

# Enrolled Senate Bill 850

Sponsored by Senator DEVLIN; Senators BROWN, MORSE, RINGO, WALKER, Representatives BARKER, KITTS, MARCH, OLSON, TOMEI

CHAPTER .....

AN ACT

Relating to address confidentiality; and appropriating money.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. As used in sections 1 to 17 of this 2005 Act:**

(1) "Actual address" means a residential, work or school street address of an individual specified on the application of the individual to be a program participant.

(2) "Address Confidentiality Program" means the program established under section 2 of this 2005 Act.

(3) "Application assistant" means an employee of or a volunteer serving a public or private entity designated by the Attorney General under section 12 of this 2005 Act to assist individuals with applications to participate in the Address Confidentiality Program.

(4) "Program participant" means an individual accepted into the Address Confidentiality Program under sections 1 to 17 of this 2005 Act.

(5) "Public body" has the meaning given that term in ORS 174.109.

(6) "Public record" has the meaning given that term in ORS 192.410.

(7) "Substitute address" means an address designated by the Attorney General under the Address Confidentiality Program.

(8) "Victim of domestic violence" means:

(a) An individual against whom domestic violence has been committed, as defined in ORS 135.230, 181.610, 411.117 or 657.176;

(b) An individual who has been a victim of abuse, as defined in ORS 107.705; or

(c) Any other individual designated a victim of domestic violence by the Attorney General by rule.

(9) "Victim of a sexual offense" means:

(a) An individual against whom a sexual offense has been committed, as described in ORS 163.305 to 163.467, 163.427, 163.466 or 163.525; or

(b) Any other individual designated by the Attorney General by rule.

(10) "Victim of stalking" means:

(a) An individual against whom stalking has been committed, as described in ORS 163.732; or

(b) Any other individual designated by the Attorney General by rule.

**SECTION 2. (1) The Address Confidentiality Program is established in the Department of Justice to:**

(a) Protect the confidentiality of the actual address of a victim of domestic violence, a sexual offense or stalking; and

(b) Prevent assailants or potential assailants of the victim from finding the victim through public records.

(2) 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 all legal process in this state and receiving and forwarding first-class, certified or registered mail.

(3) The Attorney General is not required to forward any packages or mail other than first-class, certified or registered mail to the program participant.

(4) The Attorney General is not required to track or otherwise maintain records of any mail received on behalf of a program participant unless the mail is certified or registered.

**SECTION 3.** (1) Any of the following individuals with the assistance of an application assistant may file an application with the Attorney General to participate in the Address Confidentiality Program:

(a) An adult individual.

(b) A parent or guardian acting on behalf of a minor when the minor resides with the parent or guardian.

(c) A guardian acting on behalf of an incapacitated individual.

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

(3) The application must contain all of the following:

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

(b) Evidence that the applicant or the applicant's child or ward is a victim of domestic violence, a sexual offense or stalking. This evidence may include any of the following:

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

(B) Documentation from a public or private entity that provides assistance to victims of domestic violence, a sexual offense or stalking if the applicant or the applicant's child or ward is an alleged victim of domestic violence, a sexual offense or stalking;

(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) Other forms of evidence as determined by the Attorney General by rule.

(c) A statement by the applicant that disclosure of the actual address of the applicant would endanger the safety of the applicant or the safety of the applicant's child or ward.

(d) A statement by the applicant that the applicant:

(A) Resides at a location in this state that is not known by assailants or potential assailants of the applicant or the applicant's child or ward; and

(B) Will not disclose the location to assailants or potential assailants of the applicant or the applicant's child or ward while the applicant is a program participant.

(e) Written consent permitting the Attorney General to act as an agent for the applicant for the service of all legal process in this state and the receipt of first-class, certified or registered mail.

(f) The mailing address and telephone number at which the Attorney General can contact the applicant.

(g) The actual address that the applicant requests not be disclosed by the Attorney General that directly relates to the increased risk of the applicant or the applicant's child or ward as a victim of domestic violence, sexual offense or stalking.

(h) A sworn statement by the applicant that to the best of the applicant's knowledge the information contained in the application is true.

(i) A recommendation by an application assistant that the applicant be a participant in the Address Confidentiality Program.

(4) Upon the filing of a properly completed application and upon approval by the Attorney General, the Attorney General shall certify the applicant as a program participant.

(5) Upon certification, the Attorney General shall issue an Address Confidentiality Program authorization card to the program participant. The Address Confidentiality Program authorization card is valid as long as the program participant remains certified under the program.

(6) The term of certification shall be for a period of time determined by the Attorney General by rule, unless prior to the end of the period one of the following occurs:

(a) The program participant withdraws the certification by filing with the Attorney General a request for withdrawal signed by the program participant and acknowledged in writing by a notary public or an application assistant; or

(b) The Attorney General cancels the certification under section 6 of this 2005 Act.

(7) A program participant may renew the certification by filing an application for renewal with the Attorney General at least 30 days prior to expiration of the current certification.

**SECTION 4.** (1) An applicant for participation in the Address Confidentiality Program or a program participant may not:

(a) Falsely attest in an initial application or an application for renewal that disclosure of the actual address of the applicant would endanger the safety of the applicant or the safety of the applicant's child or ward; or

(b) Knowingly provide false information in an initial application or an application for renewal.

(2) If after an investigation, the Attorney General finds that a violation of subsection (1) of this section has occurred, the Attorney General may impose a civil penalty as provided in ORS 183.745 in an amount not to exceed \$500.

**SECTION 5.** (1) A program participant shall notify the Attorney General within 30 days after the program participant has obtained a legal name change by providing the Attorney General with a certified copy of any judgment or order evidencing the change or any other documentation the Attorney General considers sufficient evidence of the name change.

(2) A program participant shall notify the Attorney General of a change in actual address or telephone number from the actual address or telephone number listed on the application of the program participant within 10 days after the change occurs.

**SECTION 6.** (1) The Attorney General shall cancel the certification of a program participant if:

(a) The Attorney General determines that the program participant violated section 4 of this 2005 Act;

(b) The Attorney General determines that the program participant violated section 5 of this 2005 Act; or

(c) Subject to section 5 (2) of this 2005 Act, first class, certified or registered mail forwarded to the program participant by the Attorney General is returned as undeliverable.

(2) The Attorney General shall send notice of cancellation to the program participant setting out the reasons for the cancellation and setting out the rights and duties of the program participant.

(3) A program participant has 30 days to appeal the cancellation decision under procedures adopted by the Attorney General by rule. A cancellation of certification under this section is not considered an order as defined in ORS 183.310 and is not subject to judicial review under ORS 183.480.

(4) An individual whose certification as a program participant is cancelled under this section shall notify persons and public bodies using the substitute address as the address of the program participant that the substitute address is no longer the address to be used by public bodies as described in section 7 of this 2005 Act.

**SECTION 7. (1)(a)** A program participant may request that public bodies use the substitute address designated by the Attorney General as the address of the program participant in any ongoing actions or proceedings or when creating a new public record.

(b) A public body is not responsible for requesting that departments, divisions, affiliates or other organizational units of the public body or other public bodies use the substitute address designated by the Attorney General as the address of the program participant.

(c) Unless requested by the program participant, when the actual address of a program participant is contained in a public record that is filed with the public body, the public body is not responsible for modifying the public record to contain the substitute address designated by the Attorney General.

(d) The Attorney General is not responsible for making requests under this subsection.

(2) Except as provided in this section, when a program participant submits a current and valid Address Confidentiality Program authorization card to a public body, the public body shall accept the substitute address on the authorization card as the address of the program participant when creating a new public record. Upon the request of the program participant, the public body shall use the substitute address on the authorization card in any ongoing actions or proceedings.

(3) A public body may request a waiver from the requirements of the Address Confidentiality Program by submitting a waiver request to the Attorney General. The waiver request shall be in writing and include:

(a) An explanation of why the public body cannot meet its statutory or administrative obligations by possessing or using the substitute address; and

(b) An affirmation that if the Attorney General accepts the waiver, the public body will only use the actual address of the program participant for those statutory or administrative purposes included in the waiver request.

(4) The Attorney General shall accept or deny a waiver request from a public body in writing and include a statement of specific reasons for acceptance or denial. An acceptance or denial made under this subsection is not considered an order as defined in ORS 183.310 and is not subject to judicial review under ORS 183.480.

**SECTION 8. (1)** A county clerk shall use the actual address of a program participant for voter registration purposes. Except as provided in sections 1 to 17 of this 2005 Act, the county clerk may not disclose the actual address.

(2) A county clerk shall use the substitute address of the program participant for purposes of mailing a ballot to an elector under ORS 254.470.

(3) A school district shall use the actual address of a program participant for any purpose related to admission or assignment. The school district shall take such measures as necessary to protect the confidentiality of the actual address of the program participant. Student records created under ORS 326.565 and 326.580 shall use the substitute address of the program participant.

(4) A county clerk shall accept the substitute address of the program participant as the address of the applicant for the purpose of issuing a marriage license under ORS 106.041.

**SECTION 9.** Except as provided in sections 1 to 17 of this 2005 Act, a public body that has received a request from a program participant under section 7 of this 2005 Act may not disclose the actual address or telephone number of the program participant.

**SECTION 10. (1)** The Attorney General may not disclose the actual address or telephone number of a program participant, except under the following circumstances:

(a) Upon request by a federal, state or local law enforcement agency or district attorney for official use only;

(b) Pursuant to a court order;

(c) Upon request by a public body for a statutory or administrative purpose described in section 7 of this 2005 Act; or

(d) Where the program participant is required to disclose the actual address of the program participant as part of a registration for sex offenders as required under ORS 181.598 and 181.599.

(2) A person to whom an actual address or telephone number of a program participant has been disclosed pursuant to a court order may not disclose the actual address or telephone number to any other person unless permitted to do so by order of the court.

(3) The Attorney General shall notify a program participant within one business day after the Attorney General discloses an actual address under subsection (1)(b) or (c) of this section.

(4) Upon request by a public body, the Attorney General may verify whether or not a person is a program participant when the verification is for official use only.

**SECTION 11.** (1) A person may not attempt to obtain or obtain the actual address or telephone number of a program participant from the Attorney General or a public body through fraud or misrepresentation.

(2) Except as provided in sections 1 to 17 of this 2005 Act or federal law, an employee of a public body may not intentionally disclose the actual address or telephone number of a program participant to a person known to the employee to be prohibited from receiving the actual address or telephone number of the program participant. This subsection applies only when an employee obtains the actual address or telephone number of the program participant during the performance of the official duties of the employee and, at the time of disclosure, the employee has specific knowledge that the actual address or telephone number disclosed belongs to a program participant.

**SECTION 12.** (1) The Attorney General may designate employees of or volunteers serving public or private entities that provide counseling and shelter services to victims of domestic violence, sexual offense or stalking as application assistants to assist individuals applying to participate in the Address Confidentiality Program.

(2) Any assistance rendered to applicants for participation in the Address Confidentiality Program by the Attorney General or an application assistant is not considered legal advice.

**SECTION 13.** Notwithstanding any other law and the Oregon Rules of Civil Procedure, whenever a program participant has the right or is required to do some act or take some proceedings within a prescribed period of 10 days or less after the service of a notice or other paper upon the program participant and the notice or paper is served by mail pursuant to sections 1 to 17 of this 2005 Act, five days shall be added to the prescribed period.

**SECTION 14.** The Attorney General shall disclose in writing to a program participant prior to certification:

(1) The rights and obligations of the program participant under sections 1 to 17 of this 2005 Act; and

(2) The term of certification as determined by the Attorney General under section 3 of this 2005 Act.

**SECTION 15.** The Attorney General may adopt rules the Attorney General considers necessary to carry out the provisions of sections 1 to 17 of this 2005 Act.

**SECTION 16.** Violation of section 11 of this 2005 Act is a Class C misdemeanor.

**SECTION 17.** (1) The Department of Justice may seek, solicit, receive and administer monetary grants, donations and gifts to establish and operate the Address Confidentiality Program.

(2) All moneys received by the department under subsection (1) of this section shall be deposited in the Department of Justice Operating Account created in ORS 180.180. Amounts deposited under this section are continuously appropriated to the department to carry out the provisions of sections 1 to 17 of this 2005 Act.

**SECTION 18.** (1) Except as provided in subsection (2) of this section, sections 1 to 16 of this 2005 Act become operative on January 1, 2007.

(2) The Attorney General may take any action before the operative date of sections 1 to 16 of this 2005 Act that is necessary to enable the Attorney General to exercise, on or after the operative date of sections 1 to 16 of this 2005 Act, all the duties, functions and powers conferred on the Attorney General by sections 1 to 16 of this 2005 Act.

(3) Moneys deposited in the Department of Justice Operating Account under section 17 of this 2005 Act may be used by the Attorney General to carry out the provisions of this section.

Passed by Senate July 7, 2005

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Secretary of Senate

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President of Senate

Passed by House August 3, 2005

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Speaker of House

Received by Governor:

.....M.,....., 2005

Approved:

.....M.,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2005

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Secretary of State