SENATE BILL 818

P1 4lr2359
HB 1427/13 – JUD CF HB 559

By: **Senator Forehand**
Introduced and read first time: January 31, 2014
Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

State Government – Human Trafficking Address Confidentiality Program

FOR the purpose of requiring the Secretary of State to establish the Human Trafficking Address Confidentiality Program for victims of human trafficking; stating the purpose of the Program; establishing eligibility requirements of the Program; establishing application and participation requirements of the Program; requiring an applicant to provide a certain release and waiver of future claims against the State; prohibiting false statements in an application; establishing penalties for a violation of certain provisions of this Act; establishing participation cancellation procedures; authorizing a Program participant to request that certain agencies use a substitute address designated under the Program as the Program participant's address; establishing a method for certain agencies to apply for a waiver from the requirements of the Program; requiring that a certain address be used for voter registration and election–related purposes; prohibiting certain disclosures of a Program participant's address; providing a penalty for certain unauthorized disclosures of a Program participant's address; requiring the Secretary of State to adopt regulations to carry out this Act; defining certain terms; and generally relating to the Human Trafficking Address Confidentiality Program.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 3–505
Annotated Code of Maryland
(2010 Replacement Volume and 2013 Supplement)

BY adding to
Article – State Government
Section 7–301 through 7–312 to be under the new subtitle "Subtitle 3. Human Trafficking Address Confidentiality Program"
Annotated Code of Maryland

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

(2009 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Election Law

3–505.

(a) The State Board shall adopt regulations for the retention and storage of and reasonable access to original voter registration applications and other voter registration records the State Board considers appropriate.

(b) (1) Voter registration records stored and retained in a local board office shall be open to public inspection.

(2) For the purpose of public inspection, original voter registration records:

(i) subject to § 4–527(b) of the Family Law Article **AND § 7–309(B) OF THE STATE GOVERNMENT ARTICLE** and except upon the special order of the local board, shall be available at all times when a local board is open; and

(ii) may not be removed from the office of the local board except:

1. on order of a court; or

2. for temporary removal solely for purposes of data processing.

(c) (1) Consistent with regulations adopted by the State Board, local boards shall maintain for at least 2 years all records concerning programs to ensure the accuracy and currency of the statewide voter registration list.

(2) Except for records concerning a declination to register or the identity of a voter registration agency through which a particular voter applies for registration, the records described in paragraph (1) of this subsection are accessible under Title 10, Subtitle 6, Part III of the State Government Article (Access to Public Records).

Article – State Government

SUBTITLE 3. HUMAN TRAFFICKING ADDRESS CONFIDENTIALITY PROGRAM.

7–301.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "ACTUAL ADDRESS" MEANS A RESIDENTIAL STREET ADDRESS, SCHOOL ADDRESS, OR WORK ADDRESS OF AN INDIVIDUAL AS SPECIFIED ON THE INDIVIDUAL'S APPLICATION TO BE A PROGRAM PARTICIPANT UNDER THIS SUBTITLE.

(C) "DISABLED PERSON" HAS THE MEANING STATED IN § 13–101 OF THE ESTATES AND TRUSTS ARTICLE.

(D) "PROGRAM" MEANS THE HUMAN TRAFFICKING ADDRESS CONFIDENTIALITY PROGRAM.

(E) "PROGRAM PARTICIPANT" MEANS AN INDIVIDUAL DESIGNATED AS A PROGRAM PARTICIPANT UNDER THIS SUBTITLE.

(F) "VICTIM OF HUMAN TRAFFICKING" MEANS AN INDIVIDUAL WHO HAS BEEN RECRUITED, HARBORED, TRANSPORTED, PROVIDED, OR OBTAINED FOR LABOR, SERVICES, OR A SEXUAL ACT THROUGH THE USE OF FORCE, FRAUD, OR COERCION.

7–302.

THE PURPOSE OF THIS SUBTITLE IS TO ENABLE:

(1) STATE AND LOCAL AGENCIES TO RESPOND TO REQUESTS FOR PUBLIC RECORDS WITHOUT DISCLOSING THE LOCATION OF A VICTIM OF HUMAN TRAFFICKING;

(2) INTERAGENCY COOPERATION IN PROVIDING ADDRESS CONFIDENTIALITY FOR VICTIMS OF HUMAN TRAFFICKING; AND

(3) STATE AND LOCAL AGENCIES TO ACCEPT A PROGRAM PARTICIPANT'S USE OF AN ADDRESS DESIGNATED BY THE OFFICE OF THE SECRETARY OF STATE AS A SUBSTITUTE ADDRESS.

7–303.

THE SECRETARY OF STATE SHALL ESTABLISH AND ADMINISTER A HUMAN TRAFFICKING ADDRESS CONFIDENTIALITY PROGRAM FOR VICTIMS OF HUMAN TRAFFICKING.

7–304.

(A) THE FOLLOWING INDIVIDUALS MAY APPLY TO PARTICIPATE IN THE PROGRAM:

(1) AN INDIVIDUAL ACTING ON THE INDIVIDUAL'S OWN BEHALF;

(2) A PARENT OR GUARDIAN ACTING ON BEHALF OF A MINOR WHO RESIDES WITH THE PARENT OR GUARDIAN; OR

(3) A GUARDIAN ACTING ON BEHALF OF A DISABLED PERSON.

(B) AN APPLICATION TO PARTICIPATE IN THE PROGRAM SHALL BE IN THE FORM REQUIRED BY THE SECRETARY OF STATE AND SHALL CONTAIN:

(1) A STATEMENT THAT:

(I) THE APPLICANT IS A VICTIM OF HUMAN TRAFFICKING; AND

(II) THE APPLICANT FEARS FOR THE APPLICANT'S SAFETY OR THE SAFETY OF THE APPLICANT'S CHILD;

(2) EVIDENCE THAT THE APPLICANT IS A VICTIM OF HUMAN TRAFFICKING, INCLUDING:

(I) CERTIFIED LAW ENFORCEMENT, COURT, OR OTHER FEDERAL OR STATE AGENCY RECORDS OR FILES;

(II) DOCUMENTATION FROM A HUMAN TRAFFICKING PREVENTION OR ASSISTANCE PROGRAM; OR

(III) DOCUMENTATION FROM A RELIGIOUS, MEDICAL, OR OTHER PROFESSIONAL FROM WHOM THE APPLICANT HAS SOUGHT ASSISTANCE OR TREATMENT AS A VICTIM OF HUMAN TRAFFICKING;

(3) A STATEMENT THAT DISCLOSURE OF THE APPLICANT'S ACTUAL ADDRESS WOULD ENDANGER THE APPLICANT'S SAFETY OR THE SAFETY OF THE APPLICANT'S CHILD;

(4) A KNOWING AND VOLUNTARY DESIGNATION OF THE SECRETARY OF STATE AS AGENT FOR PURPOSES OF SERVICE OF PROCESS AND RECEIPT OF FIRST–CLASS, CERTIFIED, OR REGISTERED MAIL;

(5) THE MAILING ADDRESS AND TELEPHONE NUMBER AT WHICH THE APPLICANT MAY BE CONTACTED BY THE SECRETARY OF STATE;

(6) THE ACTUAL ADDRESS THAT THE APPLICANT REQUESTS NOT BE DISCLOSED BY THE SECRETARY OF STATE BECAUSE IT WOULD INCREASE THE RISK OF HUMAN TRAFFICKING OR OTHER CRIMES;

(7) A SWORN STATEMENT BY THE APPLICANT THAT, TO THE BEST OF THE APPLICANT'S KNOWLEDGE, ALL THE INFORMATION CONTAINED IN THE APPLICATION IS TRUE;

(8) THE SIGNATURE OF THE APPLICANT AND THE DATE ON WHICH THE APPLICANT SIGNED THE APPLICATION; AND

(9) A VOLUNTARY RELEASE AND WAIVER OF ALL FUTURE CLAIMS AGAINST THE STATE THAT MAY ARISE FROM PARTICIPATION IN THE PROGRAM EXCEPT FOR A CLAIM BASED ON GROSS NEGLIGENCE.

(C) (1) (I) ON THE FILING OF A PROPERLY COMPLETED APPLICATION AND RELEASE, THE SECRETARY OF STATE SHALL:

1. REVIEW THE APPLICATION AND RELEASE; AND

2. IF THE APPLICATION AND RELEASE ARE PROPERLY COMPLETED AND ACCURATE, DESIGNATE THE APPLICANT AS A PROGRAM PARTICIPANT.

(II) AN APPLICANT SHALL BE A PARTICIPANT FOR 4 YEARS FROM THE DATE OF FILING UNLESS THE PARTICIPATION IS CANCELED OR WITHDRAWN PRIOR TO THE END OF THE 4–YEAR PERIOD.

(2) A PROGRAM PARTICIPANT MAY WITHDRAW FROM PARTICIPATION BY FILING A SIGNED, NOTARIZED REQUEST FOR WITHDRAWAL WITH THE SECRETARY OF STATE.

7–305.

(A) IF AN APPLICANT FALSELY ATTESTS IN AN APPLICATION THAT DISCLOSURE OF THE APPLICANT'S ACTUAL ADDRESS WOULD ENDANGER THE APPLICANT'S SAFETY OR THE SAFETY OF THE APPLICANT'S CHILD OR KNOWINGLY PROVIDES FALSE INFORMATION WHEN APPLYING FOR PARTICIPATION OR RENEWAL OF PARTICIPATION IN THE PROGRAM, THE

APPLICANT SHALL NO LONGER BE ALLOWED TO PARTICIPATE IN THE PROGRAM.

(B) A PERSON MAY NOT KNOWINGLY MAKE A FALSE ATTESTATION OR KNOWINGLY PROVIDE FALSE INFORMATION IN AN APPLICATION IN VIOLATION OF SUBSECTION (A) OF THIS SECTION.

(C) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $500 OR BOTH.

7–306.

(A) IF A PROGRAM PARTICIPANT OBTAINS A LEGAL NAME CHANGE, THE PROGRAM PARTICIPANT SHALL NOTIFY THE SECRETARY OF STATE WITHIN 30 DAYS AND PROVIDE THE SECRETARY OF STATE WITH A CERTIFIED COPY OF ANY JUDGMENT OR ORDER EVIDENCING THE CHANGE OR ANY OTHER DOCUMENTATION THE SECRETARY OF STATE CONSIDERS TO BE SUFFICIENT EVIDENCE OF THE CHANGE.

(B) IF A PROGRAM PARTICIPANT MAKES A CHANGE IN ADDRESS OR TELEPHONE NUMBER FROM AN ADDRESS OR A TELEPHONE NUMBER LISTED ON THE PROGRAM PARTICIPANT'S APPLICATION, THE PROGRAM PARTICIPANT SHALL NOTIFY THE SECRETARY OF STATE AT LEAST 7 DAYS BEFORE THE CHANGE OCCURS.

7–307.

(A) THE SECRETARY OF STATE SHALL CANCEL THE PARTICIPATION OF A PROGRAM PARTICIPANT IF:

(1) THE PROGRAM PARTICIPANT FAILS TO NOTIFY THE SECRETARY OF STATE OF ANY LEGAL NAME CHANGE OR CHANGE IN ADDRESS OR TELEPHONE NUMBER IN THE MANNER REQUIRED BY § 7–306 OF THIS SUBTITLE;

(2) THE PROGRAM PARTICIPANT FILES A REQUEST FOR WITHDRAWAL OF PARTICIPATION UNDER § 7–304(C)(2) OF THIS SUBTITLE;

(3) THE PROGRAM PARTICIPANT SUBMITS FALSE INFORMATION IN APPLYING FOR PARTICIPATION IN THE PROGRAM IN VIOLATION OF § 7–305 OF THIS SUBTITLE; OR

(4) THE SECRETARY OF STATE FORWARDS MAIL TO THE PROGRAM PARTICIPANT AND THE MAIL IS RETURNED AS UNDELIVERABLE.

(B) THE SECRETARY OF STATE SHALL SEND NOTICE OF ANY CANCELLATION OF PARTICIPATION IN THE PROGRAM TO THE PARTICIPANT AND SHALL SET FORTH THE REASON FOR CANCELLATION.

(C) A PROGRAM PARTICIPANT MAY APPEAL ANY CANCELLATION DECISION BY FILING AN APPEAL WITH THE SECRETARY OF STATE WITHIN 30 DAYS AFTER THE DATE OF THE NOTICE OF CANCELLATION IN ACCORDANCE WITH PROCEDURES DEVELOPED BY THE SECRETARY OF STATE.

(D) AN INDIVIDUAL WHO CEASES TO BE A PROGRAM PARTICIPANT IS RESPONSIBLE FOR NOTIFYING ANY PERSON WHO USES THE SUBSTITUTE ADDRESS DESIGNATED BY THE SECRETARY OF STATE THAT THE SUBSTITUTE ADDRESS IS NO LONGER VALID.

7–308.

(A) A PROGRAM PARTICIPANT MAY MAKE A REQUEST TO ANY STATE OR LOCAL AGENCY TO USE A SUBSTITUTE ADDRESS DESIGNATED BY THE SECRETARY OF STATE AS THE PROGRAM PARTICIPANT'S ADDRESS.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, WHEN A PROGRAM PARTICIPANT HAS MADE A REQUEST TO A STATE OR LOCAL AGENCY UNDER SUBSECTION (A) OF THIS SECTION, THE STATE OR LOCAL AGENCY SHALL USE THE SUBSTITUTE ADDRESS DESIGNATED BY THE SECRETARY OF STATE AS A PROGRAM PARTICIPANT'S ADDRESS.

(C) (1) A STATE OR LOCAL AGENCY THAT HAS A BONA FIDE STATUTORY OR ADMINISTRATIVE REQUIREMENT FOR USING A PROGRAM PARTICIPANT'S ACTUAL ADDRESS MAY APPLY TO THE SECRETARY OF STATE FOR A WAIVER FROM THE REQUIREMENTS OF THE PROGRAM.

(2) IF THE SECRETARY OF STATE APPROVES THE WAIVER, THE STATE OR LOCAL AGENCY SHALL USE THE PROGRAM PARTICIPANT'S ACTUAL ADDRESS ONLY FOR THE REQUIRED STATUTORY OR ADMINISTRATIVE PURPOSES.

7–309.

(A) (1) EACH LOCAL BOARD OF ELECTIONS SHALL USE A PROGRAM PARTICIPANT'S ACTUAL ADDRESS FOR ALL ELECTION–RELATED PURPOSES.

(2) A PROGRAM PARTICIPANT MAY NOT USE THE SUBSTITUTE ADDRESS DESIGNATED BY THE SECRETARY OF STATE AS THE PROGRAM PARTICIPANT'S ADDRESS FOR VOTER REGISTRATION PURPOSES.

(B) A LOCAL BOARD OF ELECTIONS MAY NOT MAKE A PROGRAM PARTICIPANT'S ADDRESS CONTAINED IN VOTER REGISTRATION RECORDS AVAILABLE FOR PUBLIC INSPECTION OR COPYING EXCEPT:

(1) ON REQUEST BY A LAW ENFORCEMENT AGENCY FOR LAW ENFORCEMENT PURPOSES; AND

(2) AS DIRECTED BY A COURT ORDER TO DISCLOSE THE ADDRESS.

7–310.

(A) EXCEPT AS OTHERWISE PROVIDED BY THIS SUBTITLE, A RECORD OF A PROGRAM PARTICIPANT'S ACTUAL ADDRESS AND TELEPHONE NUMBER MAINTAINED BY THE SECRETARY OF STATE OR A STATE OR LOCAL AGENCY IS NOT A PUBLIC RECORD WITHIN THE MEANING OF § 10–611 OF THIS ARTICLE.

(B) THE SECRETARY OF STATE MAY NOT DISCLOSE A PROGRAM PARTICIPANT'S ACTUAL ADDRESS OR TELEPHONE NUMBER OR SUBSTITUTE ADDRESS EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION AND:

(1) (I) ON REQUEST BY A LAW ENFORCEMENT AGENCY FOR LAW ENFORCEMENT PURPOSES; AND

(II) AS DIRECTED BY A COURT ORDER; OR

(2) ON REQUEST BY A STATE OR LOCAL AGENCY TO VERIFY A PROGRAM PARTICIPANT'S PARTICIPATION IN THE PROGRAM OR SUBSTITUTE ADDRESS FOR USE UNDER § 7–308 OF THIS SUBTITLE.

(C) THE SECRETARY OF STATE SHALL NOTIFY THE APPROPRIATE COURT OF A PROGRAM PARTICIPANT'S PARTICIPATION IN THE PROGRAM AND OF THE SUBSTITUTE ADDRESS DESIGNATED BY THE SECRETARY OF STATE IF THE PROGRAM PARTICIPANT:

(1) IS SUBJECT TO A COURT ORDER OR AN ADMINISTRATIVE ORDER;

(2) IS INVOLVED IN A COURT ACTION OR AN ADMINISTRATIVE ACTION; OR

(3) IS A WITNESS OR A PARTY IN A CIVIL OR CRIMINAL PROCEEDING.

7–311.

(A) A PERSON MAY NOT KNOWINGLY AND INTENTIONALLY OBTAIN A PROGRAM PARTICIPANT'S ACTUAL ADDRESS OR TELEPHONE NUMBER FROM THE SECRETARY OF STATE OR ANY AGENCY WITHOUT AUTHORIZATION TO OBTAIN THE INFORMATION.

(B) (1) THIS SUBSECTION APPLIES ONLY WHEN AN EMPLOYEE OF THE SECRETARY OF STATE:

(I) OBTAINS A PROGRAM PARTICIPANT'S ACTUAL ADDRESS OR TELEPHONE NUMBER DURING THE COURSE OF THE EMPLOYEE'S OFFICIAL DUTIES; AND

(II) AT THE TIME OF DISCLOSURE, HAS SPECIFIC KNOWLEDGE THAT THE ACTUAL ADDRESS OR TELEPHONE NUMBER BELONGS TO A PROGRAM PARTICIPANT.

(2) AN EMPLOYEE OF THE SECRETARY OF STATE OR ANY STATE OR LOCAL AGENCY MAY NOT KNOWINGLY AND INTENTIONALLY DISCLOSE A PROGRAM PARTICIPANT'S ACTUAL ADDRESS OR TELEPHONE NUMBER TO ANOTHER PERSON UNLESS THE DISCLOSURE IS AUTHORIZED BY LAW.

(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $2,500.

7–312.

THE SECRETARY OF STATE SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.