuting attorney stating agency recommending the applicant be enrolled in the program on the ground that either the applicant was a witness in a murder trial and that the applicant's testimony was substantially related to the murder charge or the applicant has been subpoenaed to testify in a murder trial to provide testimony that is substantially related to the murder charge. The bill would provide that the decision of whether to provide the letter shall be within the sole discretion of the prosecuting attorney agency, in consultation with the investigating officer or agency. 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. The bill would also provide that these provisions do not apply to posting of Department of Justice information on the Internet.~~ 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:

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

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

31 (c) No action in negligence may be maintained against any  
32 government entity or officer or employee thereof as a result of the

1 disclosure of the information that is the subject of this section  
2 unless by a showing of gross negligence or willfulness.

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

8 SEC. 2. The heading of Chapter 3.1 (commencing with Section  
9 6205) of Division 7 of Title 1 of the Government Code is amended  
10 to read:

11  
12 CHAPTER 3.1. ADDRESS CONFIDENTIALITY FOR VICTIMS OF  
13 DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING, AND FOR  
14 MURDER WITNESSES  
15

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

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

33 SEC. 4. Section 6205.5 of the Government Code is amended  
34 to read:

35 6205.5. Unless the context clearly requires otherwise, the  
36 definitions in this section apply throughout this chapter.

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

1 (b) “Domestic violence” means an act as defined in Section  
2 6211 of the Family Code.

3 (c) “Program participant” means a person certified as a program  
4 participant under Section 6206.

5 (d) “Sexual assault” means an act or attempt made punishable  
6 by Section 220, 261, 261.5, 262, 264.1, 266c, 269, 285, 286, 288,  
7 288.5, 288a, 289, or 647.6 of the Penal Code.

8 (e) “Stalking” means an act as defined in Section 646.9 of the  
9 Penal Code.

10 (f) “Murder witness” means a witness who testified in a murder  
11 trial *or has been subpoenaed to testify in a murder trial*.

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

14 6206. (a) An adult person, a parent or guardian acting on behalf  
15 of a minor, or a guardian acting on behalf of an incapacitated  
16 person may apply to the Secretary of State to have an address  
17 designated by the Secretary of State serve as the person’s address  
18 or the address of the minor or incapacitated person. An application  
19 shall be completed in person at a community-based victims’  
20 assistance program. The application process shall include a  
21 requirement that the applicant shall meet with a victims’ assistance  
22 counselor and receive orientation information about the program.  
23 The Secretary of State shall approve an application if it is filed in  
24 the manner and on the form prescribed by the Secretary of State  
25 and if it contains all of the following:

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

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

32 (B) That the applicant fears for his or her safety or his or her  
33 children’s safety, or the safety of the minor or incapacitated person  
34 on whose behalf the application is made.

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

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

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

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

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

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

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

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

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

27 (4) A statement of whether there are any existing court orders  
28 involving the applicant for child support, child custody, or child  
29 visitation, and whether there are any active court actions involving  
30 the applicant for child support, child custody, or child visitation,  
31 the name and address of legal counsel of record, and the last known  
32 address of the other parent or parents involved in those court orders  
33 or court actions.

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

36 (A) Service on the Secretary of State of any summons, writ,  
37 notice, demand, or process shall be made by delivering to the  
38 address confidentiality program personnel of the Office of the  
39 Secretary of State two copies of the summons, writ, notice, demand,  
40 or process.

1 (B) If a summons, writ, notice, demand, or process is served on  
2 the Secretary of State, the Secretary of State shall immediately  
3 cause a copy to be forwarded to the program participant at the  
4 address shown on the records of the address confidentiality  
5 program so that the summons, writ, notice, demand, or process is  
6 received by the program participant within three days of the  
7 Secretary of State's having received it.

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

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

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

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

24 (8) The signature of the applicant and of any individual or  
25 representative of any office designated in writing under Section  
26 6208.5 who assisted in the preparation of the application, and the  
27 date on which the applicant signed the application.

28 (b) Applications shall be filed with the office of the Secretary  
29 of State.

30 (c) Upon filing a properly completed application, the Secretary  
31 of State shall certify the applicant as a program participant.  
32 Applicants shall be certified for four years following the date of  
33 filing unless the certification is withdrawn or invalidated before  
34 that date. The Secretary of State shall by rule establish a renewal  
35 procedure.

36 (d) Upon certification, in any case where there are court orders  
37 or court actions identified in paragraph (4) of subdivision (a) and  
38 there is no other or superseding court order dictating the specific  
39 terms of communication between the parties, the Secretary of State  
40 shall, within 10 days, notify the other parent or parents of the

1 address designated by the Secretary of State for the program  
2 participant and the designation of the Secretary of State as agent  
3 for purposes of service of process. The notice shall be given by  
4 mail, return receipt requested, postage prepaid, to the last known  
5 address of the other parent to be notified. A copy shall also be sent  
6 to that parent's counsel of record.

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

9 ~~(A) A letter from the prosecuting attorney stating that the~~  
10 ~~applicant was a witness in a murder trial and that his or her~~  
11 ~~testimony was substantially related to the murder charge. The~~  
12 ~~decision of whether to provide the letter shall be within the~~  
13 ~~discretion of the prosecuting attorney.~~

14 *(A) A letter from the prosecuting agency recommending that*  
15 *the applicant be enrolled in the program on the ground that either*  
16 *the applicant was a witness in a murder trial and the applicant's*  
17 *testimony was substantially related to the murder charge or the*  
18 *applicant has been subpoenaed to testify in a murder trial to*  
19 *provide testimony that is substantially related to the murder charge.*  
20 *The decision whether to provide the letter shall be within the sole*  
21 *discretion of the prosecuting agency, in consultation with the*  
22 *investigating officer or agency.*

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

26 (2) In addition, an annual fee may also be assessed by the  
27 Secretary of State for murder witnesses to defray the reasonable  
28 costs of maintaining the program for the murder witness program  
29 participants.

30 (f) A person who falsely attests in an application that disclosure  
31 of the applicant's address would endanger the applicant's safety  
32 or the safety of the applicant's children or the minor or  
33 incapacitated person on whose behalf the application is made, or  
34 who knowingly provides false or incorrect information upon  
35 making an application, is guilty of a misdemeanor. A notice shall  
36 be printed in bold type and in a conspicuous location on the face  
37 of the application informing the applicant of the penalties under  
38 this subdivision.

39 ~~SEC. 6. Section 6206.7 of the Government Code is amended~~  
40 ~~to read:~~



1     6206.7. ~~(a) A program participant may withdraw from program~~  
2 ~~participation by submitting to the address confidentiality program~~  
3 ~~manager written notification of withdrawal and his or her current~~  
4 ~~identification card. Certification shall be terminated on the date~~  
5 ~~of receipt of this notification.~~

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

9     ~~(1) The program participant's certification term has expired and~~  
10 ~~certification renewal has not been completed.~~

11     ~~(2) The address confidentiality program manager has determined~~  
12 ~~that false information was used in the application process or that~~  
13 ~~participation in the program is being used as a subterfuge to avoid~~  
14 ~~detection of illegal or criminal activity or apprehension by law~~  
15 ~~enforcement.~~

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

19     ~~(4) A service of process document or mail forwarded to the~~  
20 ~~program participant by the address confidentiality program~~  
21 ~~manager is returned as nondeliverable.~~

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

24     ~~(c) The address confidentiality program manager shall terminate~~  
25 ~~the certification of a program participant who entered the program~~  
26 ~~as a murder witness and invalidate the authorization card of the~~  
27 ~~participant upon the participant's conviction of a misdemeanor or~~  
28 ~~felony when the misdemeanor or felony was committed on or after~~  
29 ~~the date of the participant's application to participate in the~~  
30 ~~program.~~

31     ~~(d) If termination is a result of paragraph (1), (3), (4), or (5) of~~  
32 ~~subdivision (b) or a result of subdivision (c), the address~~  
33 ~~confidentiality program manager shall send written notification of~~  
34 ~~the intended termination to the program participant. The program~~  
35 ~~participant shall have five business days in which to appeal the~~  
36 ~~termination under procedures developed by the Secretary of State.~~

37     ~~(e) The address confidentiality program manager shall notify~~  
38 ~~in writing the county elections official and authorized personnel~~  
39 ~~of the appropriate county clerk's office, county recording office,~~

1 and department of health of the program participant's certification  
2 withdrawal, invalidation, expiration, or termination.

3 ~~(f) Upon receipt of this termination notification, authorized~~  
4 ~~personnel shall transmit to the address confidentiality program~~  
5 ~~manager all appropriate administrative records pertaining to the~~  
6 ~~program participant and the record transmitting agency is no longer~~  
7 ~~responsible for maintaining the confidentiality of a terminated~~  
8 ~~program participant's record.~~

9 ~~(g) Following termination of program participant certification~~  
10 ~~as a result of subdivision (b) or (c), the address confidentiality~~  
11 ~~program manager may disclose information contained in the~~  
12 ~~participant's application.~~

13 *SEC. 6. Section 6209.8 is added to the Government Code, to*  
14 *read:*

15 *6209.8. Notwithstanding any other law, nothing in this chapter*  
16 *applies to the posting of Department of Justice information on the*  
17 *Internet.*

18 *SEC. 7. No reimbursement is required by this act pursuant to*  
19 *Section 6 of Article XIII B of the California Constitution for certain*  
20 *costs that may be incurred by a local agency or school district*  
21 *because, in that regard, this act creates a new crime or infraction,*  
22 *eliminates a crime or infraction, or changes the penalty for a crime*  
23 *or infraction, within the meaning of Section 17556 of the*  
24 *Government Code, or changes the definition of a crime within the*  
25 *meaning of Section 6 of Article XIII B of the California*  
26 *Constitution.*

27 *However, if the Commission on State Mandates determines that*  
28 *this act contains other costs mandated by the state, reimbursement*  
29 *to local agencies and school districts for those costs shall be made*  
30 *pursuant to Part 7 (commencing with Section 17500) of Division*  
31 *4 of Title 2 of the Government Code.*