

3580--A

Cal. No. 165

2009-2010 Regular Sessions

I N S E N A T E

March 25, 2009

Introduced by Sens. ADAMS, DILAN, HASSELL-THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

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:

1 Section 1. The executive law is amended by adding a new section 108 to
2 read as follows:
3 S 108. SERVICE OF PROCESS AND RECEIPT OF MAIL; VICTIMS OF DOMESTIC
4 VIOLENCE. 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION:
5 (A) "ACTUAL ADDRESS" SHALL MEAN THE RESIDENTIAL STREET ADDRESS, SCHOOL
6 ADDRESS OR WORK ADDRESS OF A VICTIM OF DOMESTIC VIOLENCE.
7 (B) "VICTIM OF DOMESTIC VIOLENCE", FOR PURPOSES OF THIS SECTION, SHALL
8 MEAN AN INDIVIDUAL WHO IS A VICTIM OF AN ACT WHICH WOULD CONSTITUTE A
9 FAMILY OFFENSE PURSUANT TO SUBDIVISION ONE OF SECTION EIGHT HUNDRED
10 TWELVE OF THE FAMILY COURT ACT.
11 2. A VICTIM OF DOMESTIC VIOLENCE MAY MAKE APPLICATION TO THE SECRETARY
12 OF STATE TO HAVE AN ADDRESS DESIGNATED BY THE DEPARTMENT OF STATE TO
13 SERVE AS THE ADDRESS OF SUCH VICTIM IN LIEU OF THE VICTIM'S ACTUAL
14 ADDRESS. THE SECRETARY OF STATE SHALL ESTABLISH, DISTRIBUTE AND MAKE
15 AVAILABLE A FORM FOR THE PURPOSE OF MAKING APPLICATIONS PURSUANT TO THIS
16 SECTION. SUCH FORM SHALL PROVIDE NOTICE TO THE VICTIM OF DOMESTIC
17 VIOLENCE APPLICANT REGARDING THE BASIS FOR TERMINATION OF AGENCY PURSU-
18 ANT TO THIS SECTION. SUCH FORMS SHALL BE PROVIDED TO THE OFFICE OF COURT
19 ADMINISTRATION, OFFICE OF CHILDREN AND FAMILY SERVICES, THE OFFICE FOR

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

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1 THE PREVENTION OF DOMESTIC VIOLENCE, THE DEPARTMENT OF MOTOR VEHICLES
2 AND COUNTY BOARDS OF ELECTIONS FOR THE PURPOSE OF DISTRIBUTION OF SUCH
3 FORMS TO VICTIMS OF DOMESTIC VIOLENCE.

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

6 (A) A SIGNED WRITTEN STATEMENT SWEARING AND AFFIRMING:

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

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

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

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

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

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

27 5. SERVICE UPON THE SECRETARY OF STATE OF ANY PROCESS OR MAIL SHALL BE
28 MADE TO AN ADDRESS DESIGNATED BY THE DEPARTMENT OF STATE FOR THE INDI-
29 VIDUAL VICTIM OF DOMESTIC VIOLENCE. UPON RECEIPT BY THE SECRETARY OF
30 STATE OF A PROCESS OR MAIL FOR A VICTIM OF DOMESTIC VIOLENCE, THE
31 DEPARTMENT OF STATE SHALL IMMEDIATELY FORWARD SUCH PROCESS OR MAIL TO
32 THE VICTIM OF DOMESTIC VIOLENCE AT HIS OR HER ACTUAL ADDRESS, AND SHALL
33 RECORD THE DATE OF SUCH FORWARDING. THE SECRETARY OF STATE OR ANY MEMBER
34 OF THE DEPARTMENT OF STATE WHO REASONABLY AND IN GOOD FAITH HANDLES ANY
35 PROCESS OR MAIL ON BEHALF OF A VICTIM OF DOMESTIC VIOLENCE IN ACCORDANCE
36 WITH THIS SECTION SHALL BE IMMUNE FROM ANY CIVIL LIABILITY WHICH MIGHT
37 OTHERWISE RESULT BY REASON OF SUCH ACTIONS.

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

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

41 (B) IF PROCESS OR MAIL IS RETURNED TO THE DEPARTMENT OF STATE AS UNDE-
42 LIVERABLE TO THE ACTUAL ADDRESS OF A VICTIM OF DOMESTIC VIOLENCE;

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

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

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

54 8. THE SECRETARY OF STATE SHALL PROMULGATE ANY AND ALL RULES AND REGU-
55 LATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

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