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AB-277 Domestic violence: victims: address confidentiality. (2021-2022)

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Assembly Bill No. 277

CHAPTER 457

An act to add Section 6226.5 to the Family Code, and to amend Sections 6206 and 6209.5 of, and to add Section 6209.6 to, the Government Code, relating to domestic violence.

[Approved by Governor October 04, 2021. Filed with Secretary of State October 04, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 277, Valladares. Domestic violence: victims: address confidentiality.

Existing law establishes an address confidentiality program for victims of domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse, commonly known as the Safe at Home program, under which an adult person, or a guardian on behalf of a minor or an incapacitated person, states that they are a victim of domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse, and designates the Secretary of State as the agent for service of process and receipt of mail. Under existing law, when the Secretary of State certifies the person as a program participant, the person's actual address is confidential.

Commencing January 1, 2023, this bill would require the Secretary of State to make the application form for participation in the program and various notices required under the program available in specified languages and to maintain certain information relating to the program on the secretary's internet website, including, among other things, the contact information for community-based programs that can assist a person in applying to participate in the program. The bill would also require the Judicial Council, by January 1, 2023, to amend a form relating to domestic violence restraining orders to include information relating to the program and to make that form available in specified languages. The bill would also authorize both the Secretary of State and the Judicial Council to produce the above materials in any other language.

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

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

SECTION 1. Section 6226.5 is added to the Family Code, to read:

6226.5. (a) On or before January 1, 2023, the Judicial Council shall amend the Judicial Council form entitled "Can a Domestic Violence Restraining Order Help Me?" to include a brief description of the address confidentiality program established under Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, the benefits of enrollment in the program for victims of domestic violence, and the internet address for the Secretary of State's internet web page that contains more detailed information about the program.

(b) On or before January 1, 2023, the Judicial Council shall make the Judicial Council form available in English and in at least the other languages described in Section 1632 of the Civil Code. The Judicial Council may make the form available in additional languages.

SEC. 2. 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, who is domiciled in California, 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 or a community-based assistance program that serves victims of elder or dependent adult abuse pursuant to the Elder Abuse and Dependent Adult Civil Protection Act (Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code). The application process shall include a requirement that the applicant 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, stalking, human trafficking, or elder or dependent adult abuse, or is a household member of a victim who is making or has made an application pursuant to this section, unless the applicant is the perpetrator of the crime that provided the basis for that victim's application.

(B) That the applicant fears for their safety, the safety of their children or household members, 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, sexual assault, stalking, human trafficking, or elder or dependent adult abuse, 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, sexual assault, stalking, or human trafficking.

(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, sexual assault, stalking, human trafficking, or elder or dependent adult abuse.

(D) Any other evidence that supports the sworn statement, such as a statement from any other individual with knowledge of the circumstances that provides the basis for the claim, or physical evidence of the act or acts of domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse.

(3) If the basis for the application is that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a household member of a person described in paragraph (2), the application shall include the name of that person and evidence that the applicant is a household member.

(4) The name and last known address of the applicant's minor child or children, the name and last known address of the other parent or parents of the minor child or children of the applicant, and all court orders related to the minor child or children of the applicant, and legal counsel of record in those cases.

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

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

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

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

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

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

(7) The address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse.

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

(b) Commencing January 1, 2023, the Secretary of State shall make the application form for participation in the program and any explanatory materials available in English and in at least the other languages described in Section 1632 of the Civil Code. The Secretary of State may make the application available in additional languages.

(c) Applications shall be filed with the office of the Secretary of State.

(d) Upon filing a properly completed application, the Secretary of State shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The Secretary of State shall, by rule, establish a renewal procedure. A minor program participant who reaches 18 years of age during their enrollment may renew as an adult following the renewal procedures established by the Secretary of State.

(e) Upon certification, the Secretary of State shall, within 10 days, notify the other parent or parents identified pursuant to paragraph (4) of subdivision (a) of the designation of the Secretary of State as agent for purposes of service of process and, unless there is a court order prohibiting contact, the address designated by the Secretary of State for the program participant. The notice shall be given by mail, return receipt requested, postage prepaid, to the last known address of the other parent or parents to be notified. A copy shall also be sent to that parent's counsel of record, if provided to the Secretary of State by the applicant.

(f) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or household members, or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, is guilty of a misdemeanor. A notice shall be printed in bold type and in a conspicuous location on the face of the application informing the applicant of the penalties under this subdivision. Commencing January 1, 2023, the Secretary of State shall make the notice required by this subdivision available in English and in at least the other languages described in Section 1632 of the Civil Code. The Secretary of State may make the notice available in additional languages.

SEC. 3. Section 6209.5 of the Government Code is amended to read:

6209.5. (a) The Secretary of State shall provide each program participant a notice in clear and conspicuous font that contains all of the following information:

(1) The program participant is authorized by law to request to use the address designated by the Secretary of State on real property deeds, change of ownership forms, and deeds of trust when purchasing or selling a home.

(2) The program participant may create a revocable living trust and place their real property into the trust to protect their residential street address from disclosure in real property transactions.

(3) The program participant may obtain a change of their legal name to protect their anonymity.

(4) A list of contact information for entities that the program participant may contact to receive information on, or receive legal services for, the creation of a trust to hold real property or obtaining a name change, including county bar associations, legal aid societies, domestic violence prevention organizations, human trafficking prevention organizations, elder and dependent adult abuse prevention organizations, state and local agencies, or other nonprofit organizations that may be able to assist program participants.

(b) Commencing January 1, 2023, the Secretary of State shall make the notice required by this section available in English and in at least the other languages described in Section 1632 of the Civil Code. The Secretary of State may make the notice available in additional languages.

SEC. 4. Section 6209.6 is added to the Government Code, to read:

6209.6. Commencing January 1, 2023, the Secretary of State shall maintain information about the program, contact information for community-based victims' assistance programs and community-based assistance programs that serve victims of elder or dependent adult abuse that can assist a person in applying to participate in the program, and sample application forms on the secretary's internet website. The sample application forms shall be available in English and in at least the other languages described in Section 1632 of the Civil Code. The Secretary of State may make the sample application forms available in additional languages.