

CHAPTER 172

(SB 79)

AN ACT relating to the Safe at Home Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 14.260 is amended to read as follows:

~~{(1) As funds are available, the Secretary of State, or designee, shall promulgate administrative regulations to expand the address protection program to allow an applicant or specified guardians to apply to have a substitute address designated to serve as the address of the participant. Any program created under this section shall:~~

~~(a) Collaborate with the Kentucky Commission on Women;~~

~~(b) Establish criteria to prohibit certain individuals, including any individual required to register as a sex offender, from participation in the program;~~

~~(c) Allow a participant to request that state and local agencies use the substitute address as the address of the participant, but agencies may show that they have a bona fide statutory or administrative requirement for the actual address;~~

~~(d) Be open to individuals that are victims of domestic violence and abuse, stalking, any victim of an offense or an attempt to commit an offense defined in KRS Chapter 510, 530.020, 530.064(1)(a), 531.310, or 531.320, or any victim of a similar federal offense or a similar offense from another state or territory;~~

~~(e) Allow an applicant to submit evidence, including a sworn statement, to show that he or she is a victim of a qualifying offense.~~

~~(2) Participation in any program established under this section shall not affect custody or visitation orders in effect prior to or established during program participation, nor shall it constitute evidence of any offense and shall not be considered for purposes of making an order allocating parental responsibilities or parenting time.~~

~~(3) No actionable duty nor any right of action shall accrue against the state, any entity operating an address protection program for the state, an individual operating in his or her professional capacity on behalf of the confidential address protection program established in this section, or an employee of the state or municipality in the event of negligent acts that result in the disclosure of a program participant's actual address.}~~

~~(1){(4)} The *Safe at Home Program*{address protection program} fund is hereby created as a separate trust fund in the State Treasury. The *Safe at Home Program*{address protection program} fund shall consist of amounts received from fees collected pursuant to KRS 23A.208 and 24A.178, amounts received from appropriations, and any other proceeds from gifts, grants, federal funds, or any other funds, both public and private, made available for the purposes of this section.~~

~~(2){(5)} The *Safe at Home Program*{address protection program} fund shall be administered by the Secretary of State to operate and maintain the *Safe at Home Program*{confidential address protection program} established in *Section 3 of this Act*{this section} and shall not be used for any other purposes.~~

~~(3){(6)} Notwithstanding KRS 45.229, *Safe at Home Program*{address protection program} fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.~~

~~(4){(7)} Any interest earnings of the *Safe at Home Program*{address protection program} fund shall become a part of the *Safe at Home Program*{address protection program} fund and shall not lapse.~~

~~(5){(8)} Moneys deposited in the *Safe at Home Program*{address protection program} fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.~~

➔Section 2. KRS 14.300 is amended to read as follows:

As used in KRS 14.300 to 14.318 unless the context otherwise requires:

- (1) "Address" means a residential street address, school address, or work address of an individual, as specified on the application of an individual to be a program participant under this section;
- (2) "Applicant" means a person applying for certification in the *Safe at Home* ~~address confidentiality~~ Program under KRS 14.300 to 14.318;
- (3) *"Application assistant" means a private individual, employee or volunteer of a government agency, or an employee or volunteer of a nonprofit program that provides counseling, referral, shelter, or other specialized service to victims of domestic violence, rape, sexual assault, human trafficking, stalking, or other crimes, who has been designated by the respective agency or program, and who has been trained and registered by the Secretary of State to assist individuals in establishing a safety program and in the completion of program applications;*
- ~~(4)(3)~~ "Criminal offense against a victim who is a minor" has the same meaning as in KRS 17.500;
- ~~(5)(4)~~ "Domestic violence and abuse" has the same meaning as in KRS 403.720;
- ~~(6)(5)~~ "Program participant" means a person certified as a program participant under KRS 14.300 to 14.318;
- (7) *"Human trafficking" means an offense or attempt to commit an offense as defined in:*
- (a) *KRS 529.100;*
 - (b) *18 U.S.C. sec. 1589;*
 - (c) *18 U.S.C. sec. 1592;*
 - (d) *22 U.S.C. sec. 7102(8);*
 - (e) *22 U.S.C. sec. 7102(11); or*
 - (f) *22 U.S.C. sec. 7102(12);*
- ~~(8)(6)~~ "Sex crime" means an offense or an attempt to commit an offense defined in:
- (a) KRS Chapter 510;
 - (b) KRS 530.020;
 - (c) KRS 530.064(1)(a);
 - (d) *KRS 531.120;*
 - ~~(e)(d)~~ KRS 531.310;
 - ~~(f)(e)~~ KRS 531.320; or
 - ~~(g)(f)~~ Any criminal attempt to commit an offense specified in this subsection, regardless of the penalty for the attempt;
- ~~(9)(7)~~ "Specified offense" means:
- (a) Domestic violence and abuse;
 - (b) Stalking;
 - (c) A sex crime;
 - (d) *Human trafficking;*
 - ~~(e)(d)~~ A criminal offense against a victim who is a minor;
 - ~~(f)(e)~~ A similar federal offense; or
 - ~~(g)(f)~~ A similar offense from another state or territory; and
- ~~(10)(8)~~ "Stalking" means conduct prohibited under KRS 508.140 and 508.150.

➔ Section 3. KRS 14.302 is amended to read as follows:

- (1) *The Safe at Home Program is hereby established within the Office of the Secretary of State.* ~~[On or after July 1, 2013, the Secretary of State shall create a crime victim address protection program.]~~
- (2) *The Safe at Home Program shall be operated with the intent to protect victims of:*

- (a) *Domestic violence;*
 - (b) *Human trafficking;*
 - (c) *Stalking;*
 - (d) *Sexual assault;*
 - (e) *Rape; and*
 - (f) *Other sexual crimes as defined by KRS 17.500.*
- (3) *The Safe at Home Program shall authorize the use of designated addresses for victims, their minor children, and all other individuals residing with the victim.*

~~(4)(2)~~ The *Safe at Home Program*~~[crime victim address protection program]~~ shall be open to victims of a specified offense who are United States citizens and residents of Kentucky, without any cost to the program participant.

~~(5)(3)~~ The Secretary of State shall require that each person employed in the Office of the Secretary of State directly responsible for the administration of the *Safe at Home Program*~~[crime victim address protection program]~~ submit his or her fingerprints to the Department of State. The Department of State shall exchange fingerprint data with the Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of each employee directly responsible for the administration of the program.

➔Section 4. KRS 14.304 is amended to read as follows:

(1) Upon the creation of the *Safe at Home Program*~~[crime victim address protection program]~~, *the following individuals may apply to the Secretary of State to have an address designated as his or her mailing address in place of his or her residential address:*

- (a) *An adult victim;*
- (b) *A parent or guardian acting on behalf of a minor when the minor resides with him or her;*
- (c) *A guardian acting on behalf of an incapacitated individual who is a victim of a specified offense; and*
- (d) *Any individuals residing with the victim*

~~[applicant, a parent or guardian acting on behalf of a minor, a guardian acting on behalf of a person who is declared incompetent, or a designee of an applicant or a parent or guardian of a minor or a guardian of a person declared incompetent who cannot for any reason apply themselves, may apply to the Secretary of State to have an address designated by the Secretary of State serve for voting purposes as the address of the applicant, the minor, or the incompetent person].~~

(2) 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 ~~[by administrative regulation]~~ and if it contains:

- (a) A sworn statement, *under penalty of perjury*, by the applicant that:
 1. *The applicant is a victim of a specified offense or resides in the same household as a victim of a specified offense;*~~[The applicant or the minor or the incompetent person on whose behalf the application is made is a victim of a specified offense in an ongoing criminal case or in a criminal case that resulted in a conviction by a judge or jury or by a defendant's guilty plea; or]~~
 2. *The applicant fears for his or her own safety or the safety of another person who resides in the same household; and*~~[The applicant or the minor or the incompetent person on whose behalf the application is made has been granted an order of protection as defined in KRS 403.720 and 456.010 by a court of competent jurisdiction within the Commonwealth of Kentucky and the order is in effect at the time of application;]~~
 3. *The applicant is not applying for certification as a program participant in order to avoid prosecution for a crime;*

~~[(b) A sworn statement by the applicant that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made.]~~

- (b)~~(e)~~ The mailing address and the phone number or numbers where the applicant can be contacted by the Secretary of State *or the Secretary of State's designee*;
- (c)~~(d)~~ The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of a specified offense, *jeopardize the applicant's safety, or increase the risk of violence to the applicant or members of the applicant's household*; ~~and~~
- (d)~~(e)~~ *The date the application was prepared, the applicant's signature, and, if applicable, the signature of the application assistant who assisted the applicant in applying to be a program participant; and* ~~The signature of the applicant and of a representative of any office designated under KRS 14.310 as a referring agency who assisted in the preparation of the application, and the date on which the applicant signed the application.~~
- (e) *A designation of the Secretary of State as agent for purposes of service of process and for receipt of first class mail, legal documents, and certified mail.*
- (3)~~(2)~~ Applications shall be filed with the Office of the Secretary of State. *Applicants may choose to consult with an application assistant for assistance with the application process or apply online directly through the portal designated by the Secretary of State.*
- (4)~~(3)~~ Upon the filing of a properly completed application, the Secretary of State shall certify the applicant as a program participant if the applicant is not required to register as a sex offender or is not otherwise prohibited from participating in the program.
- (5)~~(4)~~ Applicants shall be certified for *four (4)* ~~two (2)~~ years following the date of filing unless the certification is withdrawn or invalidated before that date. *The Secretary of State shall send notification of an expiring certification and a renewal form to a program participant at least four (4) weeks prior to the expiration of the program participant's certification. The renewal need only be signed by the applicant and need not be made before an application assistant.* The Secretary of State shall promulgate an administrative regulation to establish a renewal procedure.
- (6)~~(5)~~ A person who falsely attests in an application that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made, *or household members residing with the applicant*, or who knowingly provides false or incorrect information upon making an application may be found guilty of a violation of KRS 523.030.
- (7)~~(6)~~ The addresses of individuals applying for entrance into the *Safe at Home Program* ~~crime-victim address confidentiality program~~ and the addresses of those certified as program participants shall be exempt from disclosure under the Kentucky Open Records Act, KRS 61.870 to KRS 61.884. *An agency may not require the program participant to submit any new address that could be used to physically locate the participant. When creating a new public record, state and local agencies shall accept the address designated by the Secretary of State as a program participant's substitute address, unless the Secretary of State has determined that:*
- (a) *The agency has a bona fide statutory or administrative requirement for the use of the address which would otherwise be confidential under this chapter; and*
- (b) *This address will be used only for those statutory and administrative purposes.*
- (8)~~(7)~~ (a) *As part of the application process established by the Secretary of State pursuant to subsections (1) and (2) of this section, an applicant may request that state or local agencies be notified that an applicant has been certified and enrolled in the Safe at Home Program* ~~A program participant shall notify the Office of the Secretary of State of a change of address within seven (7) days of the change of address.~~
- (b) 1. *The Secretary of State shall provide to such agencies the address that has been designated by the Secretary of State to serve as the mailing address of the participant;*
2. *Agencies receiving such notification from the Secretary of State shall change any existing records to reflect the new address submitted under subparagraph 1. of this paragraph;*
3. *Notifications under this section shall not affect residency designations; and*

4. *Subparagraph 2. of this paragraph shall not apply to paper records if such records are more than five (5) years old and would be under the normal course of business maintained or archived in the event of an address change.*
- (9) *Except as provided for in subsection (10) of this section, if a program participant has notified a person in writing that he or she is a program participant, that person shall not knowingly disclose the program participant's:*
- (a) *Name;*
 - (b) *Home address;*
 - (c) *Work address; or*
 - (d) *School address.*
- (10) *Any person to whom a program participant has provided written notification that he or she is a program participant may knowingly disclose the program participant's name, and home, work, or school address if that person also lives, works, or goes to school at the address disclosed, or the participant has provided written consent to disclosure of the participant's name, home, work, or school address, for the purpose for which the disclosure will be made.*
- (11) *A program participant shall notify the Office of the Secretary of State of a change of address within fourteen (14) days of the change of address.*
- (12) *The Secretary of State shall provide verification of an individual's enrollment in the Safe at Home Program, as well as a personalized Safe at Home Program card. The Safe at Home Program verification card shall contain the participant's name, substitute address as designated by the Secretary of State, and any additional information as determined necessary to include by the Secretary of State.*
- (13) *Any person relocating or doing business in the Commonwealth of Kentucky who is a participant in a program in another state that is similar to the Safe at Home Program shall be deemed approved for inclusion in the Commonwealth of Kentucky's program for one (1) year. The Secretary of State shall promulgate administrative regulations establishing procedures necessary to recognize similar programs from outside the Commonwealth of Kentucky and enroll their participants. The following exceptions shall apply:*
- (a) *If the person is temporarily residing in the Commonwealth of Kentucky, he or she shall be considered a participant in the Safe at Home Program as long as he or she continues participation in such a program of a home state; or*
 - (b) *If the person is not residing in the Commonwealth of Kentucky but is doing business or engaged in other transactions there, the person shall be considered a participant in the Safe at Home Program as long as he or she continues to participate in a similar program in his or her state of residence.*

➔Section 5. KRS 14.306 is amended to read as follows:

- (1) The Secretary of State may cancel certification of a program participant if within fourteen (14) days:
- (a) From the date of the program participant changing his or her name, the program participant fails to notify the Secretary of State that he or she has obtained a name change; however, the program participant may reapply under his or her new name; or
 - (b) From the date of changing his or her address, the program participant fails to notify the Secretary of State of the change of address.
- (2) The Secretary of State shall cancel certification of a program participant who applies using false information.
- (3) *The Secretary of State shall cancel certification of a program participant who relocates outside the state of Kentucky.*
- (4) *The Secretary of State shall cancel certification of a program participant who is no longer eligible for the program.*
- (5)~~(3)~~ The Secretary of State shall send notice of certification cancellation to the program participant. The notice of certification cancellation shall set out the reasons for cancellation. The program participant has the

right to appeal the decision within thirty (30) days under procedures established by the Office of the Secretary of State by administrative regulation.

(6)(4) The Secretary of State shall cancel certification of a program participant who is required to register as a sex offender.

(7)(5) A program participant may withdraw from the program by providing the Secretary of State with notice of his or her intention to withdraw from the program. The Secretary of State shall promulgate by administrative regulations a secure procedure by which to ensure that the program participant's request for withdrawal is legitimate.

➔Section 6. KRS 14.310 is amended to read as follows:

- (1) The Secretary of State shall establish a list of state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of a specified offense to assist persons applying to be program participants. Any assistance and counseling rendered to applicants by the Office of the Secretary of State, ~~or~~ its designees, **or application assistants** shall in no way be construed as legal advice.
- (2) **The Secretary of State shall establish a training program for application assistants. Application assistants shall be required to complete an initial training program and become recertified every three (3) years.**
- (3) **The role of an application assistant shall be to explain the Safe at Home Program, assist the applicant in formulating a general safety plan, and direct the applicant to additional support services. It is the responsibility of the applicant to complete the required forms and ultimately determine whether he or she wishes to participate in the program.**

➔Section 7. KRS 23A.208 is amended to read as follows:

- (1) In addition to fees created by KRS 23A.205, 23A.206, and 23A.2065, an administrative fee of thirty dollars (\$30) shall be added to the costs that the defendant is required to pay for the following crimes:
 - (a) A sex crime, meaning an offense described in:
 1. KRS Chapter 510;
 2. KRS 530.020;
 3. KRS 530.064(1)(a);
 4. KRS 531.310; and
 5. KRS 531.320;
 - (b) Stalking, meaning conduct prohibited under KRS 508.140 and 508.150; and
 - (c) A criminal attempt, conspiracy, facilitation, or solicitation to commit the crimes set forth in this subsection.
- (2) The first one dollar and fifty cents (\$1.50) of each fee collected under this section shall be placed into the general fund, and the remainder of the fee shall be allocated by the clerk of the court on a quarterly basis to the **Safe at Home**~~address protection~~ Program fund established in KRS 14.260 to be used solely to establish, operate, and maintain the **Safe at Home**~~confidential address protection~~ Program established in KRS 14.260.
- (3) The court may waive all or any portion of the fee required by this section if the court finds that a person subject to the surcharge is indigent or financially unable to pay all or any portion of the surcharge. The court may waive only the portion of the surcharge that the court finds the person is financially unable to pay.

➔Section 8. KRS 24A.178 is amended to read as follows:

- (1) In addition to fees created by KRS 24A.175, 24A.176, and 24A.1765, an administrative fee of thirty dollars (\$30) shall be added to the costs that the defendant is required to pay for the following crimes:
 - (a) A sex crime, meaning an offense described in:
 1. KRS Chapter 510;
 2. KRS 530.020;
 3. KRS 530.064(1)(a);
 4. KRS 531.310; and

5. KRS 531.320;
- (b) Stalking, meaning conduct prohibited under KRS 508.140 and 508.150; and
 - (c) A criminal attempt, conspiracy, facilitation, or solicitation to commit the crimes set forth in this subsection.
- (2) The first one dollar and fifty cents (\$1.50) of each fee collected under this section shall be placed into the general fund, and the remainder of the fee shall be allocated by the clerk of the court on a quarterly basis to the *Safe at Home*~~[address protection]~~ Program fund established in KRS 14.260 to be used solely to establish, operate, and maintain the *Safe at Home*~~[confidential address protection]~~ Program established in KRS 14.260.
- (3) The court may waive all or any portion of the fee required by this section if the court finds that a person subject to the surcharge is indigent or financially unable to pay all or any portion of the surcharge. The court may waive only the portion of the surcharge that the court finds the person is financially unable to pay.

Signed by Governor April 4, 2023.