

JAN 22 2016

A BILL FOR AN ACT

RELATING TO ADDRESS CONFIDENTIALITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. This Act shall be known and may be cited as the
2 Address Confidentiality Program Act.

3 SECTION 2. The legislature finds that a person may attempt
4 to escape from actual or threatened domestic violence, sexual
5 offenses, or stalking by moving to a new address in order to
6 prevent being found by an assailant or potential assailant.
7 However, a new address only provides the person with protection
8 if an assailant or potential assailant does not discover the new
9 address.

10 An address confidentiality program helps protect a victim
11 of domestic violence, sexual offenses, or stalking by providing
12 victims with a substitute legal address to be used by state and
13 local government agencies in place of their physical address.
14 This substitute address may be used whenever an address is
15 required for public records. Mail is received at the substitute
16 address and forwarded to the victim's actual address.



1 The purpose of this Act is to establish an address
 2 confidentiality program to help survivors of domestic violence,
 3 sexual offenses, or stalking relocate and keep their actual
 4 addresses confidential.

5 SECTION 3. The Hawaii Revised Statutes is amended by
 6 adding a new chapter to be appropriately designated and to read
 7 as follows:

8 "CHAPTER

9 ADDRESS CONFIDENTIALITY PROGRAM

10 § -1 Definitions. As used in this chapter:

11 "Actual address" means a residential, work, or school
 12 address as specified on an applicant's application and includes
 13 the applicant's county of residence and voting precinct.

14 "Address confidentiality program" or "program" means the
 15 program established by section -2.

16 "Applicant" means an individual who is applying to
 17 participate in the address confidentiality program.

18 "Application assistant" means a current employee or volunteer
 19 serving a victim services organization who is certified by the
 20 program pursuant to this chapter to assist individuals with



1 applications to participate in the program; provided that an
2 applicant assistant shall not be an employee of the program.

3 "Department" means the department of accounting and general
4 services.

5 "Domestic violence" shall have the same meaning as
6 "domestic abuse" in section 586-1.

7 "Program director" means the director of the program.

8 "Program participant" or "participant" means an individual
9 accepted into the address confidentiality program.

10 "Resident" means an individual domiciled in the State and
11 every other individual, whether domiciled in the State or not,
12 who resides in the State. To "reside" in the State means to be
13 in the State for other than a temporary or transitory purpose.
14 Every individual who is in the State more than two hundred days
15 of the year shall be presumed to be a resident of the State.

16 "Secondary applicant" and "secondary program participant"
17 means a parent, spouse, domestic partner, child, or legal dependent
18 of a program participant who lives at the same actual address as
19 the program participant and whose participation in the program is
20 necessary for the safety of the program participant.



1 "Sexual offense" means an act described in sections
2 707-730, 707-731, 707-732, 707-733, 707-733.6, 707-734, 707-741,
3 707-750, 707-752 707-756, 707-757, and 707-759.

4 "Stalking" means any act described in sections 711-1106.4 and
5 711-1106.5.

6 "State agency" or "agency" means any department, board,
7 bureau, commission, division, office, council, or agency of the
8 State.

9 "Substitute address" means an address that is used instead
10 of an actual address and assigned to a participant under the
11 address confidentiality program.

12 "Victim services organization" means a nonprofit,
13 nongovernmental organization that provides assistance to victims
14 of domestic or sexual violence or advocates for such victims,
15 including rape crisis centers; an organization operating a
16 shelter or providing professional counseling services; or an
17 organization that provides assistance with the legal process
18 including but not limited to the victim-witness assistance
19 program and victim assistance units established in section
20 28-111.



1 § -2 Address confidentiality program; established. (a)

2 There is established the address confidentiality program in the
3 department of accounting and general services to protect the
4 confidentiality of the actual address of a victim of domestic
5 violence, a sexual offense, or stalking and to prevent the
6 victim's assailants or potential assailants from finding the
7 victim through public records. The program shall:

- 8 (1) Assign a substitute address to the program participant
9 that shall be used by agencies;
- 10 (2) Receive first-class, certified, or registered mail
11 sent to a program participant at the substitute
12 address and forward the mail to the program
13 participant at no cost to the program participant;
14 provided that the program shall not be required to track
15 or maintain records of mail or to forward packages, bulk
16 mail, or pre-sorted mail; provided further that the
17 program shall maintain a log of certified or registered
18 mail or legal service received on behalf of a program
19 participant; and



1 (3) Act as the agent of the program participant for
2 purposes of services of all legal process in the
3 State.

4 (b) The program shall consist of a program director and
5 other personnel necessary for the efficient functioning of the
6 program. The program director and personnel shall be appointed
7 without regard to chapter 76, but shall be subject to chapter 89.

8 (c) The program director shall hire applicant assistants
9 to assist applicants with the application process and assist in
10 the certification of the applicant; provided that any assistance
11 provided shall not be construed as legal advice.

12 § -3 Filing and certification of applicants;

13 authorization card. (a) The following individuals may apply to
14 participate in the address confidentiality program and shall be
15 assisted by a victim advocate of the program:

16 (1) An adult individual;

17 (2) A parent or guardian acting on behalf of a minor
18 resident who resides with the parent or guardian; or

19 (3) A guardian acting on behalf of an incapacitated
20 individual.



1 (b) The application shall be as prescribed by the program
2 director and shall contain the following:

3 (1) The applicant's name;

4 (2) A statement by the applicant that the applicant or the
5 person for whom the applicant is applying is a victim
6 of domestic violence, a sexual offense, or stalking
7 and that the applicant fears for the applicant's
8 safety;

9 (3) Evidence that the applicant or the person for whom the
10 applicant is applying is a victim of domestic
11 violence, a sexual offense, or stalking, including any
12 of the following:

13 (A) Records or files of a court or government agency
14 including but not limited to police reports,
15 valid restraining orders, injunctions against
16 harassment, and documents from criminal cases;

17 (B) Documentation from a domestic violence program,
18 agency, or facility including but not limited to
19 a women's shelter or safe house;

20 (C) Documentation from a sexual assault program; or



- 1 (D) Documentation from a medical professional, mental
2 health provider, or other class of professionals
3 designated by the program director from whom the
4 applicant has sought assistance in dealing with
5 the alleged domestic violence, sexual offense, or
6 stalking;
- 7 (4) A statement by the applicant that disclosure of the
8 applicant's actual address will endanger the
9 applicant's safety or safety of the person for whom the
10 applicant is applying;
- 11 (5) A statement by the applicant or the person for whom
12 the applicant is applying that the applicant has
13 confidentially relocated to an address in the State or
14 will relocate to an address in the State within thirty
15 days of the date of application and will not disclose
16 the location to assailants or potential assailants;
- 17 (6) The applicant's written consent that the program shall
18 serve as the agent for the applicant or the person for
19 whom the applicant is applying for purposes of service
20 of process and receiving mail;



- 1 (7) The mailing address and telephone number where the
- 2 applicant or the person for whom the applicant is
- 3 applying may be contacted by the program;
- 4 (8) The actual address of the applicant or the person for
- 5 whom the applicant is applying;
- 6 (9) The applicant's sworn statement that the information
- 7 contained in the application is true;
- 8 (10) The application assistant's statement that the
- 9 application assistant has met with the applicant or the
- 10 person for whom the applicant is applying and
- 11 recommends that the applicant be assigned a substitute
- 12 address; and
- 13 (11) Date and signature of the applicant and the
- 14 application assistant.
- 15 (c) Upon the determination that an application has been
- 16 properly completed, the program director may certify the
- 17 applicant as a program participant and issue the program
- 18 participant an address confidentiality program authorization
- 19 card that shall include the participant's substitute address and
- 20 remain valid for a period of time set forth by the program



1 director; provided that the certification may be canceled
2 pursuant to section -6.

3 (d) A certification may be renewed by filing a renewal
4 application with the program no more than thirty days prior to
5 but at least five days prior to the expiration of the existing
6 certification.

7 § -4 Filing and certification of secondary applicants;
8 authorization card. (a) The parent, spouse, domestic partner,
9 child, or legal dependent of a program participant who resides at
10 the same actual address as the program participant and whose
11 participation in the program is necessary for the safety of the
12 program participant may apply to the program as a secondary
13 applicant.

14 (b) The application shall be as prescribed by the program
15 director and shall contain the following:

- 16 (1) The name of the secondary applicant;
17 (2) The actual address of the secondary applicant;
18 (3) The name of the program participant;
19 (4) The actual address of the program participant;



- 1 (5) A statement by the secondary applicant that disclosure
2 of the secondary applicant's actual address will
3 endanger the program participant's safety;
- 4 (6) A statement by the program participant that the
5 secondary applicant's participation is necessary for
6 the program participant's safety;
- 7 (7) A statement by the secondary applicant that the
8 secondary applicant has confidentially relocated with
9 the program participant or will confidentially
10 relocate with the program participant within thirty
11 days of the date of the application and will not
12 disclose the location to assailants or potential
13 assailants of the program participant;
- 14 (8) The secondary applicant's written consent that the
15 program shall serve as the secondary applicant's agent
16 for purposes of service of process and receiving mail;
- 17 (9) The mailing address and telephone number where the
18 secondary applicant may be contacted by the program;
- 19 (10) The secondary applicant's sworn statement that the
20 information contained in the application is true;



- 1 (11) The program participant's sworn statement that the
2 information contained in the application is true;
- 3 (12) An applicant assistant's statement that the applicant
4 assistant has met with and discussed the application
5 with the secondary applicant and the program
6 participant and the applicant assistant recommends
7 that the secondary applicant be assigned a substitute
8 address; and
- 9 (13) Date and signature of the secondary applicant, program
10 participant, and applicant assistant.
- 11 (c) Upon the determination that an application has been
12 properly completed, the program director may certify the
13 secondary applicant as a secondary program participant and issue
14 the secondary program participant an address confidentiality
15 program authorization card that shall include the program
16 participant's substitute address and remain valid for the same
17 period of time as the program participant's certification;
18 provided that the certification may be cancelled pursuant to
19 section -6.



1 (d) The secondary program participant shall submit an
2 application to renew certification at the same time as the
3 program participant.

4 (e) All other sections of this chapter shall apply to the
5 secondary program participant as if the secondary program
6 participant was a program participant.

7 § -5 Change of name, address, or telephone number. (a)
8 Within thirty days of a legal name change, a program participant
9 shall provide the program with a certified copy of a judgment,
10 order, or any other documentation the program director deems to
11 be sufficient evidence of the name change.

12 (b) Within ten days of a change in actual address or
13 telephone number, a program participant shall notify the program
14 of the change.

15 § -6 Certification cancellation. (a) A program
16 participant's certification shall be canceled if:

17 (1) The program participant submits a written request for
18 withdrawal of the certification;

19 (2) The program participant fails to notify the program of
20 a change in the program participant's legal name,
21 mailing address, actual address, or telephone number;



- 1 (3) The program participant knowingly submitted false
- 2 information on the program application;
- 3 (4) Mail forwarded by the program to the program
- 4 participant is returned as undeliverable;
- 5 (5) A renewal application pursuant to section -3(d) is
- 6 not received or approved by the program; or
- 7 (6) The program participant's mailing or actual address is
- 8 not located in the State.

9 (b) The program director shall send to the program
10 participant a notice of cancellation that includes the reasons
11 for cancellation.

12 (c) An individual who ceases to be a program participant
13 shall be responsible for notifying persons who use the
14 substitute address that the substitute address is no longer
15 valid.

16 (d) Any mail returned as undeliverable or any mail that
17 continues to be received by the program following a
18 certification cancellation shall be destroyed sixty days after
19 the certification cancellation date.

20 § -7 Appeal. (a) Within thirty days of the date of the
21 notice of denial of an application or certification cancellation,



1 an applicant or program participant may submit a written appeal to
2 the department; provided that the appeal shall not be a contested
3 case as defined by chapter 91.

4 (b) The department shall adopt rules pursuant to chapter
5 91 to implement this section; provided that the appeal process
6 shall not include a hearing and the department's final
7 determination shall not be subject to judicial review.

8 § -8 Service of Process. (a) The service of process
9 upon an agent of the program shall constitute service upon the
10 program participant.

11 (b) Upon the receipt of service, the program shall forward
12 the served document to the program participant within three
13 calendar days of receipt; provided that if there is a legal
14 requirement to act within a prescribed period of ten days or
15 less after the service of process, notice, or demand, five days
16 shall be added to the prescribed period; provided further that
17 the program is not required to mail the served document by
18 certified or registered mail.

19 (c) The program shall maintain records of any served
20 documents.



1 § -9 Address use by state agencies; waiver request. (a)
2 The program participant shall be responsible for requesting that
3 a state agency use the participant's substitute address for all
4 purposes for which the agency requires or requests a
5 residential, work, or school address.

6 (b) When a program participant submits a current and valid
7 address confidentiality program authorization card to an agency,
8 the agency shall accept the substitute address on the card as
9 the program participant's actual address to be used when
10 creating a new public record; provided that:

11 (1) The agency shall adopt procedures to prevent any
12 disclosure of the program participant's mailing
13 address, actual address, and telephone numbers that may
14 be on file with the agency;

15 (2) Election officials shall use a program participant's
16 actual address for purposes of determining residency
17 pursuant to section 11-13; provided that the
18 substitute address shall be used for all other
19 purposes and the program participant's name, mailing
20 address, actual address, or telephone number shall not
21 be published in any list or register; and



- 1 (3) The department of education shall use a program
2 participant's actual address for school admission or
3 assignment and the substitute address for student
4 records;
- 5 (4) For tax purposes, the substitute address shall be used
6 solely as a mailing address or for purposes of public
7 records and shall not be used for the assessment of
8 any taxes or for any representation that the program
9 participant resides at the substitute address;
- 10 (5) Law enforcement may require the program participant to
11 provide an actual address for a legitimate law
12 enforcement purpose; provided that the actual address
13 shall remain confidential and used solely for the
14 legitimate law enforcement purpose; and
- 15 (6) The department of human services may require the
16 program participant to provide an actual address if
17 the actual address is necessary for the department of
18 human services to perform its functions; provided that
19 the substitute address shall be used as a mailing
20 address and the actual address shall remain
21 confidential.



1 (c) A state agency may submit a request for a waiver from
2 the program by submitting a waiver request to the program
3 director who shall notify the agency of the waiver acceptance or
4 denial and provide the agency with the reasons for acceptance or
5 denial of the request. The waiver request shall be in writing,
6 in a form designated by the program director, and include:

- 7 (1) A statement of how participation in the program
8 restricts the agency's ability to satisfy the agency's
9 obligations;
- 10 (2) A statement that upon acceptance of the waiver, the
11 agency shall only use the participant's actual address
12 for the purposes stated in the waiver request; and
- 13 (3) A copy of the agency's policies and procedures
14 regarding the use and confidentiality of an actual
15 address.

16 § -10 Disclosure of actual address prohibited;
17 exceptions; penalty. (a) There shall be a presumption that
18 the disclosure of any record of the program constitutes an
19 unwarranted invasion of personal privacy and the program shall
20 be prohibited from disclosing any actual address unless
21 disclosure is required under chapter 92F; provided that no court



1 shall order the disclosure of a program participant's actual
2 address unless disclosure is required under section 92F-15 or
3 the court finds by clear and convincing evidence that:

- 4 (1) The disclosure of the actual address is necessary for
5 a legitimate purpose;
- 6 (2) The use of the substitute address would unduly
7 frustrate the legitimate purpose; and
- 8 (3) Taking into consideration the safety of the program
9 participant, there is no reasonable alternative to
10 disclosure of the actual address.

11 The court shall enter written findings and any conditions on the
12 disclosure of the actual address that are necessary to
13 reasonably protect the safety and privacy of the program
14 participant.

15 (b) Any court order requiring the disclosure of a
16 program participant's actual address shall be stayed for ten
17 days after written legal notice is provided to the program
18 participant.

19 (c) An employee, volunteer, or any person with access to
20 the records of the program who knowingly discloses an address or



1 telephone number of a program participant other than the
2 substitute address shall be guilty of a misdemeanor.

3 § -11 Prohibitions; penalty. (a) No applicant or
4 program participant shall falsely attest that disclosure of the
5 applicant's or program participant's actual address will
6 endanger the applicant's or program participant's safety or
7 knowingly provide false information on an initial application or
8 an application for renewal.

9 (b) An applicant or program participant that violates this
10 section shall be fined not more than \$500.

11 § -12 Indemnification. Nothing in this chapter shall be
12 construed to create a cause of action against the State, the
13 counties, or any of their employees, agencies, officials, or
14 volunteers except as set forth in sections -10 and -11.

15 § -13 Rulemaking authority. The comptroller shall adopt
16 rules pursuant to chapter 91 as necessary to carry out the
17 provisions of this chapter."

18 SECTION 4. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$362,600 or so much
20 thereof as may be necessary for fiscal year 2016-2017 for the



S.B. NO. 2318

1 implementation and operation of the address confidentiality
2 program.

3 The sum appropriated shall be expended by the department of
4 accounting and general services for the purposes of this Act.

5 SECTION 5. This Act shall take effect upon its approval;
6 provided that section 4 shall take effect on July 1, 2016.

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INTRODUCED BY:

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S.B. NO. 2318

Report Title:

Address Confidentiality Program; Domestic Violence; Sexual
Offense; Stalking; Appropriation

Description:

Establishes the address confidentiality program to help
survivors of domestic violence, sexual assault, and stalking to
relocate and keep their addresses confidential. Appropriates
funds.

*The summary description of legislation appearing on this page is for informational purposes only and is
not legislation or evidence of legislative intent.*

