

SENATE BILL NO. 70

January 29, 2019, Introduced by Senators JOHNSON, HOLLIER, IRWIN, CHANG, WOJNO, THEIS, POLEHANKI, MCMORROW, MOSS, BAYER and DALEY and referred to the Committee on Judiciary and Public Safety.

A bill to create the address confidentiality program; to provide certain protections for victims of domestic violence, sexual assault, stalking, or human trafficking; to prescribe duties and responsibilities of certain state departments; to require the promulgation of rules; to create a fund; to prohibit the disclosure of certain information and obtaining a certification under this act by fraud; and to prescribe penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "address confidentiality program act".

3 Sec. 3. As used in this act:

4 (a) "Application assistant" means an employee or volunteer at
5 an agency or organization that serves victims of domestic violence,
6 stalking, human trafficking, or sexual assault who has received
7 training and certification from the department of the attorney
8 general to help individuals complete applications to become program
9 participants.

10 (b) "Confidential address" means the address of a program
11 participant's residence, as specified on an application to be a
12 program participant or on a notice of change of information as
13 provided under section 5 that is classified confidential by the
14 department of the attorney general.

15 (c) "Designated address" means the mailing address at which
16 the department of technology, management, and budget receives mail
17 to forward to program participants.

18 (d) "Domestic violence" means a violation of section 81 of the
19 Michigan penal code, 1931 PA 328, MCL 750.81.

20 (e) "Governmental entity" means this state, a local unit of
21 government, or any department, agency, board, commission, or other
22 instrumentality of this state or a local unit of government.

23 (f) "Guardian of a ward" means a person who has qualified as a
24 guardian of a legally incapacitated individual under a court
25 appointment.

26 (g) "Human trafficking" means a violation of chapter LXVIIA of
27 the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h.

28 (h) "Law enforcement agency" means that term as defined in
29 section 2 of the Michigan commission on law enforcement standards

1 act, 1965 PA 203, MCL 28.602.

2 (i) "Local unit of government" means a city, village,
3 township, or county in this state.

4 (j) "Municipally owned utility" means electric, gas, or water
5 services provided by a municipality.

6 (k) "Program" means the address confidentiality program
7 created under this act.

8 (l) "Program participant" means an individual who is certified
9 by the department of the attorney general as a program participant
10 under section 5.

11 (m) "Sexual assault" means a violation, attempted violation,
12 or solicitation or conspiracy to commit a violation of section
13 520b, 520c, 520d, 520e, 520f, or 520g of the Michigan penal code,
14 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, 750.520f,
15 and 750.520g.

16 (n) "Stalking" means that term as defined in section 411h or
17 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and
18 750.411i.

19 (o) "Victim" means an individual who suffers direct or
20 threatened physical, financial, or emotional harm as the result of
21 a commission of a crime.

22 (p) "Victim advocate" means an employee of the department of
23 the attorney general, the department of state, or the department of
24 technology, management, and budget who has received training and
25 certification from the department of the attorney general to help
26 individuals complete applications to become program participants,
27 and who is available to help individuals complete the applications
28 and is responsible for assisting program participants in navigating
29 through and accessing all aspects of the program.

1 (q) "Ward" means that term as defined in section 1108 of the
2 estates and protected individuals code, 1998 PA 386, MCL 700.1108.

3 Sec. 5. (1) The address confidentiality program is created in
4 the department of the attorney general.

5 (2) Except for an individual described in subsection (11),
6 beginning 180 days after the effective date of this act, the
7 following individuals are eligible to apply to the program and may
8 submit an application, with the assistance of an application
9 assistant or a victim advocate, for certification as a program
10 participant by the department of the attorney general:

11 (a) If changing his or her residence, an individual who is 18
12 years of age or older.

13 (b) If changing the residence of a minor, the parent with
14 legal custody or the guardian of the minor.

15 (c) If the residence of a ward is changing, the guardian of
16 that ward if the guardian is granted the power to apply by a court
17 under section 5306 of the estates and protected individuals code,
18 1998 PA 386, MCL 700.5306.

19 (3) The application under subsection (2) must be filed with
20 the department of the attorney general in the manner and form
21 prescribed by the department of the attorney general and must
22 contain the following:

23 (a) A notarized statement that meets 1 of the following
24 requirements:

25 (i) If the applicant is an individual 18 years of age or older,
26 a statement by that individual that disclosure of the address
27 provided under subdivision (d) will increase the risk that he or
28 she will be threatened or physically harmed by another person or
29 that the individual is a victim of domestic violence, stalking,

1 human trafficking, or sexual assault.

2 (ii) If the applicant is the parent with legal custody or the
3 guardian of a minor, a statement by that parent or guardian that
4 disclosure of the address provided under subdivision (d) will
5 increase the risk that the minor will be threatened or physically
6 harmed by another person or that the parent or guardian, or the
7 minor, is a victim of domestic violence, stalking, human
8 trafficking, or sexual assault.

9 (iii) If the applicant is the guardian of a ward as provided
10 under subsection (2)(c), a statement by that guardian that the
11 disclosure of the address provided under subdivision (d) will
12 increase the risk that the ward will be threatened or physically
13 harmed by another person or that the ward is a victim of domestic
14 violence, stalking, human trafficking, or sexual assault.

15 (b) A knowing and voluntary designation of the department of
16 technology, management, and budget as the agent for the purposes of
17 receiving mail and service of process.

18 (c) The mailing address, telephone number, and electronic mail
19 address, if applicable, at which the department of the attorney
20 general, the department of state, or the department of technology,
21 management, and budget, may contact the individual, minor, or ward.

22 (d) The address of residence that the applicant requests not
23 be disclosed.

24 (e) The signature of the applicant, the name and signature of
25 any application assistant or victim advocate who assisted the
26 applicant, and the date the application was signed.

27 (4) Beginning 180 days after the effective date of this act,
28 the department of the attorney general shall do all of the
29 following after an individual, the parent or guardian of a minor,

1 or a guardian of a ward files a completed application:

2 (a) Except as provided in subsection (5), certify the
3 individual, minor, or ward as a program participant.

4 (b) Issue the program participant a unique identification
5 number and a participation card.

6 (c) Classify each eligible address listed in the application
7 as a confidential address.

8 (d) Provide the program participant with information
9 concerning the manner in which the program participant may use the
10 department of technology, management, and budget as the agent of
11 the program participant for the purposes of receiving mail and
12 service of process.

13 (e) If the program participant is eligible to vote, provide
14 the program participant with information concerning the process to
15 register to vote and to vote as a program participant under the
16 Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

17 (f) Provide the program participant with information
18 concerning the procedure from which the program participant will
19 receive a corrected operator's or chauffeur's license under section
20 310f of the Michigan vehicle code, 1949 PA 300, MCL 257.310f, a
21 corrected enhanced driver license or enhanced official state
22 personal identification card under section 4 of the enhanced driver
23 license and enhanced official state personal identification card
24 act, 2008 PA 23, MCL 28.304, or a corrected official state personal
25 identification card under section 2a of 1972 PA 222, MCL 28.292a.

26 (5) An individual, minor, or ward must not be certified as a
27 program participant if the department of the attorney general knows
28 the confidential address provided in the application as described
29 in subsection (3)(d) is not a new address for that individual,

1 minor, or ward.

2 (6) A program participant shall update information provided in
3 an application within 30 days after a change to that information
4 has occurred by submitting a notice of change of information to the
5 department of the attorney general on a form prescribed by the
6 department of the attorney general.

7 (7) Unless the certification is canceled under section 9, the
8 certification of a program participant is valid for 4 years from
9 the date listed on the application under subsection (3) or on the
10 renewal application under subsection (9).

11 (8) The department of the attorney general may, with proper
12 notice, cancel the certification of a program participant as
13 provided under section 9.

14 (9) A program participant who continues to be eligible to
15 participate in the program may renew the certification of the
16 program participant. The renewal application must be on a form
17 prescribed by the department of the attorney general and must meet
18 the requirements under subsections (2) and (3). The department of
19 the attorney general must make the form for a renewal application
20 available no later than 180 days after the effective date of this
21 act. A renewal of certification of the program participant must not
22 alter the unique identification number issued under subsection
23 (4)(b).

24 (10) The information of a program participant described under
25 section 15(1) is not a public record and is exempt from disclosure
26 under the freedom of information act, 1976 PA 442, MCL 15.231 to
27 15.246.

28 (11) An offender who is required to be registered under the
29 sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736,

1 is not eligible to submit an application and must not be certified
2 as a program participant.

3 (12) The department of the attorney general shall create a
4 participation card for the program. A participation card must
5 contain the name and unique identification number of a program
6 participant, and the designated address.

7 Sec. 7. (1) A program participant may request that a
8 governmental entity use the designated address as the program
9 participant's address. Except as otherwise provided in subsection
10 (6) and in the Michigan election law, 1954 PA 116, MCL 168.1 to
11 168.992, a governmental entity shall use the designated address.
12 The program participant may provide his or her participation card
13 as proof of his or her certification as a program participant.

14 (2) If a program participant's employer, school, or
15 institution of higher education is not a governmental entity, the
16 program participant may request that the employer, school, or
17 institution of higher education use the designated address as the
18 program participant's address.

19 (3) The department of technology, management, and budget
20 shall, on each day the department of technology, management, and
21 budget is open for business, place all first-class, registered, or
22 certified mail of a program participant that the department of
23 technology, management, and budget receives into an envelope or
24 package and mail that envelope or package to the program
25 participant at the mailing address the program participant provided
26 on the application under section 5(3)(c) for that purpose. The
27 department of technology, management, and budget may contract with
28 the United States Postal Service for special rates for the mail
29 forwarded under this subsection.

1 (4) Upon receiving service of process on behalf of a program
2 participant, the department of technology, management, and budget
3 shall immediately forward the process by certified mail, return
4 receipt requested, to the program participant at the mailing
5 address the program participant provided on the application under
6 section 5(3)(c) for that purpose.

7 (5) If a person intends to serve process on an individual and
8 makes an inquiry with the department of the attorney general or the
9 department of technology, management, and budget to determine if
10 the individual is a program participant, the department of the
11 attorney general or the department of technology, management, and
12 budget shall only confirm that the individual is or is not a
13 program participant and must not disclose further information
14 regarding the program participant.

15 (6) Subsection (1) does not apply to a municipally owned
16 utility. The confidential address of a program participant that is
17 maintained by a municipally owned utility must not be released, and
18 is not a public record and is exempt from disclosure under the
19 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

20 Sec. 9. (1) The department of the attorney general may cancel
21 the certification of a program participant if the program
22 participant is not reachable at the mailing address, telephone
23 number, and any electronic mail address provided under section
24 5(3)(c) for 60 or more days.

25 (2) The department of the attorney general shall cancel the
26 certification of a program participant in any of the following
27 circumstances:

28 (a) The program participant's application contained 1 or more
29 false statements.

1 (b) The program participant or the parent or guardian of a
2 program participant that is a minor or the guardian of a ward that
3 is a program participant files a notarized request for cancellation
4 on a form prescribed by the department of the attorney general.

5 (c) The program participant fails to file a renewal
6 application while the initial certification as a program
7 participant is valid as provided in section 5(7). The department of
8 the attorney general may promulgate a rule to provide for a grace
9 period.

10 Sec. 11. (1) A department of this state, a law enforcement
11 agency, or a local unit of government may request the department of
12 the attorney general to provide the confidential address, telephone
13 number, and electronic mail address of a program participant if the
14 requesting department of this state, a law enforcement agency, or a
15 local unit of government requires access to the confidential
16 address, telephone number, or electronic mail address of the
17 program participant for a legitimate governmental purpose. Upon
18 receiving a request under this subsection, the department of the
19 attorney general shall confirm whether an individual, minor, or
20 ward is a program participant but may not disclose further
21 information except as provided under subsection (3).

22 (2) Upon the filing of a request under this section, the
23 department of the attorney general shall provide the program
24 participant with notice of the request.

25 (3) The department of the attorney general may grant the
26 request submitted under subsection (1) if the department of the
27 attorney general determines that disclosure of the confidential
28 address, telephone number, or electronic mail address of the
29 program participant to the requesting department of this state, law

1 enforcement agency, or local unit of government is necessary for a
2 legitimate governmental purpose.

3 Sec. 13. (1) Not later than 4 months after the effective date
4 of this act, the department of the attorney general shall develop
5 and offer a training program for application assistants and victim
6 advocates to obtain certification under this act.

7 (2) The department of the attorney general shall certify a
8 person applying for certification as an application assistant or as
9 a victim advocate under this act if that person has completed the
10 training program under subsection (1). Not later than 180 days
11 after the effective date of this act, the department of the
12 attorney general shall make available on its website the names and
13 contact information of the application assistants and victim
14 advocates.

15 (3) An application assistant or victim advocate who provides
16 assistance in accordance with this act does not violate section 916
17 of the revised judicature act of 1961, 1961 PA 236, MCL 600.916.

18 Sec. 15. (1) Not later than 180 days after the effective date
19 of this act, the department of the attorney general must create and
20 maintain a computerized database that contains the name, unique
21 identification number, confidential address, mailing address,
22 telephone number, and any electronic mail address of each program
23 participant. The department of the attorney general, the department
24 of technology, management, and budget, and the department of state
25 may have access to the database as required to implement this act.

26 (2) The department of the attorney general must ensure the
27 database under subsection (1) immediately provides the department
28 of technology, management, and budget and the department of state,
29 upon the certification of a program participant, the information

1 listed in subsection (1), and upon the cancellation of a
2 certification of a program participant under section 9, that
3 status.

4 Sec. 17. The department of the attorney general may, in
5 consultation with the Michigan domestic and sexual violence
6 prevention and treatment board, the department of technology,
7 management, and budget, and the department of state promulgate
8 rules to implement this act in compliance with the administrative
9 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

10 Sec. 19. (1) The confidential address fund is created in the
11 state treasury. The fund shall be administered by the attorney
12 general.

13 (2) The state treasurer may receive money and assets from any
14 source for deposit into the fund. The state treasurer shall direct
15 the investment of the fund. The state shall credit to the fund
16 interest and earnings from fund investments.

17 (3) Money in the fund at the close of the fiscal year must
18 remain in the fund and must not lapse to the general fund.

19 (4) The department of the attorney general shall expend money
20 from the fund, upon appropriation, for the purpose of administering
21 the program.

22 Sec. 21. (1) A person shall not knowingly make a false
23 statement in an application submitted under section 5.

24 (2) Except as otherwise provided by law, a person who has
25 access to a confidential address, telephone number, or electronic
26 mail address of a program participant through the database created
27 under section 15 shall not knowingly disclose that confidential
28 address, telephone number, or electronic mail address to any other
29 person.

1 (3) A person that violates this section is guilty of a
2 misdemeanor punishable by imprisonment for not more than 93 days or
3 a fine of not more than \$500.00, or both.

4 Sec. 23. (1) The department of the attorney general shall
5 establish an address confidentiality program advisory council
6 composed of the following members:

7 (a) The attorney general, or his or her designee.

8 (b) The director of the department of technology, management,
9 and budget, or his or her designee.

10 (c) The secretary of state, or his or her designee.

11 (d) The executive director of the Michigan Coalition to End
12 Domestic and Sexual Violence, or his or her designee.

13 (e) The executive director of the Michigan domestic and sexual
14 violence prevention and treatment board, or his or her designee.

15 (2) Not later than 3 years after the effective date of this
16 act, the first meeting of the advisory council must be called by
17 the member described under subsection (1)(a).

18 (3) Except as provided in subsection (6), information
19 collected by the advisory council under this section is exempt from
20 disclosure under the freedom of information act, 1976 PA 442, MCL
21 15.231 to 15.246.

22 (4) The advisory council shall not deliberate toward or render
23 a decision on public policy, and a meeting of the advisory council
24 is not a meeting of a public body under the open meetings act, 1976
25 PA 267, MCL 15.261 to 15.275.

26 (5) Members of the advisory council shall serve without
27 compensation. However, members of the advisory council may be
28 reimbursed for their actual and necessary expenses incurred in the
29 performance of their official duties as members of the advisory

1 council.

2 (6) The advisory council shall prepare and submit a report to
3 the legislature of findings in evaluating the program. The advisory
4 council shall not include in the report the name, confidential
5 address, telephone number, or electronic mail address of a program
6 participant or any other information that could reasonably be
7 expected to identify a program participant. The report submitted
8 under this subsection must be made available to the public in
9 compliance with the freedom of information act, 1976 PA 442, MCL
10 15.231 to 15.246.

11 Enacting section 1. This act does not take effect unless all
12 of the following bills of the 100th Legislature are enacted into
13 law:

14 (a) Senate Bill No.73.

15

16 (b) Senate Bill No.75.

17

18 (c) Senate Bill No.74.

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