

HOUSE BILL REPORT

EHB 2067

As Passed House:

March 6, 2019

Title: An act relating to prohibiting the disclosure of certain individual vehicle and vessel owner information of those participating in the address confidentiality program.

Brief Description: Prohibiting the disclosure of certain individual vehicle and vessel owner information of those participating in the address confidentiality program.

Sponsors: Representatives Davis, Chambers, Jinkins, Dufault, Riccelli, Doglio, Tarleton, Kilduff and Pollet.

Brief History:

Committee Activity:

Transportation: 2/26/19, 2/27/19 [DP].

Floor Activity:

Passed House: 3/6/19, 97-0.

Brief Summary of Engrossed Bill

- Prohibits the Department of Licensing (DOL), county auditors, or agencies or firms authorized by the DOL from releasing a vehicle or vessel owner's information if the owner is a participant in the Address Confidentiality Program (ACP).
- Requires the Secretary of State, upon certifying a participant in the ACP, to provide the DOL with a notice of certification for the sole purpose of updating any related vehicle or vessel ownership records that are subject to disclosure.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass. Signed by 30 members: Representatives Fey, Chair; Slatter, 2nd Vice Chair; Valdez, 2nd Vice Chair; Wylie, 1st Vice Chair; Barkis, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Young, Assistant Ranking Minority Member; Boehnke, Chambers, Chapman, Dent, Doglio, Dufault, Entenman, Eslick, Goehner, Gregerson, Irwin, Kloba, Lovick, McCaslin, Mead, Orcutt, Ortiz-Self, Paul, Pellicciotti, Ramos, Riccelli, Shea and Van Werven.

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.

Staff: Patricia Hasan (786-7292).

Background:

Address Confidentiality Program.

The Address Confidentiality Program (ACP) allows victims of domestic violence, sexual assault, trafficking, 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 an application if it is filed in the manner and on the form prescribed by the Secretary and if it includes:

- a sworn statement from the applicant that:
 - he or she is a victim of domestic violence, sexual assault, trafficking, or stalking, and that the applicant fears for his or her safety or his or her children's safety; or
 - the minor or incapacitated person on whose behalf the application is made is a victim of domestic violence, sexual assault, trafficking, or stalking, and that the applicant fears for the safety of the minor or incapacitated person; or
 - he or she, as a criminal justice participant, is a target for threats or harassment;
- 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.

An ACP participant may request that state and local agencies use the address designated by the Secretary as his or her address. When creating a new public record, state and local agencies are required to accept the address designated by the Secretary as the participant's substitute address, unless the Secretary has determined that the agency has a bona fide statutory or administrative requirement for the use of the address which would otherwise be confidential, and that the address will be used only for those statutory or administrative purposes.

A 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 is required to send absentee ballots to the participant at the address designated by the participant in his or her absentee ballot application. The county 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; and
 - the participant's application contains no indication that he or she has been a victim of domestic violence, sexual assault, or stalking perpetrated by a law enforcement employee; and
 - the request is in accordance with official law enforcement duties and is in writing on official law enforcement letterhead stationery and signed by the law enforcement agency's chief officer; or
- if directed by a court order; and
 - the request is made by a nonlaw enforcement agency; or
 - the participant's file indicates he or she has reason to believe he or she is a victim of domestic violence, sexual assault, or stalking perpetrated by a law enforcement employee; or
- if an officer of the Washington State Patrol requests the information to locate an applicant because the law enforcement officer believes that the applicant is in an emergency situation that involves the risk of death or serious physical harm and requires disclosure without delay of information relating to the emergency.

A court order for a participant's information may only be issued upon a probable cause finding by a judicial officer that the release of the participant's information is legally necessary in the course of a criminal investigation or prosecution or to prevent immediate risk to a minor.

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 two days' prior notice in writing of the change of address, or if mail forwarded by the Secretary to the participant is returned as nondeliverable, refused, or unclaimed. The Secretary must cancel a person's participation in the ACP if the participant changes his or her legal name or if the participant provides false information in the application.

Disclosure of Vehicle and Vessel Owner Information.

The Department of Licensing (DOL), county auditors, or agencies or firms authorized by the DOL may not release the name or address of a vehicle or vessel owner, except if:

- the requesting party is a business entity that requests the information for use in the course of business;
- the request is a written request that includes the full legal name and address of the requesting party, the specific purpose for the use of the information, and the signature of the requester; and
- the requester enters into a disclosure agreement with the DOL in which the requester promises that they will use the information only for the purpose stated in the written request, and that the requester does not intend to use, or facilitate the use of, the information for the purpose of making any unsolicited business contact with a person named in the disclosed information.

If both a mailing address and residence address are recorded on the vehicle or vessel record and are different, only the mailing address will be disclosed. Both addresses will be disclosed in response to information requests from courts, law enforcement agencies, or

government entities with enforcement, investigative, or taxing authority, and the disclosed information may only be used by the agency in the normal course of conducting their business.

If a requester is an attorney or private investigator, and the request for information has been granted, the disclosing entity must provide notice to the vehicle or vessel owner named in the requested information that the request has been granted. The notice may only include: (1) that the disclosing entity has disclosed the vehicle or vessel owner's name and address; (2) the date that the disclosure was made; and (3) that the vehicle or vessel owner has five days after receiving the notice to contact the disclosing entity to determine whether the requester was an attorney or a private investigator. If the vehicle or vessel owner submits to the disclosing entity a copy of a valid court order restricting another person from contacting the vehicle or vessel owner or his or her family or household member, the disclosing entity must provide the vehicle or vessel owner with the name and address of the requester.

Requests for information may also be granted to governmental entities or law enforcement officers. The disclosure agreement with law enforcement entities must allow law enforcement to redisclose a vessel owner's name or address when trying to locate the owner of a vessel that has become a hazard.

The DOL must charge a \$2 fee for each information request, and the fee must be deposited into the Highway Safety Account.

Summary of Engrossed Bill:

Address Confidentiality Program.

The Secretary is required, upon certifying a participant in the ACP, to provide the DOL with a notice of certification that includes the participant's new designated address for the sole purpose of updating any related vehicle or vessel ownership records that are subject to disclosure.

Disclosure of Vehicle and Vessel Owner Information.

The DOL, county auditors, or agencies or firms authorized by the DOL may not release the name, any address, vehicle make, vehicle model, vehicle year, vehicle identification number, or license plate number associated with an individual who is a participant in the ACP. A participant's information may be released to government entities or law enforcement officers or if a court order is issued upon a probable cause finding by a judicial officer that the release of the participant's information is legally necessary in the course of a criminal investigation or prosecution or to prevent immediate risk to a minor.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) When a person experiences a life-threatening domestic violence situation, their whole world crumbles. As most people never prepare for this situation, they sometimes will call hotlines to get help, resources, and any other information about where to turn and what to do. A domestic violence agent may tell the person that they can no longer go home because it is too dangerous. A person's entire sense of safety can be taken away. In some instances, a victim may be told that they need to hide and disappear so they cannot be found.

In 1991 Washington became the first state to adopt an ACP, and many other states have followed the lead and adopted similar programs. The ACP is an important tool to help protect survivors from being tracked by their abusers by protecting the privacy and confidentiality needs of its participants. The ACP provides an alternative address for use as a mailing address and so that a person's real address is not disclosed publicly. With this service, and by creating a safety plan for home and for work, a survivor may begin to regain a sense of safety. However, just like everyone else, ACP participants need to register their vehicles with the state, and they should be able to expect that registering their vehicles will not compromise their safety. Survivors should not have to choose between their safety and owning a vehicle. For a survivor, access to a vehicle can mean having the freedom and the economic ability to leave a dangerous situation.

The DOL is allowed to disclose vehicle information, and when it does, a letter is mailed out informing the person who is named in the disclosed information what has been released. To a survivor of domestic violence, this type of letter can be devastating to their sense of safety. Current state law allows the DOL to release the home address and identifying vehicle information of private citizens, including participants in the ACP, which is a program designed to protect survivors of domestic violence and sexual assault.

This bill seeks to close this loophole and protect survivors from this type of information disclosure. It would help protect the safety of survivors of domestic violence, sexual assault, stalking, and trafficking by improving safeguards for participants in Washington's ACP. It is important to keep updating the laws to address the ways in which abusers have been able to compromise the privacy and safety of survivors.

(Opposed) None.

Persons Testifying: Representative Davis, prime sponsor; Nancy Sapiro, Legal Voice; and Tamaso Johnson, Washington State Coalition Against Domestic Violence.

Persons Signed In To Testify But Not Testifying: None.