

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H

1

HOUSE BILL 1402

Short Title: Address Confidentiality Program/Funds. (Public)

Sponsors: Representatives Jeffus; Barefoot, Boyd-McIntyre, Buchanan, Cox, Dedmon, Easterling, Edwards, Smith, Tucker, Weiss, and Wright.

Referred to: Judiciary II, if favorable, Appropriations.

April 26, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH AN ADDRESS CONFIDENTIALITY PROGRAM FOR
3 VICTIMS OF DOMESTIC VIOLENCE, SEXUAL OFFENSES, AND STALKING
4 AND TO APPROPRIATE FUNDS FOR THAT PURPOSE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** The General Statutes are amended by adding a new Chapter to
7 read:

"Chapter 15C.

"Address Confidentiality Program.

8
9
10 **"§ 15C-1. Purpose.**

11 The General Assembly establishes a program in the Secretary of State's Office to
12 protect the confidentiality of victims of actual or threatened violence. The purpose of
13 the program is to allow children and adult persons attempting to escape from actual or
14 threatened domestic violence, sexual offenses, or violence threatened by stalkers to
15 participate in the electoral process and other rights as citizens, including obtaining
16 drivers licenses, birth records, public utilities, school and employment records, without
17 placing them in fear of their assailants or potential assailants locating them. The
18 program will: (i) allow State and local agencies to respond to requests for public records
19 without disclosing the location of the victims; (ii) enable interagency cooperation in
20 providing address confidentiality for the victims; (iii) enable State and local agencies to
21 accept a program participant's use of an address designated by the Secretary of State's
22 Office as a substitute address; and (iv) allow newly relocated victims to keep their
23 addresses confidential from abusive individuals.

24 **"§ 15C-2. Definitions.**

25 The following definitions apply in this Chapter:

- 1 (1) Address. – A residential, work, or school street address as specified on
2 the individual's application to be a program participant under this
3 Chapter.
- 4 (2) Application assistant. – An employee of a State or local agency or
5 nonprofit program that provides counseling, referral, shelter, or other
6 specialized services to victims of domestic violence, sexual offenses,
7 or stalking and who has been designated by the Secretary of State to
8 assist individuals with the program participation applications.
- 9 (3) Person. – Any individual, corporation, limited liability company,
10 partnership, trust, estate, or other association or any state, the United
11 States, or any subdivision thereof.
- 12 (4) Program participant. – An individual accepted into the program in
13 accordance with G.S. 15C-3 of this Chapter.
- 14 (5) Secretary. – Office of the Secretary of State.
- 15 (6) Victim of domestic violence. – An individual against whom domestic
16 violence has been committed as defined in G.S. 50B-1.
- 17 (7) Victim of a sexual offense. – An individual against whom a sexual
18 offense has been committed pursuant to Article 7A of Chapter 14 of
19 the General Statutes.
- 20 (8) Victim of stalking. – An individual against whom stalking has been
21 committed as defined in G.S. 14-277.3.

22 **§ 15C-3. Address confidentiality program.**

23 (a) Any of the following individuals may apply to the Secretary to have an
24 address designated by the Secretary to serve as the person's address:

- 25 (1) An adult who resides in this State and is a victim of domestic violence,
26 a victim of a sexual offense, or a victim of stalking.
- 27 (2) A parent or guardian acting on behalf of a minor when the minor
28 resides with the victim.
- 29 (3) A guardian acting on behalf of an incapacitated person who is a victim
30 of domestic violence, a victim of a sexual offense, or a victim of
31 stalking.

32 (b) The Secretary shall approve an application forwarded by an application
33 assistant if the application is filed in the manner and on the form prescribed by the
34 Secretary, and it contains:

- 35 (1) A statement by the applicant that the applicant is a victim of domestic
36 violence, a victim of a sexual offense, or a victim of stalking and that
37 the applicant fears for his or her safety or the safety of his or her child.
- 38 (2) A designation of the Secretary as an agent for purposes of service of
39 process and the receipt of first-class mail.
- 40 (3) The mailing address where the applicant can be contacted by the
41 Secretary and the telephone number where the applicant can be
42 reached by the Secretary.

1 (4) The mailing address that the applicant requests not to be disclosed by
2 the Secretary that directly relates to the increased risk of domestic
3 violence, sexual offense, or stalking.

4 (5) A statement that disclosure of the applicant's address would endanger
5 the applicant's safety or the safety of the applicant's child, and that to
6 the best of the applicant's knowledge, the information contained in the
7 application is true.

8 (6) A recommendation of an application assistant that the applicant have
9 an address designated by the Secretary to serve as the applicant's
10 address.

11 (c) The application shall be dated, signed, and verified by the applicant and shall
12 be signed by the application assistant who assisted in preparing the application.

13 **"§ 15C-4. Filing and certification of applications.**

14 Applications shall be filed with the Secretary. Upon filing a properly completed
15 application, the Secretary shall certify the applicant as a program participant. Applicants
16 shall be certified for four years following the date of filing unless the certification is
17 withdrawn or canceled prior to the end of the four-year period. A program participant
18 may withdraw the certification by filing a request for withdrawal acknowledged before
19 a notary with the Secretary. A certification may be renewed by filing an application
20 containing the information required by G.S. 15C-3 with the Secretary at least 30 days
21 prior to expiration of the current certification. The Secretary shall not be required to
22 forward any mail other than first-class mail to the program participant. The Secretary
23 shall not be required to track or otherwise maintain records of any mail received on
24 behalf of a program participant unless the mail is certified or registered mail.

25 **"§ 15C-5. Change of name or address.**

26 (a) A participant shall notify the Secretary within 30 days after the participant
27 has obtained a legal name change by providing the Secretary a certified copy of any
28 judgment or order evidencing the change or any other documentation the Secretary
29 deems to be sufficient evidence of the name change. If the participant fails to notify the
30 Secretary of a name change in the manner provided in this subsection, the participant
31 shall lose certification in the program.

32 (b) A participant shall notify the Secretary of a change in address or telephone
33 number from the address or telephone number listed for the participant on the
34 application at least seven days before the change occurs. If the participant fails to notify
35 the Secretary of a change in address or telephone number in the manner provided in this
36 subsection, the participant shall lose certification in the program.

37 **"§ 15C-6. Falsifying application information.**

38 A person who falsely attests in an application that disclosure of the applicant's
39 address would endanger the applicant's safety or the safety of the applicant's child or
40 who knowingly provides false information when applying for certification shall lose his
41 or her certification. The Attorney General shall investigate violations of this section and
42 upon finding that a violation has occurred, assess a civil penalty not to exceed five
43 hundred dollars (\$500.00).

44 **"§ 15C-7. Certification cancellation.**

1 (a) The Secretary shall cancel the certification of a program participant under any
2 of the following circumstances:

3 (1) The program participant files a request for withdrawal of the
4 certification that has been acknowledged before a notary.

5 (2) The program participant fails to notify the Secretary of a change in the
6 participant's name, address, or telephone number listed on the
7 application pursuant to G.S. 15C-6.

8 (3) Mail forwarded to the program participant is returned as undeliverable.

9 (4) The program participant submitted false information in applying for
10 certification to the program.

11 (b) The provisions of Chapter 150B of the General Statutes shall not apply to any
12 cancellation by the Secretary pursuant to subsection (a) of this section.

13 **"§ 15C-8. Address use by State or local agencies.**

14 After a program participant demonstrates proof of his or her certification in the
15 program, State or local agencies shall accept the address designation by the Secretary as
16 a program participant's substitute address when creating a new public record for the
17 participant.

18 **"§ 15C-9. Disclosure of address prohibited.**

19 (a) The Secretary is prohibited from disclosing any address or telephone number
20 of a program participant other than the address designated by the Secretary, except
21 under the following circumstances:

22 (1) The information is requested by a law enforcement agency for official
23 use only.

24 (2) The information is required by direction of a court order. However,
25 any person to whom a program participant's address or telephone
26 number has been disclosed shall not disclose the address or telephone
27 number to any other person unless permitted to do so by order of the
28 court.

29 (b) Any person who discloses information in violation of this section shall be
30 guilty of a Class 1 misdemeanor and assessed a fine not to exceed five hundred dollars
31 (\$500.00).

32 (c) A program participant's address or telephone number maintained by the
33 Secretary or disclosed by the Secretary pursuant to this Chapter is not a public record
34 within the meaning of G.S. 132-1(a).

35 **"§ 15C-10. Limited liability.**

36 The Secretary and any agent or person employed by the Secretary shall be held
37 harmless from any liability in any action brought by or on behalf of any person injured
38 or harmed pursuant to this Chapter.

39 **"§ 15C-11. Rule-making authority.**

40 The Secretary is authorized to adopt any rules deemed necessary to carry out the
41 provisions of this Chapter.

42 **"§ 15C-12. Additional time for action.**

43 Whenever the laws of this State provide a program participant a legal right to act
44 within a prescribed period of 10 days or less after the service of a notice or other paper

1 upon the participant, and the notice or paper is served upon the participant by mail
2 pursuant to this Chapter, five days shall be added to the prescribed period."

3 **SECTION 2.** G.S. 1A-1, Rule 6 is amended by adding a new subsection to
4 read:

5 "(f) Additional Time for Address Confidentiality Program Participants. –
6 Whenever a person participating in the address confidentiality program pursuant to
7 Chapter 15C of the General Statutes has a legal right to act within a prescribed period of
8 10 days or less after the service of a notice or other paper upon the participant, and the
9 notice or paper is served upon the participant by mail, five days shall be added to the
10 prescribed period."

11 **SECTION 3.** There is appropriated from the General Fund to the
12 Department of the Secretary of State the sum of one hundred fifteen thousand dollars
13 (\$115,000) for the 2001-2002 fiscal year and the sum of eighty-six thousand five
14 hundred fifty dollars (\$86,550) for the 2002-2003 fiscal year for the costs of
15 implementing Section 1 of this act.

16 **SECTION 4.** This act is effective when it becomes law.