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AB-800 Civil actions: confidentiality. (2019-2020)

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Assembly Bill No. 800

CHAPTER 439

An act to add Section 367.3 to the Code of Civil Procedure, relating to civil actions.

[Approved by Governor October 02, 2019. Filed with Secretary of State October 02, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 800, Chu. Civil actions: confidentiality.

Existing law requires a civil action to be prosecuted in the name of the real party in interest, except as otherwise provided by statute. Existing law permits a person who has been the victim of domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse, to apply to the Secretary of State to participate in an address confidentiality program, as specified.

This bill would permit a person who is a participant in the address confidentiality program and a party to a civil action to proceed using a pseudonym and to exclude or redact other identifying characteristics of the person from all pleadings and documents filed in the action, as specified. Parties to the action would be required to use the pseudonym at proceedings open to the public and to exclude and redact other identifying characteristics of the plaintiff from documents filed with the court.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 367.3 is added to the Code of Civil Procedure, to read:

367.3. (a) For purposes of this section, the following definitions apply:

(1) "Identifying characteristics" means the name or any part thereof, address or any part thereof, city or unincorporated area of residence, age, marital status, relationship to other parties, and race or ethnic background, telephone number, email address, social media profiles, online identifiers, contact information, or any other information, including images of the protected person, from which the protected person's identity can be discerned.

(2) "Online identifiers" means any personally identifying information or signifiers that would tie an individual to a particular electronic service, device, or internet application, website, or platform account, including, access names, access codes, account names, aliases, avatars, credentials, gamer tags, display names, handles, login names, member names, online identities, pseudonyms, screen names, user accounts, user identifications, usernames, Uniform Resource Locators (URLs), domain names, Internet Protocol (IP) addresses, and media access control (MAC) addresses.

(3) "Protected person" means a person who is an active participant in the address confidentiality program created pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code.

(b) (1) A protected person who is a party in a civil proceeding may proceed using a pseudonym, either John Doe, Jane Doe, or Doe, for the true name of the protected person and may exclude or redact from all pleadings and documents filed in the action other identifying characteristics of the protected person. A protected person who proceeds using a pseudonym as provided in this section shall file with the court and serve upon all other parties to the proceeding a confidential information form for this purpose that includes the protected person's name and other identifying characteristics being excluded or redacted. The court shall keep the confidential information form confidential.

(2) In cases where a protected person proceeds using a pseudonym under this section, the following provisions shall apply, subject to sanction for an intentional violation:

(A) Except as provided in subparagraph (B), all parties and their agents and attorneys shall use the pseudonym in all pleadings, discovery requests or discovery motion documents, and other documents filed or served in the action, and at hearings, trial, and other court proceedings that are open to the public.

(B) A party seeking discovery in which the true name of the protected person and identifying information must be divulged for the purposes of fair and reasonable discovery, may use the true name of the protected person and identifying information for purposes of that discovery. The discovery request and all information collected through the discovery process shall not be made public and, if filed in court, shall be subject to subparagraph (C).

(C) (i) A party filing a pleading, discovery document, or other document in the action shall exclude or redact any identifying characteristics of the protected person from the pleading, discovery document, or other document, except for a confidential information form filed pursuant to this subdivision.

(ii) A party excluding or redacting identifying characteristics shall file with the court and serve upon all other parties a confidential information form that includes the protected person's name and other identifying characteristics being excluded or redacted. The court shall keep the confidential information form confidential.

(D) Following final disposition of the proceedings a party in possession of any pleading, discovery document, or other document containing confidential information of the protected person obtained in the course of the action shall treat the documents as a nonpublic consumer record in accordance with Section 1798.81 of the Civil Code, subject to penalty for violations of that section.

(E) If the protected person is a minor dependent or minor ward of the state, the minor's parent, guardian, or attorney shall inform the minor's social worker or probation officer of the minor's participation in the action. The social worker or probation officer shall keep this information confidential.

(3) The responsibility to exclude or redact identifying characteristics of the protected person from documents filed with the court rests solely with the parties and their attorneys. This section does not require the court to review pleadings or other papers for compliance.

(4) The court, on motion of the protected person, may order a record or part of a record to be filed under seal in accordance with Rules 2.550 and 2.551 of the California Rules of Court, as those rules may be amended.

(c) In an action filed under this section, the plaintiff shall state in the caption of the complaint "ACTION BASED ON CODE OF CIVIL PROCEDURE SECTION 367.3."

(d) This section does not alter or negate any rights, obligations, or immunities of an interactive service provider under Section 230 of Title 47 of the United States Code. This section does not limit or preclude a plaintiff from securing or recovering any other available remedy.

(e) The Judicial Council shall coordinate with the Secretary of State to adopt or revise as appropriate rules and forms to implement this section, on or before January 1, 2021.

(f) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.