

2022 -- H 8015 SUBSTITUTE A

LC005462/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- ADDRESS CONFIDENTIALITY PROGRAM

Introduced By: Representatives Amore, Fogarty, Williams, Solomon, Ajello, Carson, Donovan, and McGaw

Date Introduced: March 18, 2022

Referred To: House State Government & Elections

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 162

4 ADDRESS CONFIDENTIALITY PROGRAM

5 **42-162-1. Short title.**

6 This chapter shall be known and may be cited as the "Address Confidentiality Program
7 Act."

8 **42-162-2. Definitions.**

9 As used in this chapter:

10 (1) "Abuse" means an act or failure to act that presents an imminent risk of serious harm
11 to an individual and, for purposes of this chapter includes, but is not limited to, any of the following
12 crimes, regardless of whether these acts or threats have been reported to law enforcement officers:

13 (i) Child abuse (§ 11-9-5.3);

14 (ii) Child molestation (§§ 11-37-8.1 and 11-37-8.3);

15 (iii) Domestic violence (subsection (3) of this section);

16 (iv) Enticement of children (§ 11-26-1.5);

17 (v) Indecent solicitation of a child (§ 11-37-8.8);

18 (vi) Kidnapping (§§ 11-26-1 and 11-26-1.4);

1 (vii) Sexual assault (chapter 37 of title 11);
2 (viii) Stalking (§ 11-59-2);
3 (ix) Strangulation (§ 11-5-2.3); and
4 (x) Trafficking (chapter 67.1 of title 11).
5 (2) "Actual address" means the physical location where the applicant resides, as specified
6 on the individual's application to be a program participant under this chapter.
7 (3) "Agency" means any subdivision of the State of Rhode Island, a municipality, or a
8 subdivision of a municipality.
9 (4) "Domestic violence" for purposes of this chapter, includes, but is not limited to, any of
10 the following crimes when committed by one family or household member against another,
11 regardless of whether these acts or threats have been reported to law enforcement officers:
12 (i) Simple assault (§ 11-5-3);
13 (ii) Felony assaults (chapter 5 of title 11);
14 (iii) Vandalism (§ 11-44-1);
15 (iv) Disorderly conduct (§ 11-45-1);
16 (v) Trespass (§ 11-44-26);
17 (vi) Kidnapping (§ 11-26-1);
18 (vii) Child-snatching (§ 11-26-1.1);
19 (viii) Sexual assault (§§ 11-37-2 and 11-37-4);
20 (ix) Homicide (§§ 11-23-1 and 11-23-3);
21 (x) Violation of the provisions of a protective order entered pursuant to § 15-5-19, chapter
22 15 of title 15, or chapter 8.1 of title 8 where the respondent has knowledge of the order and the
23 penalty for its violation, or a violation of a no contact order issued pursuant to § 12- 29-4;
24 (xi) Stalking (chapter 59 of title 11);
25 (xii) Refusal to relinquish or to damage or to obstruct a telephone (§ 11-35-14);
26 (xiii) Burglary and Unlawful Entry (chapter 8 of title 11);
27 (xiv) Arson (chapter 4 of title 11);
28 (xv) Cyberstalking and cyberharassment (§ 11-52-4.2);
29 (xvi) Domestic assault by strangulation (§ 11-5-2.3);
30 (xvii) Electronic tracking of motor vehicles (§ 11-69-1); or
31 (xviii) Abuse (subsection (1) of this section).
32 (5) "Family or household member" means current or former intimate partners, spouses,
33 former spouses, persons related by blood or marriage, persons who are presently residing together
34 or who have resided together in the past three (3) years, and persons who have a child in common

1 regardless of whether they have been married or have lived together, or persons who are, or have
2 been, in a dating or engagement relationship within the past year.

3 (6) "Law enforcement agency" means the department of public safety, the Rhode Island
4 state police, a municipal police department, a sheriff's department, the attorney general's office, and
5 shall also mean the department of children, youth, and families when engaged in the investigation
6 of child abuse and neglect.

7 (7) "Law enforcement purposes" means all matters relating to:

8 (i) The prevention, investigation, prosecution, or adjudication of criminal offenses, civil
9 matters, or juvenile matters;

10 (ii) The investigation, prosecution, adjudication, detention, supervision, or correction of
11 persons suspected, charged, or convicted of criminal offenses or juvenile delinquencies;

12 (iii) The protection of the general health, welfare, and safety of the public or the State of
13 Rhode Island;

14 (iv) The execution and enforcement of court orders;

15 (v) Service of criminal or civil process or court orders;

16 (vi) Screening for criminal justice employment;

17 (viii) Other actions taken in performance of official duties, as set forth by statutes, rules,
18 policies, judicial case law, and the U.S. and Rhode Island Constitutions; and

19 (viii) Criminal identification activities, including the collection, storage, and dissemination
20 of criminal history records, sex offender registry information, and DNA material and information.

21 (8) "Public record" means a public record as defined in § 38-2-2 ("public records").

22 (9) "Secretary" means the Rhode Island secretary of state.

23 (10) "Substitute address" means the secretary's designated address for the address
24 confidentiality program.

25 **42-162-3. Address confidentiality program.**

26 (a) Pursuant to the provisions of subsection (b) of this section, a person may apply to the
27 secretary of state to have an address designated by the secretary to serve as the person's substitute
28 address. Upon receipt by the secretary of a mail or process for a participant, the office of the
29 secretary shall immediately forward all such mail or process to the appropriate program participants
30 at the address specified by the participant for that purpose, and shall record the date of such
31 forwarding.

32 (b) The secretary of state shall approve an application if it is filed on the form prescribed
33 by the secretary of state, signed and dated, containing the following:

34 (1) The applicant's statement made under oath, under penalty of perjury, that:

- 1 (i) The applicant is a victim of domestic violence or abuse;
- 2 (ii) The applicant fears for their safety or their children's or ward's safety;
- 3 (iii) The applicant resides or will reside at a location in this state that is not known by the
4 person who committed domestic violence or abuse, or threatens the applicant or the applicant's
5 child or ward with domestic violence or abuse; and
- 6 (iv) The applicant will not disclose their actual address to the person who committed
7 domestic violence or abuse or threatens the applicant or the applicant's child or ward with domestic
8 violence or abuse.
- 9 (2) The actual address that the applicant requests not be disclosed for the reason that
10 disclosure will increase the risk of domestic violence or abuse.
- 11 (3) If different than the actual address, the preferred mailing address where the applicant
12 can be contacted by the secretary; and the telephone number or numbers where the applicant can
13 be called by the secretary; and, if available, the applicant's email address; and
- 14 (4) A designation of the secretary as agent for purposes of service of process and for the
15 purpose of receipt of mail, with a signed acknowledgement of the following:
- 16 (i) The applicant acknowledges that acceptance into the address confidentiality program
17 does not relieve the applicant of any legal responsibility, including, without limitation, court
18 summonses, subpoenas, divorce or child custody orders, and arrest warrants.
- 19 (ii) The applicant acknowledges that failure to promptly notify the secretary of changes to
20 the applicant's contact information, including address, email address and telephone number, may
21 cause a delay in the applicant's receipt of legal documents, including notices of upcoming court
22 hearings for divorce, child custody, or criminal matters, which may result in negative legal
23 ramifications for the applicant, including, without limitation, a default for failure to respond.
- 24 (c) A parent, or legal guardian acting on behalf of a minor or an incapacitated person may
25 submit an application if the parent or legal guardian states under oath, under penalty of perjury, that
26 the parent or legal guardian has legal authority to act on the minor's or incapacitated person's behalf.
- 27 (d) The application shall include a place for the applicant to identify any state, federal, or
28 local agency that employs a person who committed an act of abuse or domestic violence against
29 the applicant or the applicant's child or ward.
- 30 (e) Upon receipt of a properly completed application, the secretary shall certify the
31 applicant as a program participant. Applicants shall be certified for five (5) years following the date
32 of filing, at which time the applicant may apply for renewal.
- 33 (f) Once certified, the program participant may use the address designated by the secretary
34 as their home and work address.

1 (g) A program participant shall notify the secretary of state of any name change and of any
2 change in actual address as soon as possible and within no more than thirty (30) days of the change.

3 (h) Service of process on a program participant, a program participant's minor child,
4 incapacitated person or other adult member of the program participant's household shall be
5 complete when the secretary receives such process by mail or otherwise.

6 (i) If a summons, writ, notice, demand, or process is served on the secretary, the secretary
7 shall immediately cause a copy to be forwarded to the program participant at the address shown on
8 the records of the address confidentiality program in order that the summons, writ, notice, demand,
9 or process is received by the program participant within three (3) days of the secretary having
10 received it.

11 **42-162-4. Certification cancellation.**

12 (a) The secretary shall cancel certification of a program participant who applies using false
13 information.

14 (b) The secretary of state may cancel a program participant's certification for any of the
15 following reasons:

16 (1) The program participant does not notify the secretary that he or she has obtained a name
17 change; provided, the program participant may reapply under their new name;

18 (2) The program participant fails to notify the secretary of state of a change in actual or
19 mailing address; or

20 (3) Mail forwarded to the program participant's address is returned as nondeliverable;
21 provided that, before terminating a program participant's certification due to nondeliverable mail,
22 the program shall attempt to contact the participant by telephone and email to resolve the mail
23 delivery and address issue.

24 (c) The secretary of state shall send a notice of cancellation to the program participant,
25 setting forth the reasons for cancellation, and attempt to notify the participant by telephone and
26 email. The program participant shall have sixty (60) days to appeal the cancellation decision.

27 (d) Program participants may withdraw from the program with written notice to the
28 secretary.

29 **42-162-5. Agency acceptance of designated address -- Waiver.**

30 (a) A program participant may request that state and local agencies use the substitute
31 address. When creating, modifying or maintaining a public record, state and local agencies shall
32 accept the substitute address when the program participant provides documentation of certification
33 in the program.

34 (b) An agency may request the secretary of state waive the application of subsection (a) of

1 this section, upon showing:

2 (1) The agency has a bona fide statutory or administrative requirement for the use of the
3 participant's actual address which would otherwise be confidential under this chapter; and

4 (2) The agency has explained how its acceptance of the substitute address will prevent the
5 agency from meeting its obligations under the law and why it cannot meet its statutory or
6 administrative obligation by a change in its internal procedures.

7 (c) Any agency receiving a waiver shall maintain the confidentiality of the program
8 participant's address by redacting the actual address when the record is released to any person and
9 shall not make the program participant's actual address available for inspection or copying, except
10 under the following circumstances:

11 (1) There is a bona fide statutory or administrative requirement for the communication of
12 an actual address to another agency that has received a waiver from the secretary of state; provided
13 that, each waiver specifically authorizes such communication with the specified agency; or

14 (2) If directed by a court order, to a person identified in the order.

15 **42-162-6. Disclosure of address prohibited -- exceptions.**

16 (a) The secretary of state may not make a program participant's address, other than
17 substitute address, available for inspection or copying, except under the following circumstances:

18 (1) If requested by a law enforcement agency for a law enforcement purpose with an
19 accompanying warrant; or

20 (2) If directed by a court order, to a person identified in the order.

21 (b) The secretary of state shall provide immediate notification of disclosure to a program
22 participant when disclosure takes place under this section, unless specific language in a warrant or
23 court order prohibits it.

24 **42-162-7. Nondisclosure of address in criminal and civil proceedings.**

25 No person shall be compelled to disclose a program participant's actual address during the
26 discovery phase of or during a proceeding before a court of competent jurisdiction or administrative
27 tribunal unless the court or administrative tribunal finds, based upon a preponderance of the
28 evidence, that the disclosure is required in the interests of justice. A court or administrative tribunal
29 may seal that portion of any record that contains a program participant's actual address. Nothing in
30 this section shall prevent the state, in its discretion, from using a program participant's actual
31 address in any document or record filed with a court or administrative tribunal if, at the time of
32 filing, the document or record is not a public record.

33 **42-162-8. Assistance for program applicants.**

34 The secretary of state shall designate state and local agencies and nonprofit agencies that

1 provide counseling and shelter services to victims of domestic violence or abuse to assist persons
2 applying to be program participants. Any assistance and counseling rendered by the secretary of
3 state or designee, to applicants shall in no way be construed as legal advice.

4 **42-162-9. Adoption of rules.**

5 The secretary of state shall adopt regulations to facilitate the administration of this chapter
6 pursuant to the rulemaking provisions of chapter 35 of title 42 ("administrative procedures"). Such
7 rules shall include, at a minimum, procedures for renewing participation in the program every five
8 (5) years, procedures for appealing a cancellation of program participation, and a secure procedure
9 for ensuring that requests for withdrawal are legitimate.

10 **42-162-10. Civil liability for knowing and intentional disclosure.**

11 No person shall knowingly and intentionally obtain or disclose a program participant's
12 actual address knowing that they were not authorized to do so. A person who violates this section
13 shall be assessed a civil penalty of not more than five thousand dollars (\$5,000). Each unauthorized
14 disclosure shall constitute a separate civil violation. Nothing in this section shall preclude criminal
15 prosecution for a violation.

16 **42-162-11. Good faith handling of mail -- Protection from civil liability.**

17 The secretary of state or any member of the department of state who reasonably and in
18 good faith handles any process or mail on behalf of a participant in accordance with this chapter
19 shall be immune from any civil liability which might otherwise result by reason of such actions.

20 **42-162-12. Severability.**

21 If any provision of this chapter or the application thereof to any person or circumstance is
22 held invalid, such invalidity shall not affect other provisions or applications of the chapter that can
23 be given effect without the invalid provision or application, and to this end the provisions of this
24 chapter are declared to be severable.

25 SECTION 2. Sections 17-28-1, 17-28-2, 17-28-3, 17-28-4, 17-28-5, 17-28-6, 17-28-7 and
26 17-28-8 of chapter 17-28 of the General Laws entitled "Address Confidentiality for Victims of
27 Domestic Violence" are hereby repealed.

28 **~~17-28-1. Purpose.~~**

29 ~~The general assembly finds that persons attempting to escape from actual or threatened~~
30 ~~domestic violence frequently establish new addresses in order to prevent their assailants or probable~~
31 ~~assailants from finding them. The purpose of this chapter is to enable victims of domestic violence~~
32 ~~and members of their household to participate in the electoral process by providing address~~
33 ~~confidentiality.~~

34 **~~17-28-2. Definitions.~~**

1 ~~Unless the context clearly requires otherwise, the definitions in this section apply~~
2 ~~throughout this chapter.~~

3 ~~(a) "Address" means a residential street address, of an individual, as specified on the~~
4 ~~individual's application to be a program participant under this chapter.~~

5 ~~(b) "Program participant" means a person certified as a program participant under § 17-28-~~
6 ~~3.~~

7 ~~(c) "Victim of domestic violence" means an individual who has a restraining order issued~~
8 ~~by the family, superior, or district court pursuant to §§ 15-15-1, 15-15-9, or 8-8-1-3 or a domestic~~
9 ~~violence no contact order issued by the superior or district court pursuant to § 12-29-4 or a~~
10 ~~restraining order or no contact order issued by a court in another state for their protection and any~~
11 ~~individual living within the same household as the recipient of the restraining order or no contact~~
12 ~~order.~~

13 ~~**17-28-3. Address confidentiality program -- Application -- Certification.**~~

14 ~~(a) An adult person who is a victim of domestic violence and any member of his/her~~
15 ~~household may apply to the secretary of state to have an address designated by the secretary of state~~
16 ~~serve as the person's address. The secretary of state shall approve an application if it is filed in the~~
17 ~~manner and on the form prescribed by the secretary of state and if it contains:~~

18 ~~(1) A sworn statement by the applicant:~~

19 ~~(i) That the applicant is a victim of domestic violence, as defined in § 17-28-2(c) of this~~
20 ~~chapter;~~

21 ~~(ii) That the applicant fears for his or her safety or his or her children's safety, or;~~

22 ~~(iii) That the applicant resides in the same household as a victim of domestic violence, as~~
23 ~~defined in subsection 17-28-2(c); and~~

24 ~~(iv) That the individual who committed the domestic violence has knowledge that the~~
25 ~~applicant lives in the same household as the victim of domestic violence, as defined in subsection~~
26 ~~17-28-2(c).~~

27 ~~(2) The mailing address where the applicant can be contacted by the secretary of state, and~~
28 ~~the phone number or numbers where the applicant can be called by the secretary of state;~~

29 ~~(3) The new address or addresses that the applicant requests not be disclosed for the reason~~
30 ~~that disclosure will increase the risk of domestic violence;~~

31 ~~(4) The signature of the applicant, and of any individual or representative of any office~~
32 ~~designated in writing under § 17-28-6 who assisted in the preparation of the application, and the~~
33 ~~date on which the applicant signed the application.~~

34 ~~(b) Applications shall be filed with the office of the secretary of state.~~

1 ~~(c) Upon filing a properly completed application, the secretary of state shall certify the~~
2 ~~applicant as a program participant. Applicants shall be certified for four (4) years following the~~
3 ~~date of filing unless the certification is withdrawn or invalidated before that date. The secretary of~~
4 ~~state shall establish by rule a renewal procedure.~~

5 ~~(d) A person who falsely attests in an application that disclosure of the applicant's address~~
6 ~~would endanger the applicant's safety or the safety of the applicant's children, or who knowingly~~
7 ~~provides false or incorrect information upon making an application, shall be punished by a fine of~~
8 ~~not more than five hundred dollars (\$500).~~

9 ~~**17-28-4. Certification cancellation.**~~

10 ~~(a) If the program participant obtains a name change, he or she shall lose certification as a~~
11 ~~program participant.~~

12 ~~(b) The secretary of state may cancel a program participant's certification if there is a~~
13 ~~change in the residential address from the one listed on the application, unless the program~~
14 ~~participant provides the secretary of state with seven (7) days' prior notice of the change of address.~~

15 ~~(c) The secretary of state may cancel certification of a program participant if mail~~
16 ~~forwarded by the secretary to the program participant's address is returned as non-deliverable.~~

17 ~~(d) The secretary of state shall cancel certification of a program participant who applies~~
18 ~~using false information.~~

19 ~~**17-28-5. Voting by program participant -- Use of designated address by board of**~~
20 ~~**canvassers.**~~

21 ~~(a) A program participant qualified to vote may apply for a mail ballot for all elections in~~
22 ~~the city or town in which that individual resides in the same manner as mail ballot voters who~~
23 ~~qualify under § 17-20-1 et seq. The program participant may use his or her designated address on~~
24 ~~the mail ballot application. The board of canvassers shall transmit the ballot to the program~~
25 ~~participant at the address designated in the application. Neither the name nor the address of a~~
26 ~~program participant shall be included in any list of registered voters available to the public.~~

27 ~~(b) The board of canvassers may not make the participant's address contained in voter~~
28 ~~registration records available for public inspection or copying except under the following~~
29 ~~circumstances:~~

30 ~~(1) If requested by a law enforcement agency, to the law enforcement agency; and~~

31 ~~(2) If directed by a court order, to a person identified in the order.~~

32 ~~**17-28-6. Disclosure of address prohibited -- Exceptions.**~~

33 ~~The secretary of state may not make a program participant's address, other than the address~~
34 ~~designated by the secretary of state, available for inspection or copying, except under the following~~

1 ~~circumstances:~~

2 ~~(1) If requested by a law enforcement agency, to the law enforcement agency;~~

3 ~~(2) If directed by a court order, to a person identified in the order; and~~

4 ~~(3) If certification has been canceled.~~

5 ~~**17-28-7. Assistance for program applicants.**~~

6 ~~The secretary of state shall designate state and local agencies and nonprofit agencies that~~
7 ~~provide counseling and shelter services to victims of domestic violence to assist persons applying~~
8 ~~to be program participants. Any assistance and counseling rendered by the office of the secretary~~
9 ~~of state or its designee to applicants shall in no way be construed as legal advice.~~

10 ~~**17-28-8. Adoption of rules.**~~

11 ~~The secretary of state and board of elections shall adopt rules to facilitate the administration~~
12 ~~of this chapter by state and local agencies and boards of canvassers.~~

13 SECTION 3. Chapter 17-28 of the General Laws entitled "Address Confidentiality for
14 Victims of Domestic Violence" is hereby amended by adding thereto the following section:

15 ~~**17-28-9. Voting by participant in the address confidentiality program.**~~

16 ~~(a) A participant in the address confidentiality program established by chapter 162 of title~~
17 ~~42 who is qualified to vote may apply for a mail ballot for all elections in the city or town in which~~
18 ~~that individual resides in the same manner as mail ballot voters who qualify under chapter 20 of~~
19 ~~title 17. The program participant may use their substitute address on the mail ballot application.~~
20 ~~The board of canvassers shall transmit the ballot to the program participant at the address~~
21 ~~designated in the application.~~

22 ~~(b) No election official shall release a program participant's actual address. Neither the~~
23 ~~name nor the address of a program participant shall be included in any list of registered voters~~
24 ~~available to the public.~~

25 ~~(c) The secretary of state and the board of elections may adopt any rules or regulations~~
26 ~~deemed necessary to facilitate administration of this section.~~

27 SECTION 4. This act shall take effect on January 1, 2023.

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LC005462/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- ADDRESS CONFIDENTIALITY
PROGRAM

1 This act would repeal the current provisions of the "Address Confidentiality for Victims of
2 Domestic Violence Act" and replace the repealed provisions with an "Address Confidentiality
3 Program Act" which provides that the secretary of state may provide a person subjected to domestic
4 violence with a substitute address and the secretary of state may accept and forward mail and
5 service of process for the person.

6 This act would take effect on January 1, 2023.

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