S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. WEINSTEIN, CLARK, MAGNARELLI, GLICK, LANCMAN, ABBATE -- Multi-Sponsored by -- M. of A. ALFANO, BRODSKY, DINOWITZ, GALEF, JAFFEE, JOHN, KAVANAGH -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to authorizing the secretary of state to accept service of process and receipt of mail on behalf of victims of domestic violence for the purpose of maintaining the confidentiality of the location of such victims

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The executive law is amended by adding a new section 108 to read as follows:

S 108. SERVICE OF PROCESS AND RECEIPT OF MAIL; VICTIMS OF DOMESTIC VIOLENCE. 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION:

(A) "ACTUAL ADDRESS" SHALL MEAN THE RESIDENTIAL STREET ADDRESS, SCHOOL ADDRESS OR WORK ADDRESS OF A VICTIM OF DOMESTIC VIOLENCE.

(B) "VICTIM OF DOMESTIC VIOLENCE" SHALL HAVE THE SAME MEANING AS IS ASCRIBED TO SUCH TERM PURSUANT TO SECTION FOUR HUNDRED FIFTY-NINE-A OF THE SOCIAL SERVICES LAW.

2. A VICTIM OF DOMESTIC VIOLENCE MAY MAKE APPLICATION TO THE SECRETARY OF STATE TO HAVE AN ADDRESS DESIGNATED BY THE DEPARTMENT OF STATE TO SERVE AS THE ADDRESS OF SUCH VICTIM IN LIEU OF THE VICTIM'S ACTUAL ADDRESS. THE SECRETARY OF STATE SHALL ESTABLISH, DISTRIBUTE AND MAKE AVAILABLE A FORM FOR THE PURPOSE OF MAKING APPLICATIONS PURSUANT TO THIS SECTION. SUCH FORMS SHALL BE PROVIDED TO THE OFFICE OF CHILDREN AND FAMILY SERVICES, THE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE, THE DEPARTMENT OF MOTOR VEHICLES AND COUNTY BOARDS OF ELECTIONS FOR THE PURPOSE OF DISTRIBUTION OF SUCH FORMS TO VICTIMS OF DOMESTIC VIOLENCE.

3. UPON RECEIPT OF AN APPLICATION, THE SECRETARY OF STATE SHALL GRANT APPROVAL TO SUCH APPLICATION IF IT INCLUDES:

(A) A SIGNED WRITTEN STATEMENT SWEARING AND AFFIRMING:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(I) THAT THE APPLICANT IS A VICTIM OF DOMESTIC VIOLENCE,

(II) THAT THE APPLICANT HAS BEEN FORCED TO LEAVE HIS OR HER ACTUAL ADDRESS BECAUSE OF SUCH VIOLENCE, AND

(III) THAT BECAUSE OF THE THREAT OF PHYSICAL HARM TO THE APPLICANT OR HIS OR HER CHILD OR CHILDREN, SUCH APPLICANT DESIGNATES THE SECRETARY OF STATE AS HIS OR HER AGENT FOR PURPOSES OF SERVICE OF PROCESS AND RECEIPT OF MAIL;

(B) THE ACTUAL ADDRESS WHERE THE VICTIM OF DOMESTIC VIOLENCE CAN BE CONTACTED BY THE SECRETARY OF STATE, AND TELEPHONE NUMBER AT WHICH THE VICTIM OF DOMESTIC VIOLENCE CAN BE CALLED BY THE SECRETARY OF STATE; AND

(C) THE ADDRESS OR ADDRESSES THAT THE VICTIM OF DOMESTIC VIOLENCE REQUESTS NOT BE DISCLOSED FOR THE REASON THAT DISCLOSURE WOULD INCREASE THE RISK OF DOMESTIC VIOLENCE.

4. UPON APPROVAL OF AN APPLICATION SUBMITTED PURSUANT TO THIS SECTION, THE SECRETARY OF STATE SHALL SERVE AS THE APPLICANT'S AGENT FOR THE SERVICE OF PROCESS AND RECEIPT OF MAIL FOR A PERIOD OF FOUR YEARS FROM THE DATE SUCH APPLICATION IS APPROVED, UNLESS THE APPLICATION IS WITHDRAWN OR INVALIDATED PRIOR TO THE EXPIRATION OF SUCH PERIOD OF TIME. THE SECRETARY OF STATE SHALL PROMULGATE RULES AND REGULATIONS FOR THE RENEWAL OF APPLICATIONS PURSUANT TO THIS SECTION.

5. SERVICE UPON THE SECRETARY OF STATE OF ANY PROCESS OR MAIL SHALL BE MADE TO AN ADDRESS DESIGNATED BY THE DEPARTMENT OF STATE FOR THE INDIVIDUAL VICTIM OF DOMESTIC VIOLENCE. UPON RECEIPT BY THE SECRETARY OF STATE OF A PROCESS OR MAIL FOR A VICTIM OF DOMESTIC VIOLENCE, THE DEPARTMENT OF STATE SHALL IMMEDIATELY FORWARD SUCH PROCESS OR MAIL TO THE VICTIM OF DOMESTIC VIOLENCE AT HIS OR HER ACTUAL ADDRESS, AND SHALL RECORD THE DATE OF SUCH FORWARDING. THE SECRETARY OF STATE AND THE DEPARTMENT OF STATE SHALL BE HELD HARMLESS FROM ANY LIABILITY AS THE RESULT OF HANDLING ANY PROCESS OR MAIL ON BEHALF OF A VICTIM OF DOMESTIC VIOLENCE.

6. THE DEPARTMENT OF STATE SHALL TERMINATE THE SECRETARY OF STATE'S AGENCY ON BEHALF OF A VICTIM OF DOMESTIC VIOLENCE:

(A) IF THE VICTIM OF DOMESTIC VIOLENCE OBTAINS A NAME CHANGE;

(B) IF PROCESS OR MAIL IS RETURNED TO THE DEPARTMENT OF STATE AS UNDELIVERABLE TO THE ACTUAL ADDRESS OF A VICTIM OF DOMESTIC VIOLENCE;

(C) IF THE VICTIM OF DOMESTIC VIOLENCE CHANGES HIS OR HER ACTUAL ADDRESS, WITHOUT PROVIDING THE DEPARTMENT OF STATE WITH WRITTEN NOTICE OF SUCH ADDRESS CHANGE NOT LESS THAN SEVEN DAYS PRIOR THERETO; OR

(D) IF THE VICTIM OF DOMESTIC VIOLENCE PROVIDED FALSE INFORMATION IN HIS OR HER APPLICATION.

7. ALL RECORDS AND DOCUMENTS HELD BY THE DEPARTMENT OF STATE PURSUANT TO THIS SECTION ARE CONFIDENTIAL, UNLESS A COURT ORDER DIRECTS DISCLOSURE FOR THE PURPOSES OF A CRIMINAL OR CIVIL PROCEEDING. THE RECORDS AND DOCUMENTS ON EACH VICTIM OF DOMESTIC VIOLENCE SHALL BE RETAINED BY SUCH DEPARTMENT FOR THREE YEARS AFTER THE EXPIRATION OF THE APPROVAL OF AN APPLICATION AND ANY RENEWAL THEREOF, AND THEREAFTER DESTROYED.

8. THE SECRETARY OF STATE SHALL PROMULGATE ANY AND ALL RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided, however, that the secretary of state is authorized and directed to promulgate all rules, regulations and forms necessary to implement the provisions of this act, on its effective date, on or before such date.