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SESSION 2001

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HOUSE BILL 1402
Committee Substitute Favorable 8/15/02
Committee Substitute #2 Favorable 8/27/02

Short Title: Address Confidentiality Program.

(Public)

Sponsors:

Referred to:

April 26, 2001

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH AN ADDRESS CONFIDENTIALITY PROGRAM FOR
VICTIMS OF DOMESTIC VIOLENCE, SEXUAL OFFENSE, AND STALKING.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to
read:

"Chapter 15C.

"Address Confidentiality Program.

"§ 15C-1. Purpose.

The purpose of this Chapter is to enable the State and the agencies of North Carolina to respond to requests for public records without disclosing the location of a victim of domestic violence, sexual offense, or stalking; to enable interagency cooperation in providing address confidentiality for victims of domestic violence, sexual offense, or stalking; and to enable the State and its agencies to accept a program participant's use of an address designated by the Office of the Attorney General as a substitute address.

"§ 15C-2. Definitions.

The following definitions apply in this Chapter:

- (1) Actual address or address. – A residential, work, or school street address as specified on the individual's application to be a program participant under this Chapter.
- (2) Address Confidentiality Program or Program. – A program in the Office of the Attorney General to protect the confidentiality of the address of a relocated victim of domestic violence, sexual offense, or stalking to prevent the victim's assailants or potential assailants from finding the victim through public records.
- (3) Agency of North Carolina or agency. – Includes every elected or appointed State or local public office, public officer, or official; institution, board, commission, bureau, council, department, authority,

1 or other unit of government of the State or of any local government; or
2 unit, special district, or other political subdivision of State or local
3 government.

4 (4) Application assistant. – An employee of an agency or nonprofit
5 organization who provides counseling, referral, shelter, or other
6 specialized services to victims of domestic violence, sexual offense, or
7 stalking and who has been designated by the Attorney General to assist
8 individuals with applications to participate in the Address
9 Confidentiality Program.

10 (5) Attorney General. – Office of the Attorney General.

11 (6) Person. – Any individual, corporation, limited liability company,
12 partnership, trust, estate, or other association or any state, the United
13 States, or any subdivision thereof.

14 (7) Program participant. – An individual accepted into the Address
15 Confidentiality Program in accordance with this Chapter.

16 (8) Public record. – A public record as defined in Chapter 132 of the
17 General Statutes.

18 (9) Substitute address. – An address designated by the Attorney General
19 under the Address Confidentiality Program.

20 (10) Victim of domestic violence. – An individual against whom domestic
21 violence, as described in G.S. 50B-1, has been committed.

22 (11) Victim of a sexual offense. – An individual against whom a sexual
23 offense, as described in Article 7A of Chapter 14 of the General
24 Statutes, has been committed.

25 (12) Victim of stalking. – An individual against whom stalking, as
26 described in G.S. 14-277.3, has been committed.

27 **"§ 15C-3. Address Confidentiality Program.**

28 The General Assembly establishes the Address Confidentiality Program in the
29 Office of the Attorney General to protect the confidentiality of the address of a relocated
30 victim of domestic violence, sexual offense, or stalking to prevent the victim's assailants
31 or potential assailants from finding the victim through public records. Under this
32 Program, the Attorney General shall designate a substitute address for a program
33 participant and act as the agent of the program participant for purposes of service of
34 process and receiving and forwarding first-class mail or certified or registered mail. The
35 Attorney General shall not be required to forward any mail other than first-class mail or
36 certified or registered mail to the program participant. The Attorney General shall not be
37 required to track or otherwise maintain records of any mail received on behalf of a
38 program participant unless the mail is certified or registered mail.

39 **"§ 15C-4. Filing and certification of applications; authorization card.**

40 (a) An individual who wants to participate in the Address Confidentiality
41 Program shall file an application with the Attorney General with the assistance of an
42 application assistant. Any of the following individuals may apply to the Attorney
43 General to have an address designated by the Attorney General to serve as the substitute
44 address of the individual:

- 1 (1) An adult individual.
2 (2) A parent or guardian acting on behalf of a minor when the minor
3 resides with the individual.
4 (3) A guardian acting on behalf of an incapacitated individual.
5 (b) The application shall be dated, signed, and verified by the applicant and shall
6 be signed by the application assistant who assisted in the preparation of the application.
7 (c) The application shall contain all of the following:
8 (1) A statement by the applicant that the applicant is a victim of domestic
9 violence, sexual offense, or stalking and that the applicant fears for the
10 applicant's safety or the safety of the applicant's child.
11 (2) Evidence that the applicant is a victim of domestic violence, sexual
12 offense, or stalking. This evidence may include any of the following:
13 a. Law enforcement, court, or other federal or state agency records
14 or files.
15 b. Documentation from a domestic violence program if the
16 applicant is alleged to be a victim of domestic violence.
17 c. Documentation from a religious, medical, or other professional
18 from whom the applicant has sought assistance in dealing with
19 the alleged domestic violence, sexual offense, or stalking.
20 (3) A statement by the applicant that disclosure of the applicant's address
21 would endanger the applicant's safety or the safety of the applicant's
22 child.
23 (4) A statement by the applicant that the applicant has or will
24 confidentially relocate in North Carolina.
25 (5) A designation of the Attorney General as an agent for the applicant for
26 purposes of service of process and the receipt of first-class mail or
27 certified or registered mail.
28 (6) The mailing address and telephone number where the applicant can be
29 contacted by the Attorney General.
30 (7) The address that the applicant requests not to be disclosed by the
31 Attorney General that directly relates to the increased risk of domestic
32 violence, sexual offense, or stalking.
33 (8) A statement as to whether there is any existing court order or court
34 action involving the applicant related to divorce proceedings, child
35 support, child custody, or child visitation and the court that issued the
36 order or has jurisdiction over the action.
37 (9) A statement by the applicant that to the best of the applicant's
38 knowledge, the information contained in the application is true.
39 (10) A recommendation of an application assistant that the applicant have
40 an address designated by the Attorney General to serve as the
41 substitute address of the applicant.
42 (d) Upon the filing of a properly completed application, the Attorney General
43 shall certify the applicant as a program participant. Upon certification, the Attorney
44 General shall issue an Address Confidentiality Program authorization card to the

1 program participant. The Address Confidentiality Program authorization card shall
2 remain valid for so long as the program participant remains certified under the Program.

3 (e) Applicants shall be certified for four years following the date of filing unless
4 the certification is withdrawn or canceled prior to the end of the four-year period. A
5 program participant may withdraw the certification by filing a request for withdrawal
6 acknowledged before a notary with the Attorney General. A certification may be
7 renewed by filing an application containing the information required by G.S. 15C-3
8 with the Attorney General at least 30 days prior to expiration of the current certification.

9 **§ 15C-5. Change of name, address, or telephone number.**

10 (a) A program participant shall notify the Attorney General within 30 days after
11 the program participant has obtained a legal name change by providing the Attorney
12 General a certified copy of any judgment or order evidencing the change or any other
13 documentation the Attorney General deems to be sufficient evidence of the name
14 change. If the program participant fails to notify the Attorney General of a name change
15 in the manner provided in this subsection, the Attorney General shall cancel the
16 certification of the program participant in the Program.

17 (b) A program participant shall notify the Attorney General of a change in
18 address or telephone number from the address or telephone number listed for the
19 program participant on the application at least seven days before the change occurs. If
20 the program participant fails to notify the Attorney General of a change in address or
21 telephone number in the manner provided in this subsection, the Attorney General shall
22 cancel the certification of the program participant in the Program.

23 **§ 15C-6. Falsifying application information.**

24 An applicant who falsely attests in an application that disclosure of the applicant's
25 address would endanger the applicant's safety or the safety of the applicant's child or
26 who knowingly provides false information when applying for certification or renewal
27 shall lose certification in the Program. The Attorney General shall investigate violations
28 of this section. Upon finding that a violation has occurred, the Attorney General shall
29 assess a civil penalty against the applicant not to exceed five hundred dollars (\$500.00).

30 **§ 15C-7. Certification cancellation; records.**

31 (a) The Attorney General shall cancel the certification of a program participant
32 under any of the following circumstances:

- 33 (1) The program participant files a request for withdrawal of the
34 certification pursuant to G.S. 15C-4.
- 35 (2) The program participant fails to notify the Attorney General of a
36 change in the program participant's name, address, or telephone
37 number listed on the application pursuant to G.S. 15C-5.
- 38 (3) The program participant submitted false information in applying for
39 certification to the Program in violation of G.S. 15C-6.
- 40 (4) Mail forwarded to the program participant by the Attorney General is
41 returned as undeliverable.

42 (b) The provisions of Article 3 of Chapter 150B of the General Statutes shall not
43 apply to any cancellation of certification by the Attorney General pursuant to subsection
44 (a) of this section.

1 (c) The Attorney General shall send notice of cancellation to the program
2 participant. Notice of cancellation shall set out the reasons for cancellation. The
3 program participant shall have 30 days to appeal the cancellation decision under
4 procedures developed by the Attorney General.

5 (d) Any records or documents pertaining to a program participant shall be
6 maintained in accordance with The General Schedule for State Agencies as established
7 by the Department of Cultural Resources.

8 (e) An individual who ceases to be a program participant is responsible for
9 notifying persons who use the substitute address designated by the Attorney General as
10 the program participant's address that the designated substitute address is no longer the
11 individual's address.

12 **"§ 15C-8. Address use by State or local agencies.**

13 (a) The program participant, and not the Attorney General, is responsible for
14 requesting that agencies of North Carolina use the address designated by the Attorney
15 General as the substitute address of the program participant.

16 (b) Except as otherwise provided in this section, when a program participant
17 submits a current and valid Address Confidentiality Program authorization card to an
18 agency of North Carolina, the agency shall accept the address designation by the
19 Attorney General on the authorization card as the program participant's substitute
20 address when creating a new public record.

21 (c) An agency may request a waiver from the requirements of the Address
22 Confidentiality Program by submitting a waiver request to the Attorney General. The
23 agency's waiver request shall be in writing and include an explanation of why the
24 agency cannot meet its statutory or administrative obligations by possessing or using the
25 substitute address and an affirmation that, if the Attorney General accepts the waiver,
26 the agency will only use the program participant's actual address for those statutory or
27 administrative purposes.

28 (d) The Attorney General's acceptance or denial of an agency's waiver request
29 shall be made in writing and include a statement of specific reasons for acceptance or
30 denial. Acceptance or denial of an agency's waiver request is not subject to further
31 review.

32 (e) A board of elections shall use the actual address of a program participant for
33 all election-related purposes and shall keep the address confidential from the public
34 under the provisions of G.S. 163-82.10(d). Use of the actual address on letters placed in
35 the United States mail by a board of elections shall not be considered a breach of
36 confidentiality. The substitute address designation provided by the Attorney General
37 shall not be used as an address for voter registration or verification purposes.

38 (f) For purposes of levying and collecting property taxes on motor vehicles
39 pursuant to Article 22A of Chapter 105 of the General Statutes, the Attorney General
40 shall issue to the county, city, or town assessor or tax collector a list containing the
41 names and actual addresses of program participants residing in that county, city, or
42 town. This list shall be used only for the purposes of listing, appraising, or assessing
43 taxes on motor vehicles and collecting property taxes on motor vehicles in the county,
44 city, or town. The county, city, or town assessor or tax collector or any current or former

1 officer, employee, or agent of any county, city, or town, who in the course of service to
2 or employment by the county, city, or town has access to the name and actual address of
3 a program participant, shall not disclose this information to any other person.

4 (g) The substitute address designated by the Attorney General shall not be used
5 for purposes of listing, appraising, or assessing taxes on property and collecting taxes on
6 property under the provisions of Subchapter II of Chapter 105 of the General Statutes.

7 (h) The substitute address designated by the Attorney General shall not be used
8 as an address by any register of deeds on recorded documents or for the purpose of
9 indexing land registered under Article 4 of Chapter 43 of the General Statutes in the
10 index of registered instruments pursuant to G.S. 161-22.

11 (i) A local school administrative unit shall use the actual address of a program
12 participant for any purpose related to admission or assignment pursuant to Article 25 of
13 Chapter 115C of the General Statutes and shall keep the actual address confidential
14 from the public under the provisions of this Article. The substitute address designated
15 by the Attorney General shall not be used as an address for admission or assignment
16 purposes. For purposes of student records created under Chapter 115C of the General
17 Statutes, the substitute address designated by the Attorney General shall be used.

18 (j) Except as otherwise provided in this section, a program participant's actual
19 address and telephone number maintained by an agency of North Carolina is not a
20 public record within the meaning of Chapter 132 of the General Statutes. A program
21 participant's actual address or telephone number maintained by the Attorney General or
22 disclosed by the Attorney General pursuant to this Chapter is not a public record within
23 the meaning of Chapter 132 of the General Statutes.

24 **"§ 15C-9. Disclosure of address prohibited.**

25 (a) The Attorney General is prohibited from disclosing any address or telephone
26 number of a program participant other than the substitute address designated by the
27 Attorney General, except under the following circumstances:

28 (1) The information is requested by a federal, state, or local law
29 enforcement agency for official use only.

30 (2) The information is required by direction of a court order. However,
31 any person to whom a program participant's address or telephone
32 number has been disclosed shall not disclose the address or telephone
33 number to any other person unless permitted to do so by order of the
34 court.

35 (3) Upon request by an agency to verify the participation of a specific
36 program participant when the verification is for official use only.

37 (4) Upon request by an agency, in the manner provided for by G.S. 15C-8.

38 (5) The program participant is required to disclose the program
39 participant's actual address as part of a registration required by Article
40 27A of Chapter 14 of the General Statutes.

41 (b) The Attorney General shall provide immediate notification of disclosure to a
42 program participant when disclosure is made pursuant to subdivision (2) or (4) of
43 subsection (a) of this section.

1 (c) If, at the time of application, an applicant is subject to a court order related to
2 divorce proceedings, child support, child custody, or child visitation, the Attorney
3 General shall notify the court that issued the order of the certification of the program
4 participant in the Address Confidentiality Program and the substitute address designated
5 by the Attorney General. If, at the time of application, an applicant is involved in a court
6 action related to divorce proceedings, child support, child custody, or child visitation,
7 the Attorney General shall notify the court having jurisdiction over the action of the
8 certification of the applicant in the Address Confidentiality Program and the substitute
9 address designated by the Attorney General.

10 (d) No person shall knowingly and intentionally obtain a program participant's
11 actual address or telephone number from the Attorney General or an agency knowing
12 that the person is not authorized to obtain the address information.

13 (e) No employee of the Attorney General or an agency shall knowingly and
14 intentionally disclose a program participant's actual address or telephone number to a
15 person known to the employee to be prohibited from receiving the program participant's
16 actual address or telephone number, unless the disclosure is permissible by law. This
17 subsection only applies when an employee obtains a program participant's actual
18 address or telephone number during the course of the employee's official duties and, at
19 the time of disclosure, the employee has specific knowledge that the actual address or
20 telephone number disclosed belongs to a program participant.

21 (f) Any person who knowingly and intentionally obtains or discloses information
22 in violation of this Chapter shall be guilty of a Class 1 misdemeanor and assessed a fine
23 not to exceed two thousand five hundred dollars (\$2,500).

24 **"§ 15C-10. Assistance for program applicants.**

25 The Attorney General shall designate agencies of North Carolina and nonprofit
26 organizations that provide counseling and shelter services to victims of domestic
27 violence, sexual offense, or stalking to assist individuals applying to be program
28 participants. Any assistance and counseling rendered by the Office of the Attorney
29 General or its designee to applicants shall in no way be construed as legal advice.

30 **"§ 15C-11. Limited liability.**

31 The State, agencies of North Carolina, and their officers, officials, employees, and
32 agents, both past and present, in their official and individual capacities, shall be immune
33 and held harmless from any liability in any action brought by or on behalf of any person
34 injured or harmed by the actions or inactions of these entities and individuals in
35 implementing this Chapter, provided that the entity or individual was acting in good
36 faith and without malice. In any proceeding involving liability, good faith and lack of
37 malice are presumed.

38 **"§ 15C-12. Rule-making authority.**

39 The Attorney General is authorized to adopt any rules deemed necessary to carry out
40 the provisions of this Chapter.

41 **"§ 15C-13. Additional time for action.**

42 Whenever the laws of this State provide a program participant a legal right to act
43 within a prescribed period of 10 days or less after the service of a notice or other paper
44 upon the program participant, and the notice or paper is served upon the program

1 participant by mail pursuant to this Chapter, five days shall be added to the prescribed
2 period."

3 **SECTION 2.** G.S. 1A-1, Rule 6, is amended by adding a new subsection to
4 read:

5 "(f) Additional time for Address Confidentiality Program participants. –
6 Whenever a person participating in the Address Confidentiality Program established by
7 Chapter 15C of the General Statutes has a legal right to act within a prescribed period of
8 10 days or less after the service of a notice or other paper upon the program participant,
9 and the notice or paper is served upon the program participant by mail, five days shall
10 be added to the prescribed period."

11 **SECTION 3.** Article 2 of Chapter 51 of the General Statutes is amended by
12 adding the following section:

13 **"§ 51-16.1. Form of license for Address Confidentiality Program participant.**

14 If a person submits to the local register of deeds a current and valid Address
15 Confidentiality Program authorization card issued pursuant to the provisions of Chapter
16 15C of the General Statutes, the local register of deeds shall use the substitute address
17 designated by the Address Confidentiality Program when creating a new marriage
18 license."

19 **SECTION 4.** G.S. 115C-320 reads as rewritten:

20 **"§ 115C-320. Certain records open to inspection.**

21 Each local board of education shall maintain a record of each of its employees,
22 showing the following information with respect to each employee: name, age, date of
23 original employment or appointment, current position, title, current salary, date and
24 amount of most recent increase or decrease in salary, date of most recent promotion,
25 demotion, transfer, suspension, separation, or other change in position classification,
26 and the office or station to which the employee is currently assigned. Subject only to
27 rules and regulations for the safekeeping of records adopted by the local board of
28 education, every person having custody of the records shall permit them to be inspected
29 and examined and copies made by any person during regular business hours. The name
30 of a participant in the Address Confidentiality Program established pursuant to Chapter
31 15C of the General Statutes shall not be open to inspection and shall be redacted from
32 any record released pursuant to this section. Any person who is denied access to any
33 record for the purpose of inspecting, examining or copying the record shall have a right
34 to compel compliance with the provisions of this section by application to a court of
35 competent jurisdiction for a writ of mandamus or other appropriate relief."

36 **SECTION 5.** G.S. 115C-366 is amended by adding a new subsection to
37 read:

38 "(g) Any local school administrative unit may use the actual address of a program
39 participant for any purpose related to admission or assignment pursuant to this Article
40 as long as the address is kept confidential from the public under the provisions of
41 Chapter 15C of the General Statutes. The substitute address designated by the Attorney
42 General shall not be used as an address for admission or assignment purposes."

43 **SECTION 6.** G.S. 115C-402 is amended by adding a new subsection to
44 read:

1 "(f) The actual address and telephone number of a student who is a participant in
2 the Address Confidentiality Program established pursuant to Chapter 15C of the
3 General Statutes or a student with a parent who is a participant in the Address
4 Confidentiality Program established pursuant to Chapter 15C of the General Statutes
5 shall be kept confidential from the public and shall not be disclosed except as provided
6 in Chapter 15C of the General Statutes."

7 **SECTION 7.** G.S. 132-1.1 reads as rewritten:

8 "**§ 132-1.1. Confidential communications by legal counsel to public board or**
9 **agency; State tax information; public enterprise billing**
10 **~~information.~~information; Address Confidentiality Program information.**

11 (a) Confidential Communications. – Public records, as defined in G.S. 132-1,
12 shall not include written communications (and copies thereof) to any public board,
13 council, commission or other governmental body of the State or of any county,
14 municipality or other political subdivision or unit of government, made within the scope
15 of the attorney-client relationship by any attorney-at-law serving any such governmental
16 body, concerning any claim against or on behalf of the governmental body or the
17 governmental entity for which such body acts, or concerning the prosecution, defense,
18 settlement or litigation of any judicial action, or any administrative or other type of
19 proceeding to which the governmental body is a party or by which it is or may be
20 directly affected. Such written communication and copies thereof shall not be open to
21 public inspection, examination or copying unless specifically made public by the
22 governmental body receiving such written communications; provided, however, that
23 such written communications and copies thereof shall become public records as defined
24 in G.S. 132-1 three years from the date such communication was received by such
25 public board, council, commission or other governmental body.

26 (b) State and Local Tax Information. – Tax information may not be disclosed
27 except as provided in G.S. 105-259. As used in this subsection, "tax information" has
28 the same meaning as in G.S. 105-259. Local tax records that contain information about
29 a taxpayer's income or receipts may not be disclosed except as provided in G.S.
30 153A-148.1 and G.S. 160A-208.1.

31 (c) Public Enterprise Billing Information. – Billing information compiled and
32 maintained by a city or county or other public entity providing utility services in
33 connection with the ownership or operation of a public enterprise is not a public record
34 as defined in G.S. 132-1. Nothing contained herein is intended to limit public disclosure
35 by a city or county of billing information:

36 (i) that the city or county determines will be useful or necessary to assist
37 bond counsel, bond underwriters, underwriters' counsel, rating
38 agencies or investors or potential investors in making informed
39 decisions regarding bonds or other obligations incurred or to be
40 incurred with respect to the public enterprise;

41 (ii) that is necessary to assist the city, county, State, or public enterprise to
42 maintain the integrity and quality of services it provides; or

1 (iii) that is necessary to assist law enforcement, public safety, fire
2 protection, rescue, emergency management, or judicial officers in the
3 performance of their duties.

4 As used herein, "billing information" means any record or information, in whatever
5 form, compiled or maintained with respect to individual customers by any owner or
6 operator of a public enterprise, as defined in G.S. 160A-311 and G.S. 153A-274, or
7 other public entity providing utility services, relating to services it provides or will
8 provide to the customer.

9 (d) Address Confidentiality Program Information. – The actual address and
10 telephone number of a program participant in the Address Confidentiality Program
11 established under Chapter 15C of the General Statutes is not a public record within the
12 meaning of Chapter 132. The actual address and telephone number of a program
13 participant may not be disclosed except as provided in Chapter 15C of the General
14 Statutes."

15 **SECTION 8.** G.S. 163-82.10(d) reads as rewritten:

16 "(d) Exception for Address of Certain Registered Voters. – Notwithstanding
17 subsections (b) and (c) of this section, if a registered voter submits to the county board
18 of elections a copy of a protective order without attachments, if any, issued to that
19 person under G.S. 50B-3 or a lawful order of any court of competent jurisdiction
20 restricting the access or contact of one or more persons with a registered voter or a
21 current and valid Address Confidentiality Program authorization card issued pursuant to
22 the provisions of Chapter 15C of the General Statutes, accompanied by a signed
23 statement that the voter has good reason to believe that the physical safety of the voter
24 or a member of the voter's family residing with the voter would be jeopardized if the
25 voter's address were open to public inspection, that voter's address is a public record but
26 shall be kept confidential as long as the protective order remains in effect.~~effect~~ or the
27 voter remains a certified program participant in the Address Confidentiality Program.
28 That voter's name, precinct, and the other data contained in that voter's registration
29 record shall remain a public record. That voter's signed statement submitted under this
30 subsection is a public record but shall be kept confidential as long as the protective
31 order remains in ~~effect.~~ effect or the voter remains a certified program participant in the
32 Address Confidentiality Program. It is the responsibility of the voter to provide the
33 county board with a copy of the valid protective order in ~~effect.~~ effect or a current and
34 valid Address Confidentiality Program authorization card issued pursuant to the
35 provisions of Chapter 15C of the General Statutes. The voter's actual address shall be
36 used for any election-related purpose by any board of elections. That voter's address
37 shall be available for inspection by a law enforcement agency or by a person identified
38 in a court order, if inspection of the address by that person is directed by that court
39 order. It shall not be a violation of this section if the address of a voter who is
40 participating in the Address Confidentiality Program is discovered by a member of the
41 public in public records disclosed by a county board of elections prior to December 1,
42 2001."

43 **SECTION 9.** No General Fund appropriations shall be used to implement
44 this act. The Attorney General and all other agencies to which this act applies shall

1 implement the provisions of this act with funds that are or will become available as a
2 result of the settlement of the case entitled State of Florida, et al. v. Nine West Group,
3 Inc., and John Does 1-500, Civil Action No. 00 CIV 1707 (BDP), U.S.D.C., Southern
4 District of New York, or other grants or funds that are not appropriated from the
5 General Fund.

6 **SECTION 10.** This act becomes effective January 1, 2003.