

ORIGINAL

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BILL AS INTRODUCED  
2001

H.476  
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H.476

2

Introduced by Committee on Government Operations

3

Date: *March 2, 2001*

4

Subject: Executive branch; secretary of state; address confidentiality program

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Statement of purpose: This bill proposes to:

6

(1) clarify application requirements;

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(2) eliminate the exception for disclosure of a participant's address

8

when his or her certification has been cancelled;

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(3) provide an exception for disclosure of a participant's address when

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requested by a law enforcement agency for a legitimate law enforcement

11

purpose; and

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(4) require the secretary of state to adopt rules which ensure expeditious

13

disclosure of participant addresses when required.

14

AN ACT RELATING TO ADDRESS CONFIDENTIALITY OF VICTIMS  
OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING

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16

It is hereby enacted by the General Assembly of the State of Vermont:

17

*See P. 1a*  
~~Sec. 1. PURPOSE~~

18

~~The general assembly, by this act, intends to ensure that law enforcement~~

19

~~agencies can access the actual addresses of participants in the address~~

H.476

Sec. 1. PURPOSE

The general assembly, by this act, intends to ensure that law enforcement agencies can access the actual addresses of participants in the address confidentiality program to effectuate legitimate law enforcement duties, while furthering the intent of the address confidentiality program.

Sec. 2. 15 V.S.A. § 1151 is amended to read:

§ 1151. DEFINITIONS

Unless the context clearly requires otherwise, the definitions in this section apply throughout the subchapter.

(1) “Address Actual address” means ~~a residential street address,~~ the physical location where the applicant resides and may include a school address, ~~post office box address~~ or work address of an individual, as specified on the individual’s application to be a program participant under this chapter.

(2) “Agency” means any subdivision of the state of Vermont, a municipality, or a subdivision of a municipality.

~~(2)~~(3) “Domestic violence” means an act of abuse as defined in subdivision 1101(1) of this title and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

(4) “Law enforcement agency” means the department of public safety, a municipal police department, a sheriff’s department, the attorney general’s office, a state’s attorney’s office, or certified law enforcement officers of the department of motor vehicles, the agency of natural resources, or the department of liquor control. “Law enforcement agency” shall also mean the department of social and rehabilitation services when engaged in:

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(A) the investigation of child abuse and neglect;

(B) the delivery of services to families and children with whom the department is working with pursuant to the provisions of chapter 55 of Title 33; or

(C) the performance of the department's responsibilities pursuant to an interstate compact to which the state is a party.

(5) "Law enforcement purpose" means all matters relating to:

(A) the prevention, investigation, prosecution, or adjudication of criminal offenses, civil matters, or juvenile matters;

(B) the investigation, prosecution, adjudication, detention, supervision, or correction of persons suspected, charged, or convicted of criminal offenses or juvenile delinquencies;

(C) the protection of the general health, welfare, and safety of the public or the state of Vermont;

(D) the execution and enforcement of court orders;

(E) service of criminal or civil process or court orders;

(F) screening for criminal justice employment;

(G) other actions taken in performance of official duties, as set forth by statutes, rules, policies, judicial case law, and the United States and Vermont constitutions; and

(H) criminal identification activities, including the collection, storage, and dissemination of criminal history records, as defined in subdivision 2056a(a)(1) of Title 20, sex offender registry information, and DNA material and information.

~~(3)~~(6) "Program participant" means a person certified as a program participant under this chapter.

(7) "Public record" means a public record as defined in section 317 of Title 1.

(8) "Secretary" means the Vermont secretary of state.

~~(4)~~(9) “Sexual assault” means an act of assault as defined in subsection 3252(a) or (b) of Title 13 (sexual assault) or in subsection 3253(a) of Title 13 (aggravated sexual assault), and includes a threat of such acts, regardless of whether these acts or threats have been reported to law enforcement officers.

~~(5)~~(10) “Stalking” means conduct as defined in section 1061(stalking) or in section 1063 of Title 13 (aggravated stalking), and includes a threat of such acts, regardless of whether these acts or threats have been reported to law enforcement officers.

(11) “Substitute address” means the secretary’s designated address for the address confidentiality program.

Sec. 3. 15 V.S.A. § 1152 is amended to read:

§ 1152. ADDRESS CONFIDENTIALITY PROGRAM; APPLICATION;

CERTIFICATION

(a) An adult person, a parent or legal guardian acting on behalf of a minor, or a legal guardian acting on behalf of an incapacitated person, may apply to the secretary of state to have an address designated by the secretary serve as the person’s address or the address of the minor or incapacitated person. 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:

(1) a ~~sworn~~ statement made under oath by the applicant that ~~the applicant has good reason to believe:~~

(A) the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic ~~or~~ violence, ~~sexual violence-related~~ assault, or ~~stalking-related behavior~~ stalking; ~~and~~

(B) the applicant fears for his or her safety or his or her children’s safety, or the safety of the minor or incapacitated person on whose behalf the application is made;

(C) the parent or legal guardian applying on behalf of a minor or incapacitated person has legal authority to act on the person’s behalf;

(D) if the applicant is under the supervision of the department of corrections, the applicant has notified the department of the actual address and the applicant authorizes the release of the actual address to the department; and

(E) if the applicant is required to report the actual address for the sex offender registry under subchapter 3 of chapter 167 of Title 13, the applicant authorizes the release of the actual address to the registry;

\* \* \*

(5) the signature of the applicant and the name of any individual or representative of any office who assisted in the preparation of the application, ~~and the date on which the applicant signed the application.~~

(b) Applications shall be filed with the office of the secretary.

(c) Upon receipt of a properly completed application, the secretary 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~~ cancelled before that date. The secretary shall by rule establish a renewal procedure.

~~(d) 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 the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, shall to the secretary as required by this chapter may be punishable in accordance with the criminal penalties for perjury as described in prosecuted under section 2904 of Title 13.~~

(e) A program participant shall notify the secretary of state of a change of actual address within seven days of the change of address.

Sec. 4. 15 V.S.A. § 1153(c) is amended to read:

(c) The secretary shall send notice of ~~termination~~ cancellation to the program participant. Notice of ~~termination~~ cancellation shall set out the reasons for ~~termination~~ cancellation. The

program participant shall have 30 days to appeal the ~~termination~~ cancellation decision under procedures developed by the secretary.

Sec. 5. 15 V.S.A. § 1154 is amended to read:

§ 1154. AGENCY USE OF DESIGNATED ADDRESS; AGENCY OTHER THAN LAW ENFORCEMENT AGENCY

(a) A program participant shall request that state and local agencies, other than law enforcement agencies, use the substitute address ~~designated by the secretary of state~~ as the participant's address. When creating a new public record, state and local agencies, other than law enforcement agencies, shall accept the ~~address designated by the secretary as a program participant's~~ substitute address, unless the secretary has determined that:

(1) the agency has a bona fide ~~statutory or administrative~~ requirement for the use of the actual address which would otherwise be confidential under this subchapter;

\* \* \*

(d) If the secretary finds that the agency has a bona fide ~~statutory and administrative need~~ purpose for the actual address and that the information will only be used for that purpose, the secretary ~~may~~ shall issue the actual address to the agency. Prior to granting the waiver, the secretary shall notify the program participant of the waiver, including the name of the agency and the reasons for the waiver. ~~When granting~~ If granted a waiver, ~~the secretary shall notify and require the agency to~~ shall maintain the confidentiality of the program participant's address ~~and designate a date after which the agency no longer maintains the record of the address by redacting the actual address when the record is released to any person.~~

\* \* \*

(f) Acceptance or denial of the agency's waiver request constitutes final agency action. An aggrieved party may appeal. ~~The secretary shall adopt rules establishing an appeal process.~~

\* \* \*

(j) Any agency receiving a waiver may not make the program participant's actual address available for inspection or copying, except under the following circumstances:

- (1) if requested by a law enforcement agency for ~~purposes of assisting in the execution of an arrest warrant~~ a law enforcement purpose as defined in subdivision 1151(5) of this title; or
- (2) if directed by a court order to a person identified in the order.

Sec. 6. 15 V.S.A. § 1154a is added to read:

§ 1154a AGENCY USE OF DESIGNATED ADDRESS; LAW ENFORCEMENT AGENCY

(a) If requested in person by a program participant to the person creating the record prior to the creation of the record, and upon proof of participation in the program established by this chapter, a law enforcement agency shall use the participant's substitute address in:

- (1) a summons or complaint for a violation within the jurisdiction of the judicial bureau as set forth in section 1102 of Title 4;
- (2) a citation to appear under Rule 3 of the Vermont Rules of Criminal Procedure; or
- (3) an accident report filed with the department of motor vehicles.

(b) Nothing in this subchapter shall prevent a law enforcement agency from requiring that a program participant provide his or her actual address upon request from the agency.

(c) A law enforcement agency may, in its discretion, use a substitute address in any record released by the agency.

Sec. 7. 15 V.S.A. § 1155 is amended to read:

§ 1155. DISCLOSURE OF ADDRESS PROHIBITED; EXCEPTIONS

(a) The secretary of state may not make a program participant's address, other than the address designated by the secretary, available for inspection or copying, except under the following circumstances:

~~(1) if requested by a law enforcement agency for purposes of assisting in the execution of an arrest warrant a law enforcement purpose as defined in subdivision 1151(5) of this title; or~~

~~(2) if directed by a court order to a person identified in the order; or~~

~~(3) to verify the participation of a specific program participant, in which case the secretary may only confirm information supplied by the requester; or~~

~~(4) if certification has been canceled.~~

(b) The secretary shall ensure by rule that:

(1) when a law enforcement agency determines it has an immediate need for a participant's actual address, disclosure of the address shall occur immediately; and

(2) in other circumstances, there is an expedited process for disclosure.

(c) The secretary may request that an agency review its disclosure requests to determine whether such requests were appropriate.

(d) The secretary shall provide immediate notification of disclosure to a program participant when disclosure takes place under subdivisions (a)(2) and (3) of this section.

(e)(1) No person shall knowingly and intentionally obtain a program participant's actual address from the secretary knowing that he or she was not authorized to obtain the address information.

(2) No employee of a state, local, or municipal agency or sheriff's department shall knowingly and intentionally disclose, with the intent to disseminate to the individual from whom the program participant is seeking address confidentiality, a participant's actual address to a person known to the employee to be prohibited from receiving the participant's actual address, unless such disclosure is permissible by law. This subdivision is only intended to apply when an employee obtains a participant's actual address during the course of the employee's official duties and, at the time of disclosure, the employee has specific knowledge that the address disclosed belongs to a person who is participating in the program.

(3) Nothing in this chapter shall prohibit an agency or agency employee from disclosing or providing a participant's actual address to an agency attorney providing advice to an agency or agency employee, nor shall any agency attorney be prohibited, except as set forth in section 1156 of this title, from disclosing a participant's actual address to other law enforcement employees, other agency attorneys, paralegals, or their support staff, if disclosure is related to providing such advice or to the agency attorney's representation of the agency or agency employee. In the case of law enforcement, agency attorneys shall also include the attorneys in the office of the state's attorneys, attorney general and the United States attorney. An attorney, during the course of providing advice to another person or agency, shall not be subject to the provisions set forth in subdivisions 1155(e)(1) and (2) of this title, nor shall any actionable duty arise from giving such advice.

(4) A person who violates subdivisions (1) or (2) of this subsection shall be assessed a civil penalty of not more than \$5,000.00. Each unauthorized disclosure shall constitute a separate civil violation. Nothing in this subdivision shall preclude criminal prosecution for a violation.

Sec. 8. 15 V.S.A. § 1156 is amended to read:

§ 1156. NONDISCLOSURE OF ADDRESS IN CRIMINAL AND CIVIL PROCEEDINGS

~~No member of the department of state's attorneys, victim's advocate, law enforcement agency, local social service agency or witness shall be compelled to disclose the program participant's actual residential address or place of employment during the discovery phase of, or during testimony in any criminal or civil proceeding unless the court finds, based on a preponderance of the evidence, that nondisclosure will prejudice the defendant.~~ No person shall be compelled to disclose a program participant's actual address during the discovery phase of or during a proceeding before a court of competent jurisdiction or administrative tribunal unless the court or administrative tribunal finds, based upon a preponderance of the evidence, that the disclosure is required in the interests of justice. A court or administrative tribunal may seal that portion of any record that contains a program participant's actual address. Nothing in this subchapter

shall prevent the state, in its discretion, from using a program participant's actual address in any document or record filed with a court or administrative tribunal if, at the time of filing, the document or record is not a public record.

Sec. 9. 1 V.S.A. § 317(c)(29) is amended to read:

(c) The following public records are exempt from public inspection and copying:

\* \* \*

(29) the address records in the custody of the secretary of state of a certified participant in the address confidentiality program described in chapter 21, subchapter 3 of Title 15, except as provided in that subchapter, during the period of certification.

Sec. 10. SECRETARY OF STATE; ADOPTION OF EXPEDITIOUS RULES

(a) The secretary of state is authorized to adopt rules under the expeditious rule-making procedures provided in this section in order that the program established by No. 134 of the Acts of the 1999 Adj. Sess. (2000) and this act may be implemented by July 1, 2001. Notwithstanding the provisions to the contrary of 3 V.S.A. chapter 25, the secretary of state shall file final proposed rules prior to June 7, 2001, and adopt, effective July 1, 2001, all rules necessary to implement the program.

(b) Rules shall be filed in final proposed form with the secretary of state and the legislative committee on administrative rules under 3 V.S.A. § 841, after the secretary of state's publication, in the three daily Vermont newspapers of highest average circulation, of a notice listing all rules to be adopted by this process and providing for a seven-day public comment period. The legislative committee on administrative rules shall review and may approve or object to the final proposed rules under the provisions of 3 V.S.A. § 842, except that its action shall be completed within 15 days or by June 22, 2001, whichever is sooner. Rules so adopted may be effective as soon as five days after adoption, and have the full force and effect of rules adopted pursuant to 3 V.S.A. chapter 25. Any such rules shall be deemed to be in full compliance with 3 V.S.A. § 843.

and the secretary of state shall certify that the rules are required to meet the purposes of this section.

*Sec. 11. EFFECTIVE DATE*

*This act shall take effect from passage.*

ATTESTED TO:

Donald G. Milne  
Donald G. Milne  
Clerk, House of Representatives

Walter Ruy  
SPEAKER OF THE HOUSE OF REPRESENTATIVES  
Douglas A. Lucin  
PRESIDENT OF THE SENATE

Phil Dean 5/21/01  
GOVERNOR Date

1 ~~confidentiality program to effectuate legitimate law enforcement duties, while~~  
2 ~~furthuring the intent of the address confidentiality program.~~

3 Sec. 2. 15 V.S.A. § 1151 is amended to read:

4 § 1151. DEFINITIONS

5 Unless the context clearly requires otherwise, the definitions in this section  
6 apply throughout the subchapter.

7  
8 (1) ~~“Address Actual address” means a residential street address, the~~  
9 ~~physical location where the applicant resides and may include a school~~  
10 ~~address, post office box address or work address of an individual, as specified~~  
11 ~~on the individual’s application to be a program participant under this chapter.~~

12 \* \* \*

13 (6) ~~“Law enforcement agency” means the department of public safety, a~~  
14 ~~municipal police department, a sheriff’s department, the criminal division of~~  
15 ~~the attorney general’s office, and a state’s attorney’s office, or employees of~~  
16 ~~those agencies, and certified law enforcement officers employed by the~~  
17 ~~department of motor vehicles, the agency of natural resources, or the~~  
18 ~~department of liquor control. “Law enforcement agency” shall also mean the~~  
19 ~~department of social and rehabilitation services or its employees when the~~  
20 ~~department is engaged in:~~

21 ~~(A) the investigation of child abuse and neglect;~~

1 (B) the delivery of services to families and children that the  
2 department is working with pursuant to the provisions of chapter 55 of Title  
3 33;

4 (C) the execution of the department's licensing duties;

5 (D) working with children alleged to be, or adjudicated, delinquent;

6 or

7 (E) the performance of the department's responsibilities pursuant to  
8 an interstate compact to which the state is a party.

9 (7) "Public record" means a public record as defined in section 317 of  
10 Title 1.

11 (8) "Secretary" means the Vermont secretary of state.

12 (9) "Substitute address" means the secretary's designated address for the  
13 address confidentiality program.

14 (10) "Agency" means any subdivision of the state of Vermont, a  
15 municipality, or a subdivision of a municipality.

16 Sec. 3. 15 V.S.A. § 1152 is amended to read:

17 § 1152. ADDRESS CONFIDENTIALITY PROGRAM; APPLICATION;

18 CERTIFICATION

19 (a) An adult person, a parent or legal guardian acting on behalf of a minor,  
20 or a legal guardian acting on behalf of an incapacitated person, may apply to  
21 the secretary of state to have an address designated by the secretary serve as

1 ~~the person's address or the address of the minor or incapacitated person.~~ The  
2 secretary of state shall approve an application if it is filed in the manner and on  
3 the form prescribed by the secretary of state, and if it contains:

4 (1) a ~~sworn~~ statement made under oath by the applicant that ~~the~~  
5 ~~applicant has good reason to believe:~~

6 (A) the applicant, or the minor or incapacitated person on whose  
7 behalf the application is made, is a victim of domestic ~~or~~ violence, sexual  
8 ~~violence-related assault, or stalking-related behavior~~ stalking; and

9 (B) the applicant fears for his or her safety or his or her children's  
10 safety, or the safety of the minor or incapacitated person on whose behalf the  
11 application is made;

12 (C) the parent or legal guardian applying on behalf of a minor or  
13 incapacitated person has legal authority to act on the person's behalf;

14 (D) the applicant or the individual for whom the application is  
15 prepared is not knowingly a subject of an active arrest warrant;

16 (E) if the applicant is under the supervision of the department of  
17 corrections, the applicant has notified the department of the actual address and  
18 the applicant authorizes the release of the actual address to the department; and

19 (F) if the applicant is required to report the actual address for the sex  
20 offender registry under subchapter 3 of chapter 167 of Title 13, the applicant  
21 authorizes the release of the actual address to the registry;

1 \* \* \*

2 ~~(5) the signature of the applicant and the name of any individual or~~  
3 ~~representative of any office who assisted in the preparation of the application;~~  
4 ~~and the date on which the applicant signed the application.~~

5 (b) Applications shall be filed with the office of the secretary.

6 (c) Upon receipt of a properly completed application, the secretary shall  
7 certify the applicant as a program participant. Applicants shall be certified for  
8 four years following the date of filing, unless the certification is withdrawn or  
9 ~~invalidated~~ cancelled before that date. The secretary shall by rule establish a  
10 renewal procedure.

11 (d) A person who ~~falsely attests in an application that disclosure of the~~  
12 ~~applicant's address would endanger the applicant's safety, or the safety of the~~  
13 ~~applicant's children or the minor or incapacitated person on whose behalf the~~  
14 ~~application is made, or who knowingly provides false or incorrect information~~  
15 ~~upon making an application, shall~~ to the secretary as required by this chapter  
16 may be punishable in accordance with the criminal penalties for perjury as  
17 described in prosecuted under section 2904 of Title 13.

18 (e) A program participant shall notify the secretary of state of a change of  
19 actual address within seven days of the change of address.

1 Sec. 4. 15 V.S.A. § 1153(c) is amended to read:

2 (c) The secretary shall send notice of ~~termination~~ cancellation to the  
3 program participant. Notice of ~~termination~~ cancellation shall set out the  
4 reasons for ~~termination~~ cancellation. The program participant shall have 30  
5 days to appeal the ~~termination~~ cancellation decision under procedures  
6 developed by the secretary.

7 Sec. 5. 15 V.S.A. § 1154 is amended to read:

8 § 1154. AGENCY USE OF DESIGNATED ADDRESS; AGENCY OTHER  
9 THAN LAW ENFORCEMENT AGENCY

10 (a) A program participant shall request that state and local agencies, other  
11 than law enforcement agencies, use the substitute address ~~designated by the~~  
12 ~~secretary of state~~ as the participant's address. When creating a new public  
13 record, state and local agencies, other than law enforcement agencies, shall  
14 accept the ~~address designated by the secretary as a program participant's~~  
15 substitute address, unless the secretary has determined that:

16 (1) the agency has a bona fide ~~statutory or administrative~~ requirement  
17 for the use of the actual address which would otherwise be confidential under  
18 this subchapter;

19 \* \* \*

20 (d) If the secretary finds that the agency has a bona fide ~~statutory and~~  
21 ~~administrative need~~ purpose for the actual address and that the information will

1 only be used for that purpose, the secretary may ~~may~~ shall issue the actual address  
2 to the agency. Prior to granting the waiver, the secretary shall notify the  
3 program participant of the waiver, including the name of the agency and the  
4 reasons for the waiver. ~~When granting~~ If granted a waiver, ~~the secretary shall~~  
5 ~~notify and require~~ the agency to shall maintain the confidentiality of the  
6 program participant's address and ~~designate a date after which the agency no~~  
7 ~~longer maintains the record of the address~~ by redacting the actual address when  
8 the record is released to any person.

9 \* \* \*

10 (f) Acceptance or denial of the agency's waiver request constitutes final  
11 agency action. An aggrieved party may appeal. ~~The secretary shall adopt rules~~  
12 ~~establishing an appeal process.~~

13 \* \* \*

14 (j) Any agency receiving a waiver may not make the program participant's  
15 actual address available for inspection or copying, except under the following  
16 circumstances:

17 (1) if requested by a law enforcement agency for ~~purposes of assisting in~~  
18 ~~the execution of an arrest warrant~~ a legitimate law enforcement purpose as  
19 determined by the law enforcement agency; or

20 (2) if directed by a court order to a person identified in the order.

1 Sec. 6. 15 V.S.A. § 1154a is added to read:

2 § 1154a. AGENCY USE OF DESIGNATED ADDRESS; LAW

3 ENFORCEMENT AGENCY

4 (a) If requested in person by a program participant to the person creating  
5 the record prior to the creation of the record, and upon proof of participation in  
6 the program established by this chapter, a law enforcement agency shall use  
7 the participant's substitute address in:

8 (1) a summons or complaint for a violation within the jurisdiction of the  
9 judicial bureau as set forth in section 1102 of Title 4;

10 (2) a citation to appear under Rule 3 of the Vermont Rules of Criminal  
11 Procedure; or

12 (3) an accident report filed with the department of motor vehicles.

13 (b) Nothing in this subchapter shall prevent a law enforcement agency from  
14 requiring that a program participant provide his or her actual address upon  
15 request from the agency.

16 (c) A law enforcement agency may, in its discretion, use a substitute  
17 address in any record released by the agency.

1 Sec. 7. 15 V.S.A. § 1155 is amended to read:

2 § 1155. DISCLOSURE OF ADDRESS PROHIBITED; EXCEPTIONS

3 (a) The secretary of state may not make a program participant's address,  
4 other than the address designated by the secretary, available for inspection or  
5 copying, except under the following circumstances:

6 (1) if requested by a law enforcement agency for ~~purposes of assisting in~~  
7 ~~the execution of an arrest warrant~~ a legitimate law enforcement purpose as  
8 determined by the law enforcement agency; or

9 (2) if directed by a court order to a person identified in the order; or

10 (3) to verify the participation of a specific program participant, in which  
11 case the secretary may only confirm information supplied by the requester; ~~or~~

12 ~~(4) if certification has been canceled.~~

13 (b) The secretary shall ensure by rule that:

14 (1) when a law enforcement agency determines it has an immediate need  
15 for a participant's actual address, disclosure of the address shall occur  
16 immediately; and

17 (2) in other circumstances, there is an expedited process for disclosure.

18 (c) The secretary may request that an agency review its disclosure requests  
19 to determine whether such requests were appropriate.

1     ~~(d) The secretary shall provide immediate notification of disclosure to a~~  
2     ~~program participant when disclosure takes place under subdivisions (a)(2) and~~  
3     ~~(3) of this section.~~

4     Sec. 8. 15 V.S.A. § 1156 is amended to read:

5     § 1156. NONDISCLOSURE OF ADDRESS IN CRIMINAL AND CIVIL  
6             PROCEEDINGS

7     ~~No member of the department of state's attorneys, victim's advocate, law~~  
8     ~~enforcement agency, local social service agency or witness shall be compelled~~  
9     ~~to disclose the program participant's actual residential address or place of~~  
10    ~~employment during the discovery phase of, or during testimony in any criminal~~  
11    ~~or civil proceeding unless the court finds, based on a preponderance of the~~  
12    ~~evidence, that nondisclosure will prejudice the defendant. No person shall be~~  
13    ~~compelled to disclose a program participant's actual address during a~~  
14    ~~proceeding before a court of competent jurisdiction, unless the court finds,~~  
15    ~~based upon a preponderance of the evidence, that the disclosure is required in~~  
16    ~~the interests of justice. A court may seal that portion of any record that~~  
17    ~~contains a program participant's actual address. Nothing in this subchapter~~  
18    ~~shall prevent the state from using a program participant's actual address in any~~  
19    ~~document or record filed with a court if, at the time of filing, the document or~~  
20    ~~record is not a public record.~~

1 ~~Sec. 9. 15 V.S.A. § 1161 is added to read:~~

2 ~~§ 1161. LIABILITY FOR NEGLIGENCE~~

3 ~~No actionable duty nor any right of action shall accrue against the state, a~~  
4 ~~municipality, an agency of the state or municipality, or an employee of the~~  
5 ~~state or municipality, from the negligent disclosure of a program participant's~~  
6 ~~actual address.~~

7 ~~Sec. 10. 1 V.S.A. § 317(c)(29) is amended to read:~~

8 ~~(c) The following public records are exempt from public inspection and~~  
9 ~~copying:~~

10 \* \* \*

11 ~~(29) the address records in the custody of the secretary of state of a~~  
12 ~~certified participant in the address confidentiality program described in chapter~~  
13 ~~21, subchapter 3 of Title 15, except as provided in that subchapter, during the~~  
14 ~~period of certification.~~

~~Sec. 11. EFFECTIVE DATE~~

~~This act shall take effect from passage.~~



HOUSE OF REPRESENTATIVES  
5/19, 20 01  
ENTERED ON THE CALENDAR  
FOR NOTICE.  
ASST. CLERK

HOUSE OF REPRESENTATIVES  
5/16, 20 01  
SENATE PROPOSAL OF AMENDMENT  
CONSIDERED AND CONCURRED IN  
ASST. CLERK

5/10/01  
UPON MOTION OF  
REP. Doyle OF Richmond  
THE RULES WERE SUSP. & THE ACTION  
OF HOUSE ON THE BILL WAS ORDERED  
MESSAGED TO SEN. FORTHWITH & THE  
BILL DELVD. TO GOV. FORTHWITH.  
ASST. CLERK

