**South Carolina General Assembly**

125th Session, 2023-2024

**S. 147**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Shealy, Gustafson, Senn, Goldfinch and Campsen

Companion/Similar bill(s): 226

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Introduced in the Senate on January 10, 2023

Introduced in the House on April 19, 2023

Last Amended on April 13, 2023

Currently residing in the House Committee on **Judiciary**

Summary: Address Confidentiality and Advocate Privilege

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 11/30/2022 Senate Prefiled

 11/30/2022 Senate Referred to Committee on **Judiciary**

 1/10/2023 Senate Introduced and read first time (Senate Journal‑page 82)

 1/10/2023 Senate Referred to Committee on **Judiciary** (Senate Journal‑page 82)

 2/2/2023 Senate Referred to Subcommittee: Hutto (ch), Matthews,
 Rice, Senn, Adams

 2/22/2023 Senate Committee report: Favorable **Judiciary** (Senate Journal‑page 10)

 2/27/2023 Scrivener's error corrected

 3/9/2023 Senate Read second time (Senate Journal‑page 20)

 3/9/2023 Senate Roll call Ayes-41 Nays-0 (Senate Journal‑page 20)

 4/13/2023 Senate Amended (Senate Journal‑page 7)

 4/14/2023 Scrivener's error corrected

 4/18/2023 Senate Read third time and sent to House (Senate Journal‑page 7)

 4/19/2023 House Introduced and read first time (House Journal‑page 3)

 4/19/2023 House Referred to Committee on **Judiciary** (House Journal‑page 3)

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=147&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[11/30/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/147_20221130.docx)

[02/22/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/147_20230222.docx)

[02/27/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/147_20230227.docx)

[04/13/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/147_20230413.docx)

[04/14/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/147_20230414.docx)

Indicates Matter Stricken

Indicates New Matter

Amended

April 13, 2023

S. 147

Introduced by Senator Shealy, Gustafson, Senn, Goldfinch and Campsen

S. Printed 04/13/23--S. [SEC 4/14/2023 12:46 PM]

Read the first time January 10, 2023

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A bill

to amend the South Carolina Code of Laws by adding Section 16-25-130 so as to ESTABLISH THE ADDRESS CONFIDENTIALITY PROGRAM WHEREBY A VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, HUMAN TRAFFICKING, STALKING, HARASSMENT, OR SEXUAL OFFENSES MAY USE A DESIGNATED ADDRESS RATHER THAN HIS RESIDENTIAL ADDRESS TO CONCEAL HIS PLACE OF RESIDENCE FROM HIS ASSAILANTS OR PROBABLE ASSAILANTS, TO PROVIDE THAT THE PROGRAM SHALL BE ADMINISTERED BY THE ATTORNEY GENERAL, TO PROVIDE FOR THE PROCESS THROUGH WHICH A PERSON MAY PARTICIPATE IN THE PROGRAM, AND TO DEFINE NECESSARY TERMS; by adding Section 16-3-1656 so as to REQUIRE NONPROFIT VICTIM ASSISTANCE ORGANIZATIONS THAT SERVE VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, HUMAN TRAFFICKING, STALKING, HARASSMENT, OR SEXUAL OFFENSES TO PROTECT THE CONFIDENTIALITY AND PRIVACY OF CLIENTS, WITH EXCEPTIONS; and by adding section 19-11-110 so as to prohibit employees, agents, or volunteers of such organizations from testifying in actions or proceedings about communications made by a client or records kept during the course of providing services to the client, with exceptions, and for other purposes.

 Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 25, Title 16 of the S.C. Code is amended by adding:

 Section 16‑25‑130. (A) For the purposes of this section:

 (1) “Address” means the residential street address, school address, or work address of an individual, as specified on the application for a program participant under this section.

 (2) “Address confidentiality program” or “program” means the address confidentiality program established by this section.

 (3) “Application assistant” means an employee of an agency or nonprofit organization who provides counseling, referral, shelter, or other specialized services to victims of domestic violence, dating violence, human trafficking, sexual offenses, stalking, or harassment and who has been designated by the Attorney General to assist persons with applications to participate in the address confidentiality program.

 (4) “Designated address” means the address assigned to a program participant by the Attorney General pursuant to this section.

 (5) “Domestic violence” means any act that is described in Chapter 25, Title 16.

 (6) “Human trafficking” has the same meaning as provided in Article 19, Chapter 3, Title 16.

 (7) “Mailing address” means an address that is recognized for delivery by the United States Postal Service.

 (8) “Program participant” means a person certified by the Attorney General to participate in the program.

 (9) “Sexual offense” means any act that is described in Articles 7 and 8 of Chapter 3, Title 16.

 (10) “Stalking” has the same meaning as provided in Article 17, Chapter 3, Title 16.

 (11) “Harassment” has the same meaning as provided in Article 17, Chapter 3, Title 16.

 (B) The address confidentiality program is established to protect victims of domestic violence, human trafficking, stalking, harassment, or sexual offenses by authorizing the use of designated addresses for such victims. The program is administered by the Attorney General under the following application and certification procedures:

 (1) Upon the recommendation of an application assistant, the following persons may apply to the Attorney General for assignation of a designated address:

 (a) an individual;

 (b) a parent, guardian, custodian, legal counsel, or other appropriate adult acting on behalf of a minor; or

 (c) a guardian acting on behalf of an incapacitated person.

 (2) The Attorney General may approve an application only if it is filed with the Office of the Attorney General in the manner established and on a form prescribed by the Attorney General. A completed application must contain:

 (a) the application’s preparation date, the applicant’s signature, and the signature and victim service provider number of the application assistant who assisted the applicant in applying to be a program participant;

 (b) a designation of the Attorney General as agent for the purposes of service of process and for receipt of first‑class, certified or registered mail;

 (c) the mailing address where the applicant may be contacted by the Attorney General or his designee and the telephone number or numbers at which the applicant may be called by the Attorney General or his designee; and

 (d) one or more addresses or mailing addresses that the applicant requests be concealed, if disclosure may jeopardize the applicant’s safety or increase the risk of violence to the applicant or members of the applicant’s household.

 (3) Upon receipt of a properly completed application, the Attorney General may certify the applicant as a program participant. A program participant is certified for four years following the date of initial certification unless the certification is withdrawn or invalidated before that date. The Attorney General shall send notification of lapsing certification and a reapplication form to a program participant at least four weeks prior to the expiration of the program participant’s certification.

 (4) The Attorney General shall forward first‑class, certified, or registered mail to the appropriate program participants.

 (5)(a) An applicant may not file an application knowing that it:

 (i) contains false or incorrect information; or

 (ii) falsely claims that disclosure of the address or mailing address listed in the application threatens the safety of the applicant, the applicant’s children, or the minor or incapacitated person on whose behalf the application is made.

 (b) An application assistant may not assist or participate in the filing of an application that the application assistant knows:

 (i) contains false or incorrect information; or

 (ii) falsely claims that disclosure of the address or mailing address listed in the application threatens the safety of the applicant, the applicant’s children, or the minor or incapacitated person on whose behalf the application is made.

 (C) Certification for the program may be canceled if one or more of the following conditions apply:

 (1) a program participant obtains a name change, unless the program participant provides the Attorney General with documentation of a legal name change within thirty business days of the name change;

 (2) there is a change in a program participant’s residential street address from the address listed on the application, unless the program participant provides the Attorney General with notice of the change in such manner as the Attorney General provides; or

 (3) the applicant or program participant files an application knowing that it:

 (a) contains false or incorrect information; or

 (b) falsely claims that disclosure of the address or mailing address listed in the application threatens the safety of the applicant, the applicant’s children, or the minor or incapacitated person on whose behalf the application is made.

 (D) Notwithstanding the provisions of subsection (E), state and local government agencies and the courts shall accept and use only the designated address as the program participant’s address upon demonstration of a program participant’s certification in the program.

 (E) As the Attorney General determines appropriate, he may make a program participant’s address or mailing address available for use by granting an exemption to:

 (1) a law enforcement agency, a commissioner or other chief administrator of a state or local government agency, or the commissioner’s or administrator’s designee, if:

 (a) the agency has a bona fide statutory, administrative, or law enforcement need for the program participant’s address or mailing address such that the agency is unable to fulfill its statutory duties and obligations without the address or mailing address; and

 (b) the program participant’s address or mailing address will be used only for those statutory, administrative, or law enforcement purposes and otherwise will be kept under seal and excluded from public inspection; or

 (2) a person identified in a court order, if the Attorney General receives a court order that specifically orders the disclosure of a particular program participant’s address and mailing address and the reasons stated for the disclosure.

 (F) A program participant’s application and supporting materials, and the program’s state email account, are not public record pursuant to Chapter 4, Title 30, the Freedom of Information Act, and must be kept confidential by the Attorney General.

 (G) The Attorney General, his employees, application assistance agencies designated under this section, and the employees or volunteers of such agencies shall not be liable for any injury, loss, or damage resulting from any act or omission under this section, except if the injury, loss, or damage is caused by an act or omission pursuant to this section that is criminal, grossly negligent, intentional, or willful. The State asserts this immunity under Section 15‑78‑20.

 (H) This section does not create, and shall not be construed to create, a new cause of action or substantive legal right against the State or an officer or employee thereof.

 (I) A participant in the address confidentiality program may not be mailed an absentee ballot unless the participant has requested an absentee ballot pursuant to Section 7-15-330. The participant’s absentee ballot must be the same ballot used in the precinct assigned to the participant’s residential street address. The request for an absentee ballot submitted by the participant is not a public record pursuant to Chapter 4, Title 30, the Freedom of Information Act, and must be kept confidential by the county board of voter registration and elections to which the request was made.

SECTION 2. Article 16, Chapter 3, Title 16 of the S.C. Code is amended by adding:

 Section 16‑3‑1656. (A) In order to ensure the safety of adult and child victims of domestic violence, dating violence, human trafficking, stalking, harassment, or sexual offenses and their families, a nonprofit victim assistance organization whose mission is, at least in part, to end domestic violence, dating violence, human trafficking, stalking, harassment, or sexual offenses and whose core services include counseling and other services to victims of domestic violence, dating violence, human trafficking, stalking, harassment, or sexual offenses shall protect the confidentiality and privacy of persons receiving services.

 (B) Except as provided in this section, a nonprofit victim assistance organization whose mission is, at least in part, to end domestic violence, dating violence, human trafficking, stalking, harassment, or sexual offenses and whose core services include counseling and other services to victims of domestic violence, dating violence, human trafficking, stalking, harassment, or sexual offenses must not:

 (1) disclose, reveal, or release any personally identifying information or individual information collected in connection with services requested, utilized, or denied, regardless of whether the information has been encoded, encrypted, hashed, or otherwise protected; or

 (2) disclose, reveal, or release individual client information without the informed, written, reasonably time‑limited consent of the person about whom information is sought; or in the case of an unemancipated minor, of the minor and the minor's parent or legal guardian; or in the case of an incapacitated person, of the legally appointed guardian of the incapacitated person. However, consent for release may not be given by the abuser or alleged abuser of the minor or incapacitated person, or the abuser or alleged abuser of the other parent of the minor. If a minor or a person with a legally appointed guardian is permitted by law to receive services without the parent's or guardian's consent, the minor or person with a guardian may release information without additional consent.

 (C) If release of information protected by this section is compelled by statutory mandate or court order, the organization providing services shall:

 (1) make reasonable attempts to provide notice to persons affected by the disclosure of information; and

 (2) take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

 (D) A nonprofit victim assistance organization providing services of domestic violence, dating violence, human trafficking, stalking, harassment, or sexual offenses may share:

 (1) non‑personally identifying data in the aggregate regarding services to their clients and non‑personally identifying demographic information in order to comply with federal, state, tribal, or territorial reporting, evaluation, or data collection requirements;

 (2) court‑generated information and law enforcement‑generated information contained in secure, governmental registries for protection order or restraining order enforcement purposes; and

 (3) law enforcement‑generated and prosecution‑generated information necessary for law enforcement and prosecution purposes.

 (E) In no circumstance may a nonprofit victim assistance organization whose mission is, at least in part, to end domestic violence, dating violence, human trafficking, stalking, harassment, or sexual offenses and whose core services include counseling or other services to victims of domestic violence, dating violence, human trafficking, stalking, harassment, or sexual offenses require a person to provide a consent to release personally identifying information as a condition of eligibility for the services provided.

 (F) Nothing in this section prohibits reporting by individuals who are mandated reporters under Sections 43‑35‑25 or 63‑7‑310.

SECTION 3. Chapter 11, Title 19 of the S.C. Code is amended by adding:

 Section 19‑11‑110. (A) For purposes of this section:

 (1) “Advocate” means an employee, agent, or volunteer of a nonprofit victim assistance organization whose mission is, at least in part, to end domestic violence, dating violence, human trafficking, stalking, harassment, or sexual offenses and whose core services include shelter, counseling, or other services to victims of domestic violence, dating violence, human trafficking, stalking, harassment, or sexual offenses.

 (2) “Client” means a person who consults a nonprofit victim assistance organization whose mission is, at least in part, to end domestic violence, dating violence, human trafficking, stalking, harassment, or sexual offenses and whose core services include counseling or other services to victims of domestic violence, dating violence, human trafficking, stalking, harassment, or sexual offenses for the purpose of obtaining, on behalf of that person or someone else, advice, counseling, or other services concerning mental, physical, emotional, or other injuries, whether the client seeks or receives services within the criminal justice system, and whether a civil or criminal action arises as a result of the allegations.

 (B) In any trial or inquiry in any suit, action, or proceeding in any court or before any person having, by law or consent of the parties, authority to examine witnesses or hear evidence, unless otherwise required by law, an advocate may not, without informed, written, and reasonably time‑limited consent of the victim:

 (1) be examined as to any communication made to the advocate by a client;

 (2) disclose personally identifying information; or

 (3) divulge records kept during the course of providing shelter, counseling, or other services to the client.

 (C) This privilege belongs to the client and may not be waived, except by express consent. The privilege continues even if the client is unreachable. Consent may not be implied because the client is a party to a civil proceeding. The privilege terminates upon the death of the client.

SECTION 4. This act takes effect on July 1, 2024.

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