

SENATE BILL 488

By Campfield

AN ACT to amend Tennessee Code Annotated, Title 36,
Chapter 3, relative to confidentiality of certain
victims.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 36, Chapter 3, is amended by adding Sections 2 through 11 as a new part 8 thereto.

SECTION 2. As used in this part, unless the context otherwise requires:

(1) "Actual address or address" means a residential, work, or school street address as specified on the individual's application to be a program participant under this part;

(2) "Address confidentiality program or program" means a program in the office of attorney general and reporter to protect the confidentiality of the address of a relocated victim of domestic violence, sexual offense, stalking, or human trafficking to prevent the victim's assailants or potential assailants from finding the victim through public records;

(3) "Application assistant" means an employee of an agency or nonprofit organization who provides counseling, referral, shelter, or other specialized services to victims of domestic violence, sexual offense, stalking, or human trafficking and who has been designated by the attorney general to assist individuals with applications to participate in the address confidentiality program;

(4) "Attorney general" means the attorney general and reporter;

(5) "Victim of domestic violence" means an individual against whom a domestic violence offense, as defined by § 40-14-109, has been committed;

(6) "Victim of a sexual offense" means an individual against whom a sexual offense, as defined in § 40-39-202 has been committed;

(7) "Victim of stalking" means an individual against whom stalking, as described in § 39-17-315, has been committed; and

(8) "Victim of human trafficking" means an individual against whom human trafficking, as described in § 39-13-314, has been committed.

SECTION 3. There is established the address confidentiality program in the office of attorney general and reporter to protect the confidentiality of the address of a relocated victim of domestic violence, sexual offense, stalking, or human trafficking to prevent the victim's assailants or potential assailants from finding the victim through public records. Under this program, the attorney general shall designate a substitute address for a program participant and act as the agent of the program participant for purposes of service of process and receiving and forwarding first-class mail or certified or registered mail. The attorney general shall not be required to forward any mail other than first-class mail or certified or registered mail to the program participant. The attorney general shall not be required to track or otherwise maintain records of any mail received on behalf of a program participant unless the mail is certified or registered mail.

SECTION 4.

(a) An individual who wants to participate in the address confidentiality program shall file an application with the attorney general with the assistance of an application assistant. Any of the following individuals may apply to the attorney general to have an address designated by the attorney general to serve as the substitute address of the individual:

(1) An adult individual;

(2) A parent or guardian acting on behalf of a minor when the minor resides with the individual; or

(3) A guardian or conservator acting on behalf of an incapacitated individual.

(b) The application shall be dated, signed, and verified by the applicant and shall be signed by the application assistant who assisted in the preparation of the application.

(c) The application shall contain all of the following:

(1) A statement by the applicant that the applicant is a victim of domestic violence, sexual offense, stalking, or human trafficking and that the applicant fears for the applicant's safety or the safety of the applicant's child;

(2) Evidence that the applicant is a victim of domestic violence, sexual offense, stalking, or human trafficking. This evidence may include:

(A) Law enforcement, court, or other federal or state agency records or files;

(B) Documentation from a domestic violence program if the applicant is alleged to be a victim of domestic violence;

(C) Documentation from a religious, medical, or other professional from whom the applicant has sought assistance in dealing with the alleged domestic violence, sexual offense, or stalking; or

(D) Documentation submitted to support a victim of human trafficking's application for federal assistance or benefits under federal human trafficking laws;

(3) A statement by the applicant that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's child;

(4) A designation of the attorney general as an agent for the applicant for purposes of service of process and the receipt of first-class mail or certified or registered mail;

(5) The mailing address and telephone number where the applicant can be contacted by the attorney general;

(6) The address that the applicant requests not to be disclosed by the attorney general that directly relates to the increased risk of domestic violence, sexual offense, stalking, or human trafficking;

(7) A statement as to whether there is any existing court order or court action involving the applicant related to divorce proceedings, child support, child custody, or child visitation and the court that issued the order or has jurisdiction over the action;

(8) A statement by the applicant that to the best of the applicant's knowledge, the information contained in the application is true; and

(9) An address designated by the attorney general to serve as the substitute address of the applicant.

(d) Upon the filing of a properly completed application, the attorney general shall certify the applicant as a program participant. Upon certification, the attorney general shall issue an address confidentiality program authorization card to the program participant. The address confidentiality program authorization card shall remain valid for so long as the program participant remains certified under the program.

(e) Applicants shall be certified for four (4) years following the date of filing unless the certification is withdrawn or canceled prior to the end of the four-year period. A program participant may withdraw the certification by filing with the attorney general a request for withdrawal acknowledged before a notary. Certification may be renewed by filing an application with the attorney general at least thirty (30) days prior to expiration of the current certification.

SECTION 5.

(a) A program participant shall notify the attorney general within thirty (30) days after the program participant has obtained a legal name change by providing the attorney general a certified copy of the judgment or order evidencing the change or any other documentation the attorney general deems to be sufficient evidence of the name change. If the program participant fails to notify the attorney general of a name change in the manner provided in this subsection, the attorney general may cancel the certification of the program participant in the program.

(b) A program participant shall notify the attorney general of a change in address or telephone number from the address or telephone number listed for the program participant on the application at least seven (7) days before the change occurs. If the program participant fails to notify the attorney general of a change in address or telephone number in the manner provided in this subsection, the attorney general may cancel the certification of the program participant in the program.

SECTION 6. An applicant who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's child or who knowingly provides false information when applying for certification or renewal shall lose certification in the program. The attorney general shall investigate violations of this section. A violation of this section is a Class C misdemeanor.

SECTION 7.

(a) The attorney general shall cancel the certification of a program participant if:

(1) The program participant files a request for withdrawal of the certification;

(2) The program participant fails to notify the attorney general of a change in the program participant's name, address, or telephone number listed on the application;

(3) The program participant submitted false information in applying for certification to the program; or

(4) Mail forwarded to the program participant by the attorney general is returned as undeliverable.

(b) The attorney general shall send notice of cancellation to the program participant. Notice of cancellation shall set out the reasons for cancellation. The program participant shall have thirty (30) days to appeal the cancellation decision under procedures developed by the attorney general.

(c) An individual who ceases to be a program participant is responsible for notifying persons who use the substitute address designated by the attorney general as the program participant's address that the designated substitute address is no longer the individual's address.

SECTION 8.

(a) The substitute address designated by the attorney general shall not be used for purposes of listing, appraising, assessing, or collecting taxes on property.

(b) The substitute address designated by the attorney general shall not be used as an address by any register of deeds on recorded documents.

SECTION 9. A LEA shall use the actual address of a program participant for any purpose related to admission or assignment and shall keep the actual address confidential from the public under this part. The substitute address designated by the attorney general shall not be used as an address for admission or assignment purposes. For purposes of student records the substitute address designated by the attorney general shall be used.

SECTION 10.

(a) The attorney general is prohibited from disclosing any address or telephone number of a program participant other than the substitute address designated by the attorney general unless:

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

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

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

(b) The attorney general shall provide immediate notification of disclosure to a program participant when disclosure is made pursuant to subsection (a).

(c) If, at the time of application, an applicant is subject to a court order related to divorce proceedings, child support, child custody, or child visitation, the attorney general shall notify the court that issued the order of the certification of the program participant in the address confidentiality program and the substitute address designated by the attorney general. If, at the time of application, an applicant is involved in a court action related to divorce proceedings, child support, child custody, or child visitation, the attorney general shall notify the court having jurisdiction over the action of the certification of the applicant in the address confidentiality program and the substitute address designated by the attorney general.

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

(e) No employee of the attorney general or an agency shall knowingly disclose a program participant's actual address or telephone number to a person known to the employee to be prohibited from receiving the program participant's actual address or telephone number, unless the disclosure is permissible by law. This subsection (e) shall apply only when an employee obtains a program participant's actual address or telephone number during the course of the employee's official duties and, at the time of disclosure, the employee has specific knowledge that the actual address or telephone number disclosed belongs to a program participant.

(f) Any person who knowingly obtains or discloses information in violation of this part is guilty of a Class C misdemeanor.

SECTION 11.

(a) The attorney general shall designate agencies of this state and nonprofit organizations that provide counseling and shelter services to victims of domestic violence, sexual offense, stalking, or human trafficking to assist individuals applying to be program participants. Any assistance and counseling rendered by the office of attorney general and reporter or its designee to applicants shall in no way be construed as legal advice.

(b) Tennessee officials shall be immune and held harmless from any liability in any action brought by or on behalf of any person injured or harmed by the actions or inactions of these entities and individuals in implementing this part. However, if an employee's actions resulting in harm were not within the course and scope of the employee's duties, then such employee may be subject to suit as an individual to the extent permitted by law.

SECTION 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the

act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 13. This act shall take effect October 1, 2013, the public welfare requiring it.