

LEGISLATURE OF NEBRASKA
 NINETY-EIGHTH LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 228
 FINAL READING

Introduced by Government, Military and Veterans Affairs Committee:
 Schimek, 27, Chairperson; Aguilar, 35; Brown, 6;
 Burling, 33; Combs, 32; McDonald, 41; Smith, 48; and
 Preister, 5; Price, 26

Read first time January 10, 2003

Committee: Rereferred to Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to domestic violence; to amend sections 32-331
 2 and 84-907.03, Reissue Revised Statutes of Nebraska, and
 3 sections 60-484, 60-4,144, and 60-4,181, Revised Statutes
 4 Supplement, 2002; to adopt the Address Confidentiality
 5 Act; to provide a penalty; to change provisions relating
 6 to absentee voter, motor vehicle operator's license, and
 7 state identification card address confidentiality; to
 8 change provisions relating to use of a fund; to harmonize
 9 provisions; and to repeal the original sections.
 10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 10 of this act shall be known
2 and may be cited as the Address Confidentiality Act.

3 Sec. 2. The Legislature finds that persons attempting to
4 escape from actual or threatened abuse, sexual assault, or stalking
5 frequently establish new addresses in order to prevent their
6 assailants or probable assailants from finding them. The purposes
7 of the Address Confidentiality Act are to enable state and local
8 agencies to respond to requests for public records without
9 disclosing the location of a victim of abuse, sexual assault, or
10 stalking, to enable interagency cooperation with the office of the
11 Secretary of State in providing address confidentiality for victims
12 of abuse, sexual assault, or stalking, and to enable state and
13 local agencies to accept a program participant's use of an address
14 designated by the Secretary of State as a substitute mailing
15 address.

16 Sec. 3. For purposes of the Address Confidentiality Act:
17 (1) Abuse means causing or attempting to cause physical
18 harm, placing another person in fear of physical harm, or causing
19 another person to engage involuntarily in sexual activity by force,
20 threat of force, or duress, when committed by (a) a person against
21 his or her spouse, (b) a person against his or her former spouse,
22 (c) a person residing with the victim if such person and the victim
23 are or were in a dating relationship, (d) a person who formerly
24 resided with the victim if such person and the victim are or were
25 in a dating relationship, (e) a person against a parent of his or
26 her children, whether or not such person and the victim have been
27 married or resided together at any time, (f) a person against a
28 person with whom he or she is in a dating relationship, (g) a

1 person against a person with whom he or she formerly was in a
2 dating relationship, or (h) a person related to the victim by
3 consanguinity or affinity;

4 (2) Address means a residential street address, school
5 address, or work address of an individual as specified on the
6 individual's application to be a program participant;

7 (3) Dating relationship means an intimate or sexual
8 relationship;

9 (4) Program participant means a person certified as a
10 program participant under section 4 of this act;

11 (5) Sexual assault has the same meaning as in section
12 28-319, 28-320, 28-320.01, or 28-386; and

13 (6) Stalking has the same meaning as in sections
14 28-311.02 to 28-311.05.

15 Sec. 4. (1) An adult, a parent or guardian acting on
16 behalf of a minor, or a guardian acting on behalf of an
17 incapacitated person as defined in section 30-2601 may apply to the
18 Secretary of State to have an address designated by the Secretary
19 of State serve as the substitute address of such adult, minor, or
20 incapacitated person. The Secretary of State shall approve an
21 application if it is filed in the manner and on the form prescribed
22 by the Secretary of State and if it contains:

23 (a) A sworn statement by the applicant that the applicant
24 has good reason to believe (i) that the applicant, or the minor or
25 incapacitated person on whose behalf the application is made, is a
26 victim of abuse, sexual assault, or stalking and (ii) that the
27 applicant fears for his or her safety, his or her children's
28 safety, or the safety of the minor or incapacitated person on whose

1 behalf the application is made;

2 (b) A designation of the Secretary of State as agent for
3 purposes of service of process and receipt of mail;

4 (c) The mailing address and the telephone number or
5 numbers where the applicant can be contacted by the Secretary of
6 State;

7 (d) The new address or addresses that the applicant
8 requests not be disclosed for the reason that disclosure will
9 increase the risk of abuse, sexual assault, or stalking; and

10 (e) The signature of the applicant and of any individual
11 or representative of any office designated in writing under section
12 9 of this act who assisted in the preparation of the application
13 and the date on which the applicant signed the application.

14 (2) Applications shall be filed in the office of the
15 Secretary of State.

16 (3) Upon filing a properly completed application, the
17 Secretary of State shall certify the applicant as a program
18 participant. Such certification shall be valid for four years
19 following the date of filing unless the certification is withdrawn
20 or invalidated before that date. The Secretary of State may by
21 rule and regulation establish a renewal procedure.

22 (4) A person who falsely attests in an application that
23 disclosure of the applicant's address would endanger the applicant,
24 the applicant's children, or the minor or incapacitated person on
25 whose behalf the application is made, or who knowingly provides
26 false or incorrect information upon making an application, is
27 guilty of a Class II misdemeanor.

28 Sec. 5. (1) If a program participant obtains a name

1 change, he or she shall forfeit his or her certification as a
2 program participant unless the program participant applies to the
3 Secretary of State for recertification and provides documentation
4 of the legal name change.

5 (2) The Secretary of State may cancel a program
6 participant's certification if there is a change in the mailing
7 address from the one listed on the application under section 4 of
8 this act, unless the program participant provides the Secretary of
9 State with notice of the change of address in such manner as is
10 provided by rules and regulations adopted and promulgated by the
11 Secretary of State.

12 (3) The Secretary of State may cancel certification of a
13 program participant if mail forwarded to the program participant's
14 address is returned as undeliverable.

15 (4) The Secretary of State shall cancel certification of
16 a program participant who applies using false information.

17 Sec. 6. (1) A program participant may request that state
18 and local agencies use the address designated by the Secretary of
19 State as the program participant's substitute address. When
20 creating a new public record, a state or local agency which has a
21 bona fide statutory, tax situs, or administrative requirement for
22 the participant's residence address may request that the
23 participant verbally provide the agency with such residence address
24 if the agency has the capability to use such address for such bona
25 fide purpose without permanently entering it into the agency's
26 records. If the agency does not have such capability, it shall
27 accept the address designated by the Secretary of State as a
28 program participant's substitute address, unless the Secretary of

1 State determines that:

2 (a) The state or local agency has a bona fide statutory,
3 tax situs, or administrative requirement for the use of the address
4 which would otherwise be confidential under the Address
5 Confidentiality Act; and

6 (b) The address will be used only for such bona fide
7 statutory, tax situs, or administrative requirement.

8 (2) The Secretary of State shall forward all first-class
9 mail to each program participant's substitute address.

10 Sec. 7. (1) A program participant who is otherwise
11 qualified to vote may apply as an absentee voter under sections
12 32-938 to 32-951. The county clerk or election commissioner shall
13 transmit the absentee ballot to the program participant at the
14 address designated by the program participant in his or her
15 application as an absentee voter. Neither the name nor the address
16 of a program participant shall be included in any list of
17 registered voters available to the public.

18 (2) The county clerk or election commissioner shall not
19 make a program participant's address contained in voter
20 registration records available for public inspection or copying
21 except under the following circumstances:

22 (a) If requested by a law enforcement agency, to the law
23 enforcement agency; or

24 (b) If directed by a court order, to a person identified
25 in the order.

26 Sec. 8. The Secretary of State shall not make any
27 records in a program participant's file available for inspection or
28 copying, other than the substitute address designated by the

1 Secretary of State, except under the following circumstances:

2 (1) If requested of the Secretary of State by the chief
3 commanding officer of a law enforcement agency or the officer's
4 designee in the manner provided for by rules and regulations
5 adopted and promulgated by the Secretary of State;

6 (2) To a person identified in a court order upon the
7 receipt by the Secretary of State of that court order which
8 specifically orders the disclosure of a particular program
9 participant's address and the reasons stated therefor; or

10 (3) To verify the participation of a specific program
11 participant, in which case the Secretary of State may only confirm
12 or deny information supplied by the requester.

13 Sec. 9. The Secretary of State shall designate state and
14 local agencies and nonprofit entities that provide counseling and
15 shelter services to victims of abuse, sexual assault, or stalking
16 to assist persons applying to be program participants. Any
17 assistance or counseling rendered by the office of the Secretary of
18 State or its designees to such applicants shall not be deemed legal
19 advice or the practice of law.

20 Sec. 10. The Secretary of State may adopt and promulgate
21 rules and regulations to carry out the Address Confidentiality Act.

22 Sec. 11. Section 32-331, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 32-331. A registered voter may file an affidavit with
25 the election commissioner or county clerk to have the information
26 relating to his or her residence address and telephone number
27 remain confidential. ~~The~~ If the registered voter is a program
28 participant under the Address Confidentiality Act, the affidavit

1 shall state that fact. If the registered voter is not a program
2 participant under the act, the affidavit shall state that the
3 county court or district court has issued an order upon a showing
4 of good cause that a life-threatening circumstance exists in
5 relation to the voter or a member of his or her household. The
6 registered voter shall vote as an absentee voter under sections
7 32-938 to 32-951 in elections held after the filing of the
8 affidavit. To terminate the affidavit and withdraw the
9 confidential designation, the registered voter shall notify the
10 election commissioner or county clerk in writing. The registered
11 voter shall provide a valid mailing address to be used in place of
12 the residence address for election, research, and government
13 purposes. If the registered voter is a program participant under
14 the act, the mailing address shall be as provided in the act. The
15 election commissioner or county clerk may use the mailing address
16 or the word "confidential" or a similar designation in place of the
17 residence address in producing any list, roster, or register
18 required under the Election Act. Those records declared
19 confidential under this section shall be kept in a separate file
20 from the other registered voter information. A county, election
21 commissioner, or county clerk shall be liable in an action for
22 negligence as a result of the disclosure of the confidential
23 information if there is a showing of gross negligence or
24 willfulness.

25 Sec. 12. Section 60-484, Revised Statutes Supplement,
26 2002, is amended to read:

27 60-484. (1) Except as otherwise provided in the Motor
28 Vehicle Operator's License Act, no resident of the State of

1 Nebraska shall operate a motor vehicle upon the alleys or highways
2 of the State of Nebraska until the person has obtained an
3 operator's license for that purpose.

4 (2) Application for an operator's license may be made on
5 uniform blanks prepared and furnished by the director to the county
6 treasurers and the examiners of the Department of Motor Vehicles
7 prior to January 1, 2003. Such application may be made to an
8 examiner in any county. The standard application blanks shall be
9 sufficient in form and content to substantially carry out the
10 purposes of the act.

11 (3) Beginning October 1, 2000, application for an
12 operator's license may also be made in a manner prescribed by the
13 department. Such application may be made to an examiner in any
14 county. The examiner shall personally conduct the examination of
15 the applicant and deliver to each successful applicant an
16 examiner's certificate containing the statements made pursuant to
17 subsection (4) of this section.

18 (4) In addition to any other information and questions
19 necessary to comply with the requirements and purposes of the act,
20 the applicant (a) shall provide his or her name, age, post office
21 address, place of residence unless the applicant is a program
22 participant under the Address Confidentiality Act, date of birth,
23 sex, social security number, and brief description of himself or
24 herself, (b) may complete the voter registration portion pursuant
25 to section 32-308, (c) shall be provided the advisement language
26 required by subsection (10) of section 60-6,197, (d) shall answer
27 the following:

28 (i) Have you within the last three months (e.g. due to

1 diabetes, epilepsy, mental illness, head injury, stroke, heart
2 condition, neurological disease, etc.):

3 (A) lost voluntary control or consciousness ... yes ...
4 no

5 (B) experienced vertigo or multiple episodes of dizziness
6 or fainting ... yes ... no

7 (C) experienced disorientation ... yes ... no

8 (D) experienced seizures ... yes ... no

9 (E) experienced impairment of memory, memory loss ... yes
10 ... no

11 Please explain:

12 (ii) Do you experience any condition which affects your
13 ability to operate a motor vehicle? (e.g. due to loss of, or
14 impairment of, foot, leg, hand, arm; neurological or neuromuscular
15 disease, etc.) ... yes ... no

16 Please explain:

17 (iii) Since the issuance of your last driver's
18 license/permit has your health or medical condition changed or
19 worsened? ... yes ... no

20 Please explain, including how the above affects your ability to
21 drive:

22,

23 and (e) may answer the following:

24 (i) Do you wish to register to vote as part of this
25 application process?

26 OPTIONAL - YOU ARE NOT REQUIRED TO ANSWER ANY OF THE FOLLOWING
27 QUESTIONS:

28 (ii) Do you wish to be an organ and tissue donor?

1 (iii) Do you wish to receive any additional specific
2 information regarding organ and tissue donation?

3 (iv) Do you wish to donate \$1 to promote the Organ and
4 Tissue Donor Awareness and Education Fund?

5 (5) Application for an operator's license shall be made
6 under oath or affirmation of the applicant.

7 (6) The social security number shall not be printed on
8 the operator's license and shall be used only (a) to furnish driver
9 record information to the United States Selective Service System
10 under section 60-483, (b) with the permission of the director in
11 connection with the verification of the status of an individual's
12 driving record in this state or any other state, or (c) for
13 purposes of child support enforcement pursuant to section 42-358.08
14 or 43-512.06.

15 (7) (a) Except for an individual under the age of eighteen
16 years, each individual applying for an operator's license or a
17 state identification card shall furnish proof of date of birth and
18 identity by a valid Nebraska operator's license, a valid Nebraska
19 learner's permit, a valid Nebraska school permit, a valid
20 operator's license from another state or jurisdiction of the United
21 States, a certified birth certificate, a certified birth
22 registration, a valid United States passport, a valid United States
23 military identification card, United States military discharge
24 papers, other United States-based identification as approved by the
25 director, or information preserved in the digital system
26 implemented under section 60-484.01.

27 (b) Any individual under the age of eighteen years
28 applying for an operator's license or a state identification card

1 shall provide a certified copy of his or her birth certificate, a
2 certified birth registration, or other reliable proof of his or her
3 identity and age accompanied by a certification signed by a parent
4 or guardian explaining the inability to produce a copy of such
5 birth certificate. The applicant may be required to furnish proof
6 to the examiner that the parent or guardian signing the
7 certification is in fact the parent or guardian of such applicant.

8 Sec. 13. Section 60-4,144, Revised Statutes Supplement,
9 2002, is amended to read:

10 60-4,144. (1) Application for any original or renewal
11 commercial driver's license or application for any change of class
12 of commercial motor vehicle, endorsement, or restriction may be
13 made upon uniform blanks prepared and furnished by the director to
14 the examiners of the Department of Motor Vehicles prior to January
15 1, 2003.

16 (2) Beginning October 1, 2000, application for any
17 original or renewal commercial driver's license or application for
18 any change of class of commercial motor vehicle, endorsement, or
19 restriction may be made in a manner prescribed by the department.
20 Such application may be made to an examiner in any county. The
21 examiner shall personally conduct the examination of the applicant
22 and deliver to each successful applicant an examiner's certificate
23 containing the statements made pursuant to subsection (3) of this
24 section.

25 (3) The application or examiner's certificate shall
26 include the voter registration portion pursuant to section 32-308,
27 the advisement language required by subsection (10) of section
28 60-6,197, and the following:

1 (a) The full name, the ~~and~~ current mailing address, and
 2 the residential ~~addresses~~ address of the applicant, except that if
 3 the applicant is a program participant under the Address
 4 Confidentiality Act, he or she need not supply his or her
 5 residential address;

6 (b) A physical description of the applicant, including
 7 sex, height, weight, and eye and hair colors;

8 (c) The applicant's date of birth;

9 (d) The applicant's social security number;

10 (e) The applicant's signature;

11 (f) Certification that the commercial motor vehicle in
 12 which the applicant takes any driving skills examination is
 13 representative of the class of commercial motor vehicle that the
 14 applicant operates or expects to operate;

15 (g) The certification required pursuant to section
 16 60-4,145 or 60-4,146;

17 (h) The following specific questions:

18 (i) Have you within the last three months (e.g. due to
 19 diabetes, epilepsy, mental illness, head injury, stroke, heart
 20 condition, neurological disease, etc.):

21 (A) lost voluntary control or consciousness ... yes ...
 22 no

23 (B) experienced vertigo or multiple episodes of dizziness
 24 or fainting ... yes ... no

25 (C) experienced disorientation ... yes ... no

26 (D) experienced seizures ... yes ... no

27 (E) experienced impairment of memory, memory loss ... yes
 28 ... no

1 Please explain:

2 (ii) Do you experience any condition which affects your
3 ability to operate a motor vehicle? (e.g. due to loss of or
4 impairment of foot, leg, hand, or arm; neurological or
5 neuromuscular disease, etc.) ... yes ... no

6 Please explain:

7 (iii) Since the issuance of your last driver's
8 license/permit has your health or medical condition changed or
9 worsened? ... yes ... no

10 Please explain, including how the above affects your ability to
11 drive:

12

13 (i) Do you wish to register to vote as part of this
14 application process?

15 OPTIONAL - YOU ARE NOT REQUIRED TO ANSWER ANY OF THE FOLLOWING
16 QUESTIONS:

17 (j) Do you wish to be an organ and tissue donor?

18 (k) Do you wish to receive any additional specific
19 information regarding organ and tissue donation?

20 (l) Do you wish to donate \$1 to promote the Organ and
21 Tissue Donor Awareness and Education Fund?

22 (4) Application shall be made under oath or affirmation
23 of the applicant.

24 Sec. 14. Section 60-4,181, Revised Statutes Supplement,
25 2002, is amended to read:

26 60-4,181. (1) A state identification card shall be
27 issued by the county treasurer after the person requesting the card

28 (a) files an application or examiner's certificate with an

1 examining officer, (b) furnishes two forms of proof of
2 identification described in section 60-484, and (c) pays the fee
3 prescribed in section 60-4,115 to the county treasurer. The state
4 identification card shall contain the organ and tissue donor
5 information specified in section 60-494.

6 (2) The application or examiner's certificate shall
7 include the name, age, post office address, place of residence
8 unless the applicant is a program participant under the Address
9 Confidentiality Act, date of birth, sex, social security number,
10 and physical description of the applicant, the voter registration
11 portion pursuant to section 32-308, and the following:

12 (a) Do you wish to register to vote as part of this
13 application process?

14 (b) Do you wish to be an organ and tissue donor?

15 (c) Do you wish to receive any additional specific
16 information regarding organ and tissue donation?

17 (d) Do you wish to donate \$1 to promote the Organ and
18 Tissue Donor Awareness and Education Fund?

19 (3) The director may summarily cancel any state
20 identification card, and any judge or magistrate may order a state
21 identification card canceled in a judgment of conviction, if the
22 application or examiner's certificate for the card contains any
23 false or fraudulent statements which were deliberately and
24 knowingly made as to any matter material to the issuance of the
25 card or if the application or examiner's certificate does not
26 contain required or correct information. Any state identification
27 card so obtained shall be void from the date of issuance. Any
28 judgment of conviction ordering cancellation of a state

1 identification card shall be transmitted to the director who shall
2 cancel the card.

3 (4) Machine-readable information encoded on a state
4 identification card shall be limited to the information appearing
5 on the face of the card.

6 Sec. 15. Section 84-907.03, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 84-907.03. There is hereby created the Secretary of
9 State Administration Cash Fund. The fund shall consist of revenue
10 received to defray costs as authorized in sections 84-901 to
11 84-908. The revenue shall be collected by the Secretary of State
12 and remitted to the State Treasurer for credit to the fund. The
13 fund shall be used to (1) offset expenses incurred as a result of
14 such sections and (2) administer the Address Confidentiality Act.

15 Any money in the fund available for investment shall be
16 invested by the state investment officer pursuant to the Nebraska
17 Capital Expansion Act and the Nebraska State Funds Investment Act.

18 Sec. 16. Original sections 32-331 and 84-907.03, Reissue
19 Revised Statutes of Nebraska, and sections 60-484, 60-4,144, and
20 60-4,181, Revised Statutes Supplement, 2002, are repealed.