

HOUSE BILL REPORT

HB 1421

As Reported by House Committee On:
State Government & Tribal Affairs

Title: An act relating to modifying the provisions of the address confidentiality program.

Brief Description: Modifying address confidentiality program provisions.

Sponsors: Representatives Green, Miloscia, Kretz, Armstrong, Appleton, Kessler, Ormsby, Warnick and Moeller; by request of Secretary of State.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 1/29/08, 1/30/08 [DPS].

Brief Summary of Substitute Bill

- Adds a definition for "stalking" to the law establishing the Address Confidentiality Program (ACP).
- Changes the requirement that an ACP participant must provide the Secretary of State (Secretary) with a mailing address.
- Provides that in order to prevent cancellation of participation in the ACP based on a change of residential address, participants must provide notice of this change to the Secretary in writing and within two days of the address change.
- Provides that a participant in the ACP loses certification as a participant if he or she obtains a legal change of identity.
- Provides that, except for release of the alternate address designated by the Secretary, an ACP participant's records may only be released by the Secretary and pursuant to court order.
- Replaces obsolete references to "service voter" with "absentee voter."

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Hunt, Chair; Appleton, Vice Chair; Chandler, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Kretz, Lias, Miloscia and Ormsby.

Staff: Tracey Taylor (786-7196).

Background:

The Address Confidentiality Program (ACP) allows victims of domestic violence, sexual assault, or stalking to have an alternative address designated as his or her substitute mailing address. The ACP also allows state and local agencies to comply with requests for public records without disclosing the confidential location of a victim.

In order to become a participant in the ACP, a person must submit an application to the Secretary of State (Secretary). The Secretary must approve any application that includes:

- a sworn statement from the applicant that he or she is a victim of domestic violence, sexual assault, or stalking, and fears for his or her safety or the person's children's safety;
- a designation of the Secretary as the applicant's agent for purposes of service of process and receipt of mail;
- the mailing address and phone number where the applicant can be contacted by the Secretary;
- the address that the applicant requests be kept confidential; and
- the applicant's signature.

Applicants are certified as program participants for four years, subject to renewal, withdrawal, or invalidation.

A program participant who is qualified to vote may apply to receive ongoing absentee ballots for all elections in the jurisdiction for which that participant resides. The county auditor (auditor) is required to send absentee ballots to the participant at the address designated by the participant in his or her absentee ballot application. The auditor may not release the participant's address pursuant to a public records request except when the request is by a law enforcement agency or pursuant to court order. The name and address of a program participant is excluded from any list of registered voters available to the public. Other than the alternate address designated by the Secretary, information in the participant's file is not subject to disclosure except in the following circumstances: if the request is made by a law enforcement agency or directed by court order, or for purposes of verifying that a person is a participant in the ACP.

The Secretary may cancel a person's participation in the ACP if the participant's residential address changes and he or she fails to give the Secretary at least seven days notice of the address change, or if mail forwarded by the Secretary to the participant is returned as non-deliverable. The Secretary must cancel a person's participation in the ACP if the participant changes his or her name or if the participant provides false information in the application.

Summary of Substitute Bill:

A definition for "stalking" is added to the ACP statute. "Stalking" is defined to have the same meaning as used in the criminal statutes on harassment, and also includes the threat of being stalked, regardless of whether the acts of stalking or threats of stalking have been reported to law enforcement officers.

A person who applies to participate in the ACP must include an address where the applicant can be contacted by the Secretary.

The Secretary may cancel a person's participation in the ACP if there is a change in the person's residential address but he or she fails to notify the Secretary in writing within at least two days of the address change. A participant in the ACP loses certification as a participant if he or she obtains a legal change of identity.

Except for the address designated by the Secretary, a participant's records may only be released by the Secretary and pursuant to court order.

The sworn statement by the applicant for the ACP is made under penalty of perjury. If applicable, a sworn statement is made also under the penalty of perjury, by the applicant for the ACP that the applicant has reason to believe they are a victim of domestic violence, sexual assault, or stalking perpetrated by an employee of a law enforcement agency.

If requested by a law enforcement agency, the Secretary may make a participant's file available to the law enforcement agency if the participant did not indicate that the perpetrator of the domestic violence, sexual assault or stalking was a law enforcement employee. This request must be in accordance with official law enforcement duties, be in writing on official law enforcement letterhead, and signed by the law enforcement agency's chief officer or designee. The Secretary may make a participant's file available under court order, to the person identified in the order, if the request is made by a non-law enforcement agency or when the participant's file indicates he or she has reason to believe the perpetrator of the domestic violence, sexual assault, or stalking is a law enforcement employee.

A court order for the ACP program participants may only be issued upon a probable cause finding by a judicial officer that the release of the ACP participant's information is legally necessary in the course of a criminal investigation or prosecution, or to prevent the immediate risk to a minor and meets the statutory requirements of Washington's child welfare system.

Obsolete references to "service voter" are replaced with current "absentee voter" designations.

Substitute Bill Compared to Original Bill:

The substitute bill adds that the sworn statement is being made under the penalty of perjury.

In addition, the substitute bill allows the Secretary to make a participant's file available to law enforcement if the participant's application contains no indication that he or she has been a victim of domestic violence, sexual assault or stalking by a law enforcement employee, and

the request is made pursuant to official law enforcement duties, on law enforcement stationery, and signed by the law enforcement agency's chief officer or designee.

The substitute bill also eliminates the requirement that the Secretary may confirm information about a program participant to a requestor.

The substitute bill authorizes the Secretary to make a participant's file available under court order if the request is made by a non-law enforcement agency or the participant's file indicates he or she has reason to believe they are a victim of domestic violence, sexual assault, or stalking by a law enforcement employee. Also, the substitute bill requires that a court order for program participants may only be issued upon a probable cause finding by a judicial officer and the release of the information is legally necessary in the course of a criminal investigation or prosecution or to prevent the immediate risk to a minor and meets the statutory requirements of Washington's child welfare system.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The Address Confidentiality Program (ACP) is part of a comprehensive program to increase crime victims rights and to improve services available to them. There is an amendment that has been worked on during the interim with the Secretary's office, law enforcement agencies, and crime victims advocates. By strengthening the sworn statements and clarifying the standard for a court order, the program will work better to protect crime victims.

(With amendment) The bill and the amendment strengthens this vitally important program for crime victims that live in fear of discovery.

(Opposed) None.

Persons Testifying: (In support) Dave Johnson, Washington Coalition of Crime Victim Advocates; and Megan Moreno, Office of the Secretary of State.

(With amendment) Grace Huang, Washington State Coalition Against Domestic Violence.

Persons Signed In To Testify But Not Testifying: None.