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AB-1726 Address confidentiality program. (2021-2022)

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Assembly Bill No. 1726

CHAPTER 686

An act to amend Sections 1005, 1013, and 1167 of the Code of Civil Procedure, and to amend Sections 6206, 6206.7, 6208.1, 6208.2, and 6209.7 of, and to add Section 6206.1 to, the Government Code, relating to confidential information.

[Approved by Governor September 28, 2022. Filed with Secretary of State September 28, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1726, Aguiar-Curry. Address confidentiality program.

Existing law establishes an address confidentiality program, commonly known as the Safe at Home program, for victims of domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse, under which an adult person, or a guardian on behalf of a minor or an incapacitated person, states that they are such a victim, 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.

Existing law relating to civil procedure requires written notice and establishes deadlines for serving and filing moving and supporting papers for prescribed motions and for serving notices and other papers, if served by mail. Existing law extends the period of notice in certain circumstances based on the location of the place of mailing or the place of address, or both.

This bill would extend those periods by 12 calendar days if the place of address is the address confidentiality program.

Under existing law relating to summary proceedings, a plaintiff that wishes to bring an action to obtain possession of real property must file a complaint and serve the defendant with a notice of summons, in which case the defendant has 5 days to respond.

This bill would give the defendant an additional 5 court days to file a response, if service is completed by mail or in person through the address confidentiality program.

Existing law requires the Secretary of State to approve an application for the address confidentiality program if it is filed in the manner and on the form prescribed by the Secretary of State and if it contains specific information, including 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.

This bill would revise that information requirement to require the name and last known address of the applicant's minor child or children and the name and last known address of the other parent or parents as legally established by prescribed legal methods. The bill would authorize this section to be left blank if no other parent has been established for the applicant's minor child or children.

Existing law authorizes the Secretary of State to terminate a program participant's certification and invalidate their authorization card for specified reasons, including that the program participant no longer resides at the most recent residential address provided to the Secretary of State, and has not provided at least 7 days' prior notice in writing of a change in address, that a service of process document or mail forwarded to the program participant by the Secretary of State is returned as nondeliverable, or that the program participant obtains a legal name change and fails to notify the Secretary of State within 7 days.

This bill would extend the 7-day notice requirement for the most recent residential address to 30 days. The bill would require the program, before terminating a program participant's certification due to nondeliverable mail, to attempt to contact the participant by phone and email, if available, to resolve the mail delivery issue. The bill would extend the legal name change notice deadline to 30 days.

Existing law authorizes the Secretary of State to refuse to renew a program participant's certification if the adult program participant or the parent or guardian acting on behalf of a minor or incapacitated person has abandoned their domicile in this state.

This bill, if the program participant or parent or guardian acting on behalf of a minor or incapacitated person leaves the state during their valid participation term, would prohibit them from being terminated on the grounds of having abandoned their domicile in this state until they have resided outside of this state for a period of more than 60 consecutive days, if relocating to a state with an address confidentiality program. The bill would require, if the program participant or parent or guardian acting on behalf of a minor or incapacitated person has relocated to a state without an address confidentiality program, that they remain enrolled and mail be forwarded for the remainder of their certification term.

Existing law prohibits any person, business, or association from knowingly and intentionally publicly posting or publicly displaying on the internet prescribed personal information or images with the intent to incite a third person to cause imminent great bodily harm to the person identified in the posting or display, or to a coresident of that person, where the third person is likely to commit this harm, or with the intent to threaten the person identified in the posting or display, or a coresident of that person, in a manner that places the person identified or the coresident in objectively reasonable fear for their personal safety.

This bill would expand the prohibition to also apply to other posting or displaying entities and to posts or displays in public spaces other than the internet. The bill, with respect to the intent to threaten, would provide that disclosure alone may be considered a threat, depending on the totality of the circumstances.

Existing law prohibits a person, business, or association from soliciting, selling, or trading on the internet the home address, home telephone number, or image of a participant with the intent to incite a third person to cause imminent great bodily harm to the person identified in the posting or display, or to a coresident of that person, where the third person is likely to commit this harm, or with the intent to threaten the person identified in the posting or display, or a coresident of that person, in a manner that places the person identified or the coresident in objectively reasonable fear for their personal safety.

This bill would expand that prohibition to also apply to other entities and other forums besides the internet.

Existing law prohibits a person from posting specified personal information of a participant or participating family members on the internet, with the intent that another person imminently use that information to commit a crime involving violence or a threat of violence against the participant or the program participant's family members who are participating in the program. A violation of this prohibition is a misdemeanor, punishable as prescribed.

This bill would expand the prohibition to apply to public spaces other than the internet. The bill would expand the prohibited intent to include the use of the information to intimidate the participant or participating family members. By expanding the application of this prohibition, the violation of which is a crime, this bill would impose a state-mandated local program.

Existing law provides that neither existing law nor participation in the program affects custody or visitation orders in effect before or during program participation. Existing law further provides that participation in the program does not constitute evidence of domestic violence, stalking, sexual assault, human trafficking, or elder or dependent adult abuse for purposes of making custody or visitation orders.

This bill would provide that the fact that a participant is registered with the program creates a rebuttable presumption that disclosure of information about the participant's location and activities during the period of the registration, as specified, would lead to the discovery of the participant's actual residential address or physical location, would endanger the safety of the participant, and is not authorized. The bill would authorize this presumption to be rebutted by clear and convincing evidence, as prescribed, and would require this presumption to govern civil discovery requests. The bill would prohibit a participant from being required to provide in discovery their residential address or other location information reasonably likely to lead to the discovery of these addresses unless ordered to do so by a court after the other party has rebutted the presumption against disclosure of this information.

This bill would prohibit certification as a program participant from being evidence that minor children in the participant's custody are at-risk in the participant's care.

This bill would incorporate additional changes to Sections 6206 and 6206.7 of the Government Code proposed by AB 2872 to be operative only if this bill and AB 2872 are enacted and this bill is enacted last.

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 no reimbursement is required by this act for a specified reason.

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

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

SECTION 1. Section 1005 of the Code of Civil Procedure is amended to read:

1005. (a) Written notice shall be given, as prescribed in subdivisions (b) and (c), for the following motions:

- (1) Notice of Application and Hearing for Writ of Attachment under Section 484.040.
- (2) Notice of Application and Hearing for Claim and Delivery under Section 512.030.
- (3) Notice of Hearing for Claim of Exemption under Section 706.105.
- (4) Motion to Quash Summons pursuant to subdivision (b) of Section 418.10.
- (5) Motion for Determination of Good Faith Settlement pursuant to Section 877.6.
- (6) Hearing for Discovery of Peace Officer Personnel Records in a civil action pursuant to Section 1043 of the Evidence Code.
- (7) Notice of Hearing of Third-Party Claim pursuant to Section 720.320.
- (8) Motion for an Order to Attend Deposition more than 150 miles from deponent's residence pursuant to Section 2025.260.
- (9) Notice of Hearing of Application for Relief pursuant to Section 946.6 of the Government Code.
- (10) Motion to Set Aside Default or Default Judgment and for Leave to Defend Actions pursuant to Section 473.5.
- (11) Motion to Expunge Notice of Pendency of Action pursuant to Section 405.30.
- (12) Motion to Set Aside Default and for Leave to Amend pursuant to Section 585.5.
- (13) Any other proceeding under this code in which notice is required, and no other time or method is prescribed by law or by court or judge.

(b) Unless otherwise ordered or specifically provided by law, all moving and supporting papers shall be served and filed at least 16 court days before the hearing. The moving and supporting papers served shall be a copy of the papers filed or to be filed with the court. However, if the notice is served by mail, the required 16-day period of notice before the hearing shall be increased by five calendar days if the place of mailing and the place of address are within the State of California, 10 calendar days if either the place of mailing or the place of address is outside the State of California but within the United States, 12 calendar days if the place of address is the Secretary of State's address confidentiality program (Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code), and 20 calendar days if either the place of mailing or the place of address is outside the United States, and if the notice is served by facsimile transmission, express mail, or another method of delivery providing for overnight delivery, the required 16-day period of notice before the hearing shall be increased by two calendar days. Section 1013, which extends the time within which a right may be exercised or an act may be done, does not apply to a notice of motion, papers opposing a motion, or reply papers governed by this section. All papers opposing a motion so noticed shall be filed with the court and a copy served on each party at least nine court days, and all reply papers at least five court days before the hearing.

The court, or a judge thereof, may prescribe a shorter time.

(c) Notwithstanding any other provision of this section, all papers opposing a motion and all reply papers shall be served by personal delivery, facsimile transmission, express mail, or other means consistent with Sections 1010, 1011, 1012, and 1013, and reasonably calculated to ensure delivery to the other party or parties not later than the close of the next business day after the

time the opposing papers or reply papers, as applicable, are filed. This subdivision applies to the service of opposition and reply papers regarding motions for summary judgment or summary adjudication, in addition to the motions listed in subdivision (a).

The court, or a judge thereof, may prescribe a shorter time.

SEC. 2. Section 1013 of the Code of Civil Procedure is amended to read:

1013. (a) In case of service by mail, the notice or other paper shall be deposited in a post office, mailbox, subpost office, substation, or mail chute, or other like facility regularly maintained by the United States Postal Service, in a sealed envelope, with postage paid, addressed to the person on whom it is to be served, at the office address as last given by that person on any document filed in the cause and served on the party making service by mail; otherwise at that party's place of residence. Service is complete at the time of the deposit, but any period of notice and any right or duty to do any act or make any response within any period or on a date certain after service of the document, which time period or date is prescribed by statute or rule of court, shall be extended five calendar days, upon service by mail, if the place of address and the place of mailing is within the State of California, 10 calendar days if either the place of mailing or the place of address is outside the State of California but within the United States, 12 calendar days if the place of address is the Secretary of State's address confidentiality program (Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code), and 20 calendar days if either the place of mailing or the place of address is outside the United States, but the extension shall not apply to extend the time for filing notice of intention to move for new trial, notice of intention to move to vacate judgment pursuant to Section 663a, or notice of appeal. This extension applies in the absence of a specific exception provided for by this section or other statute or rule of court.

(b) The copy of the notice or other paper served by mail pursuant to this chapter shall bear a notation of the date and place of mailing or be accompanied by an unsigned copy of the affidavit or certificate of mailing.

(c) In case of service by Express Mail, the notice or other paper shall be deposited in a post office, mailbox, subpost office, substation, or mail chute, or other like facility regularly maintained by the United States Postal Service for receipt of Express Mail, in a sealed envelope, with Express Mail postage paid, addressed to the person on whom it is to be served, at the office address as last given by that person on any document filed in the cause and served on the party making service by Express Mail; otherwise at that party's place of residence. In case of service by another method of delivery providing for overnight delivery, the notice or other paper shall be deposited in a box or other facility regularly maintained by the express service carrier, or delivered to an authorized courier or driver authorized by the express service carrier to receive documents, in an envelope or package designated by the express service carrier with delivery fees paid or provided for, addressed to the person on whom it is to be served, at the office address as last given by that person on any document filed in the cause and served on the party making service; otherwise at that party's place of residence. Service is complete at the time of the deposit, but any period of notice and any right or duty to do any act or make any response within any period or on a date certain after service of the document served by Express Mail or other method of delivery providing for overnight delivery shall be extended by two court days. The extension shall not apply to extend the time for filing notice of intention to move for new trial, notice of intention to move to vacate judgment pursuant to Section 663a, or notice of appeal. This extension applies in the absence of a specific exception provided for by this section or other statute or rule of court.

(d) The copy of the notice or other paper served by Express Mail or another means of delivery providing for overnight delivery pursuant to this chapter shall bear a notation of the date and place of deposit or be accompanied by an unsigned copy of the affidavit or certificate of deposit.

(e) Service by facsimile transmission shall be permitted only where the parties agree and a written confirmation of that agreement is made. The Judicial Council may adopt rules implementing the service of documents by facsimile transmission and may provide a form for the confirmation of the agreement required by this subdivision. In case of service by facsimile transmission, the notice or other paper shall be transmitted to a facsimile machine maintained by the person on whom it is served at the facsimile machine telephone number as last given by that person on any document which they have filed in the cause and served on the party making the service. Service is complete at the time of transmission, but any period of notice and any right or duty to do any act or make any response within any period or on a date certain after service of the document, which time period or date is prescribed by statute or rule of court, shall be extended, after service by facsimile transmission, by two court days, but the extension shall not apply to extend the time for filing notice of intention to move for new trial, notice of intention to move to vacate judgment pursuant to Section 663a, or notice of appeal. This extension applies in the absence of a specific exception provided for by this section or other statute or rule of court.

(f) The copy of the notice or other paper served by facsimile transmission pursuant to this chapter shall bear a notation of the date and place of transmission and the facsimile telephone number to which transmitted, or to be accompanied by an unsigned copy of the affidavit or certificate of transmission which shall contain the facsimile telephone number to which the notice or other paper was transmitted.

(g) Electronic service shall be permitted pursuant to Section 1010.6 and the rules on electronic service in the California Rules of Court.

(h) Subdivisions (b), (d), and (f) are directory.

SEC. 3. Section 1167 of the Code of Civil Procedure is amended to read:

1167. (a) The summons shall be in the form specified in Section 412.20 except that when the defendant is served, the defendant's response shall be filed within five days, excluding Saturdays and Sundays and other judicial holidays, after the complaint is served upon the defendant.

(b) If service is completed by mail or in person through the Secretary of State's address confidentiality program under Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, the defendant shall have an additional five court days to file a response.

(c) In all other respects the summons shall be issued and served and returned in the same manner as a summons in a civil action.

SEC. 4. 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, and the name and last known address of the other parent or parents as legally established by voluntary declaration of paternity, court order, placement on the child's birth certificate, or other legal method pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12

of the Family Code). If no other parent has been established for the applicant's minor child or children, this section may be left blank.

(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 and the telephone number or numbers where the applicant can be called by the Secretary of State, and if available, the email address where the applicant can be contacted 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) If a minor child has any other legally established parent or parents, 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. 4.5. 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, 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, and the name and last known address of all other parents or guardians of the minor child or children of the applicant, as legally established by voluntary declaration of paternity, court order, placement on the child's birth certificate, or other legal method pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code). If no other parent or guardian has been established for the applicant's minor child or children, this section may be left blank.

(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 a copy 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 and the telephone number or numbers where the applicant can be called by the Secretary of State, and if available, the email address where the applicant can be contacted 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) If a minor child has any other legally established parent or parents, upon certification, the Secretary of State shall, within 10 days, notify all other parents or guardians 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 between the other parent or parents or guardian and the minor child or children of the participant, 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 or guardian to be notified. A copy shall also be sent to that parent's or guardian'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. 5. Section 6206.1 is added to the Government Code, to read:

6206.1. Certification as a program participant shall not be evidence that minor children in the participant's custody are at risk in the participant's care.

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

6206.7. (a) A program participant may withdraw from program participation by submitting to the Secretary of State written notification of withdrawal and their current identification card. Certification shall be terminated on the date of receipt of this notification.

(b) The Secretary of State may terminate a program participant's certification and invalidate their authorization card for any of the following reasons:

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

(2) The Secretary of State has determined that false information was used in the application process to qualify as a program participant or that participation in the program is being used as a subterfuge to avoid detection of illegal or criminal activity or apprehension by law enforcement.

(3) The program participant no longer resides at the most recent residential address provided to the Secretary of State, and has not provided notice in writing of a change in address within 30 days.

(4) A service of process document or mail forwarded to the program participant by the Secretary of State is returned as nondeliverable. Before terminating a program participant's certification due to nondeliverable mail, the program shall attempt to contact the participant by telephone and email, if available, to resolve the mail delivery issue.

(5) The program participant obtains a legal name change and fails to notify the Secretary of State within 30 days.

(6) The program participant, who reaches 18 years of age during their certification term, has not renewed their certification within 60 days of reaching 18 years of age.

(c) The Secretary of State may refuse to renew a program participant's certification if the adult program participant or the parent or guardian acting on behalf of a minor or incapacitated person has abandoned their domicile in this state. If, however, the

program participant or parent or guardian acting on behalf of a minor or incapacitated person leaves the state during their valid participation term, they shall not be terminated on the grounds of having abandoned their domicile in this state until they have resided outside of this state for a period of more than 60 consecutive days if relocating to a state with an address confidentiality program. If the program participant or parent or guardian acting on behalf of a minor or incapacitated person has relocated to a state without an address confidentiality program, they shall remain enrolled and mail shall be forwarded for the remainder of their certification term.

(d) If intended termination is based on any of the reasons under subdivision (b) or (c), the Secretary of State shall send written notification of the intended termination to the program participant. The program participant shall have 30 days in which to appeal the intended termination under procedures developed by the Secretary of State.

(e) The Secretary of State shall notify in writing the county elections official and authorized personnel of the appropriate county clerk's office, county recording office, and state and local agencies of the program participant's certification withdrawal, invalidation, expiration, or termination.

(f) Upon receipt of this termination notification, authorized personnel shall transmit to the Secretary of State all appropriate administrative records pertaining to the program participant and the record transmitting agency is no longer responsible for maintaining the confidentiality of a terminated program participant's record.

(g) Following termination of program participant certification as a result of paragraph (2) of subdivision (b), the Secretary of State may disclose information contained in the participant's application.

SEC. 6.5. Section 6206.7 of the Government Code is amended to read:

6206.7. (a) A program participant may withdraw from program participation by submitting to the Secretary of State written notification of withdrawal and the program participant's current identification card. Certification shall be terminated on the date of receipt of this notification.

(b) The Secretary of State may terminate a program participant's certification and invalidate the program participant's authorization card for any of the following reasons:

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

(2) The Secretary of State has been informed that another state agency determined that false information was used in the application process to qualify as a program participant or that participation in the program is being used as a subterfuge to avoid detection of illegal or criminal activity or apprehension by law enforcement.

(3) The program participant no longer resides at the most recent residential address provided to the Secretary of State and has not provided notice in writing of a change in address within 30 days.

(4) A service of process document or mail forwarded to the program participant by the Secretary of State is returned as nondeliverable. Before terminating a program participant's certification due to nondeliverable mail, the program shall attempt to contact the participant by telephone and email, if available, to resolve the mail delivery issue.

(5) The program participant obtains a legal name change and fails to notify the Secretary of State within 30 days.

(6) The program participant, who reaches 18 years of age during the program participant's certification term, has not renewed the program participant's certification within 60 days of reaching 18 years of age.

(7) The program participant moves from their California place of residence to relocate out of state.

(c) The Secretary of State may refuse to renew a program participant's certification if the adult program participant or the parent or guardian acting on behalf of a minor or incapacitated person moves from their California place of residence to another residence in this state. If, however, the program participant or parent or guardian acting on behalf of a minor or incapacitated person leaves the state during their valid participation term, they shall not be terminated on the grounds of having abandoned their domicile in this state until they have resided outside of this state for a period of more than 60 consecutive days if relocating to a state with an address confidentiality program. If the program participant or parent or guardian acting on behalf of a minor or incapacitated person has relocated to a state without an address confidentiality program, they shall remain enrolled and mail shall be forwarded for the remainder of their certification term.

(d) If intended termination is based on any of the reasons under subdivision (b) or (c), the Secretary of State shall send written notification of the intended termination to the program participant. The program participant shall have 30 days in which to appeal the intended termination under procedures developed by the Secretary of State.

(e) The Secretary of State shall notify in writing the county elections official of the program participant's certification withdrawal, invalidation, expiration, or termination. The Secretary of State shall cooperate with authorized personnel of the appropriate county clerk's office, county recording office, and state and local agencies to verify, upon request of any such entity, the program participant's certification withdrawal, invalidation, expiration, or termination.

(f) Upon receipt of this termination notification, authorized personnel shall transmit to the Secretary of State all appropriate administrative records pertaining to the program participant and the record transmitting agency is no longer responsible for maintaining the confidentiality of a terminated program participant's record.

(g) Following termination of program participant certification as a result of paragraph (2) of subdivision (b), the Secretary of State may disclose information contained in the participant's application.

SEC. 7. Section 6208.1 of the Government Code is amended to read:

6208.1. (a) (1) No person, business, association, or other entity shall knowingly and intentionally publicly post or publicly display on the internet or any other public space the home address, home telephone number, or image of a program participant or other individuals residing at the same home address with the intent to do either of the following:

(A) Incite a third person to cause imminent great bodily harm to the person identified in the posting or display, or to a coresident of that person, where the third person is likely to commit this harm.

(B) Threaten the person identified in the posting or display, or a coresident of that person, in a manner that places the person identified or the coresident in objectively reasonable fear for their personal safety. Disclosure alone may be considered a threat, depending on the totality of the circumstances.

(2) A participant whose home address, home telephone number, or image is made public as a result of a violation of paragraph (1) may do either or both of the following:

(A) Bring an action seeking injunctive or declarative relief in any court of competent jurisdiction. If a jury or court finds that a violation has occurred, it may grant injunctive or declarative relief and shall award the successful plaintiff court costs and reasonable attorney's fees.

(B) Bring an action for money damages in any court of competent jurisdiction. In addition to any other legal rights or remedies, if a jury or court finds that a violation has occurred, it shall award damages to that individual in an amount up to a maximum of three times the actual damages, but in no case less than four thousand dollars (\$4,000).

(b) (1) No person, business, association, or other entity shall knowingly and intentionally publicly post or publicly display on the internet or other public space the home address or home telephone number of a participant if that individual has made a written demand of that person, business, or association to not disclose their home address or home telephone number. A demand made under this paragraph shall include a sworn statement declaring that the person is subject to the protection of this section and describing a reasonable fear for the safety of that individual or of any person residing at the individual's home address, based on a violation of subdivision (a). A written demand made under this paragraph shall be effective for four years, regardless of whether or not the individual's program participation has expired before the end of the four-year period.

(2) A participant whose home address or home telephone number is made public as a result of a failure to honor a demand made pursuant to paragraph (1) may bring an action seeking injunctive or declarative relief in any court of competent jurisdiction. If a jury or court finds that a violation has occurred, it may grant injunctive or declarative relief and shall award the successful plaintiff court costs and reasonable attorney's fees.

(3) This subdivision shall not apply to a person or entity defined in Section 1070 of the Evidence Code.

(c) (1) No person, business, association, or other entity shall solicit, sell, or trade on the internet, or any other forum, the home address, home telephone number, or image of a participant with the intent to do either of the following:

(A) Incite a third person to cause imminent great bodily harm to the person identified in the posting or display, or to a coresident of that person, where the third person is likely to commit this harm.

(B) Threaten the person identified in the posting or display, or a coresident of that person, in a manner that places the person identified or the coresident in objectively reasonable fear for their personal safety.

(2) A participant whose home address, home telephone number, or image is solicited, sold, or traded in violation of paragraph (1) may bring an action in any court of competent jurisdiction. In addition to any other legal rights and remedies, if a jury or court finds that a violation has occurred, it shall award damages to that individual in an amount up to a maximum of three times the actual damages, but in no case less than four thousand dollars (\$4,000).

(d) An interactive computer service or access software provider, as defined in Section 230(f) of Title 47 of the United States Code, shall not be liable under this section unless the service or provider intends to abet or cause bodily harm that is likely to occur or threatens to cause bodily harm to a participant or any person residing at the same home address.

(e) Nothing in this section is intended to preclude prosecution under any other provision of law.

(f) For the purposes of this section, the following terms are defined as follows:

(1) "Image" includes, but is not limited to, any photograph, video, sketch, or computer-generated image that provides a means to visually identify the person depicted.

(2) "Program participant" means a person certified as a program participant in the manner described in Section 6206.

(3) "Publicly post" or "publicly display" means to communicate or otherwise make available to the general public.

SEC. 8. Section 6208.2 of the Government Code is amended to read:

6208.2. (a) (1) No person shall post on the internet or any other public space, with the intent that another person imminently use that information to commit a crime involving violence, a threat of violence against, or to intimidate the participant or the program participant's family members who are participating in the program, the home address, the telephone number, or personal identifying information of a program participant or the program participant's family members who are participating in the program.

(2) A violation of this subdivision is a misdemeanor punishable by a fine of up to two thousand five hundred dollars (\$2,500), or imprisonment of up to six months in a county jail, or by both that fine and imprisonment.

(3) A violation of this subdivision that leads to the bodily injury of the program participant, or of any of the program participant's family members who are participating in the program, is a misdemeanor punishable by a fine of up to five thousand dollars (\$5,000), or imprisonment of up to one year in a county jail, or by both that fine and imprisonment.

(b) Nothing in this section shall preclude prosecution under any other provision of law.

SEC. 9. Section 6209.7 of the Government Code is amended to read:

6209.7. (a) Nothing in this chapter, nor participation in this program, affects custody or visitation orders in effect before or during program participation. A program participant who falsifies their location in order to unlawfully avoid custody or visitation orders is subject to immediate termination from the program and is guilty of a misdemeanor.

(b) (1) The fact that a participant is registered with the program shall create a rebuttable presumption that disclosure of information about the participant's location and activities during the period of the registration, including, but not limited to, the participant's current and past residential, work, or school addresses and other location information, would lead to the discovery of the participant's actual residential address or physical location, would endanger the safety of the participant, and is not authorized.

(2) This subdivision creates a presumption affecting the burden of producing evidence and may be rebutted by clear and convincing evidence showing, among other things, that discovery of the information about the participant's location and activities would not lead to discovery of the participant's actual residential address or physical location and would not endanger the safety of the participant. The presumption shall not be rebutted merely by the other parent's desire to know the participant's address and the court shall weigh participant safety. If a court finds the presumption is rebutted, it shall provide its reasons on the record.

(3) This presumption shall also govern discovery requests under the Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure). A participant shall not be required to provide, in discovery, their residential address or other location information reasonably likely to lead to the discovery of these addresses unless ordered to do so by a court after the other party has rebutted the presumption against disclosure of this information.

(c) Participation in the program does not constitute evidence of domestic violence, stalking, sexual assault, human trafficking, or elder or dependent adult abuse for purposes of making custody or visitation orders.

SEC. 10. (a) Section 4.5 of this bill incorporates amendments to Section 6206 of the Government Code proposed by both this bill and Assembly Bill 2872. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 6206 of the Government Code, and (3) this bill is enacted after Assembly Bill 2872, in which case Section 4 of this bill shall not become operative.

(b) Section 6.5 of this bill incorporates amendments to Section 6206.7 of the Government Code proposed by both this bill and Assembly Bill 2872. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 6206.7 of the Government Code, and (3) this bill is enacted after Assembly Bill 2872, in which case Section 6 of this bill shall not become operative.

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