

JAN 19 2018

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 abuse, 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 survivor
11 of domestic abuse, sexual offenses, or stalking by providing
12 survivors with a substitute legal address to be used by state
13 and local government agencies in place of their physical
14 address. This substitute address may be used whenever an
15 address is required for public records. Mail is received at the
16 substitute address and forwarded to the survivor's actual
17 address.



1 The purpose of this Act is to establish an address
2 confidentiality program to help survivors of domestic abuse,
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 "Agency" means an agency or instrumentality of the State or
17 any of its political subdivisions.

18 "Applicant" includes a primary applicant and a secondary
19 applicant.

20 "Application assistant" means a current employee or
21 volunteer serving a victim services organization who is



1 certified by the program pursuant to this chapter to assist
2 individuals with applications to participate in the program;
3 provided that an application assistant shall not be an employee
4 of the program.

5 "Department" means the department of the attorney general.

6 "Domestic abuse" shall have the same meaning as in section
7 586-1.

8 "Primary applicant" means an individual who is applying to
9 participate in the address confidentiality program as a victim
10 of domestic abuse, a sexual offense, or stalking; provided that
11 a parent or guardian applying on behalf of a minor or an
12 incapacitated person shall not be considered a primary
13 applicant; provided further that a parent or guardian may apply
14 as a secondary applicant under section -4.

15 "Program director" means the director of the address
16 confidentiality program.

17 "Program participant" or "participant" means an individual
18 accepted into the address confidentiality program, and includes
19 a primary participant and a secondary participant.

20 "Public record" means all documents, papers, letters, maps,
21 books, photographs, films, sound recordings, magnetic or other



1 tapes, digital data, artifacts, or other documentary material,
2 regardless of physical form or characteristics, made or received
3 pursuant to law or ordinance in connection with the transaction
4 of public business by a state or local government agency.

5 "Sexual offense" means an act described in section 707-730,
6 707-731, 707-732, 707-733, 707-733.6, 707-734, 707-741, 707-750,
7 707-752, 707-756, 707-757, or 707-759.

8 "Stalking" means any act described in sections 711-1106.4
9 and 711-1106.5.

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

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



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

2 There is established the address confidentiality program in the
3 department of the attorney general to protect the
4 confidentiality of the actual address of a victim of domestic
5 abuse, a sexual offense, or stalking and to prevent the victim's
6 assailants or potential assailants from finding the victim
7 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
15 track or maintain records of mail or to forward
16 packages, bulk mail, or pre-sorted mail; provided
17 further that the program shall maintain a log of
18 certified or registered mail or legal service received
19 on behalf of a program participant; and

20 (3) Act as the agent of the program participant for
21 purposes of service of all legal process in the State.



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

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

10 § -3 Filing and certification of applications;

11 authorization card. (a) A primary applicant may apply to
12 participate in the address confidentiality program and shall be
13 assisted by an application assistant; provided that:

14 (1) A parent or guardian may act on behalf of a minor who
15 resides with the parent or guardian; and

16 (2) A guardian shall act on behalf of an incapacitated
17 individual.

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

20 (1) The primary applicant's name;



- 1 (2) A statement by the primary applicant that the primary
2 applicant is a victim of domestic abuse, a sexual
3 offense, or stalking and that the primary applicant
4 fears for the primary applicant's safety;
- 5 (3) Evidence that the primary applicant is a victim of
6 domestic abuse, a sexual offense, or stalking,
7 including any of the following:
- 8 (A) Records or files of a court or government agency
9 including but not limited to police reports,
10 valid restraining orders, injunctions against
11 harassment, and documents from criminal cases;
- 12 (B) Documentation from a domestic abuse program,
13 agency, or facility including but not limited to
14 a women's shelter or safe house;
- 15 (C) Documentation from a sexual assault program; or
- 16 (D) Documentation from a medical professional, mental
17 health provider, or other class of professionals
18 designated by the program director from whom the
19 primary applicant has sought assistance in
20 dealing with the alleged domestic abuse, sexual
21 offense, or stalking;



- 1 (4) A statement by the primary applicant that disclosure
2 of the primary applicant's actual address will
3 endanger the primary applicant's safety;
- 4 (5) A statement by the primary applicant that the primary
5 applicant has confidentially relocated to an address
6 in the State or will relocate to an address in the
7 State within thirty days of the date of application
8 and will not disclose the location to assailants or
9 known potential assailants;
- 10 (6) The primary applicant's written consent that the
11 program shall serve as the agent for the primary
12 applicant for purposes of service of process and
13 receiving mail;
- 14 (7) The mailing address and telephone number where the
15 primary applicant may be contacted by the program;
- 16 (8) The actual address of the primary applicant;
- 17 (9) A statement as to whether there is any existing court
18 order or court action involving the primary applicant
19 or an individual identified in paragraph (10) related
20 to dissolution of marriage proceedings, child support,
21 or the allocation of parental responsibilities or



1 parenting time, including the court that issued the
2 order or has jurisdiction over the action;

3 (10) The name of any person who resides with the primary
4 applicant who may apply as a secondary applicant
5 pursuant to section -4 to ensure the safety of the
6 primary applicant;

7 (11) The primary applicant's sworn statement that the
8 information contained in the application is true;

9 (12) The application assistant's statement that the
10 application assistant has met with and discussed the
11 application with the primary applicant and that the
12 application assistant recommends that the primary
13 applicant be assigned a substitute address; and

14 (13) The date and signature of the primary applicant, the
15 application assistant, and, if relevant, the primary
16 applicant's parent or guardian.

17 (c) Upon the determination that an application has been
18 properly completed, the program director may certify the primary
19 applicant as a program participant and issue the program
20 participant an address confidentiality program authorization
21 card that shall include the participant's substitute address and



1 remain valid for a period of time set forth by the program
2 director; provided that the certification may be canceled
3 pursuant to section -6.

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

8 § -4 Filing and certification of secondary applicants;

9 authorization card. (a) The parent, spouse, domestic partner,
10 child, or legal dependent of a program participant who resides at
11 the same actual address as the program participant and whose
12 participation in the program is necessary for the safety of the
13 program participant may apply to the program as a secondary
14 applicant and shall be assisted by an application assistant;
15 provided that:

16 (1) A parent or guardian may act on behalf of a minor who
17 resides with the parent or guardian; and

18 (2) A guardian shall act on behalf of an incapacitated
19 individual.

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



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



- 1 (9) The mailing address and telephone number where the
2 secondary applicant may be contacted by the program;
- 3 (10) The secondary applicant's sworn statement that the
4 information contained in the application is true;
- 5 (11) The program participant's sworn statement that the
6 information contained in the secondary applicant's
7 application is true;
- 8 (12) An application assistant's statement that the
9 application assistant has met with and discussed the
10 application with the secondary applicant and the
11 program participant and that the application assistant
12 recommends that the secondary applicant be assigned a
13 substitute address; and
- 14 (13) The date and signature of the secondary applicant,
15 program participant, application assistant, and, if
16 applicable, the secondary applicant's parent or
17 guardian.
- 18 (c) Upon the determination that an application has been
19 properly completed, the program director may certify the
20 secondary applicant as a secondary program participant and issue
21 the secondary program participant an address confidentiality



1 program authorization card that shall include the program
2 participant's substitute address and remain valid for the same
3 period of time as the program participant's certification;
4 provided that the certification may be canceled pursuant to
5 section -6 or if the program participant's certification is
6 canceled for any reason.

7 (d) The secondary program participant shall submit an
8 application to renew certification at the same time as the
9 program participant.

10 (e) This chapter shall apply to the secondary program
11 participant as if the secondary program participant was a
12 program participant.

13 § -5 Change of name, address, or telephone number. (a)
14 Within thirty days of a legal name change, a program participant
15 shall provide the program with a certified copy of a judgment,
16 order, or any other documentation the program director deems to
17 be sufficient evidence of the name change.

18 (b) Within ten days of a change in actual address or
19 telephone number, a program participant shall notify the program
20 of the change.



1 § -6 **Certification cancellation.** (a) A program
2 participant's certification shall be canceled if:
3 (1) The program participant submits a written request for
4 withdrawal of the certification;
5 (2) The program participant fails to notify the program of
6 a change in the program participant's legal name,
7 mailing address, actual address, or telephone number;
8 (3) The program participant knowingly submitted false
9 information on the program application;
10 (4) Mail forwarded by the program to the program
11 participant is returned as undeliverable;
12 (5) A renewal application pursuant to section -3(d) is
13 not received or approved by the program; or
14 (6) The program participant's mailing or actual address is
15 not located in the State.
16 (b) The program director shall send to the program
17 participant a notice of cancellation that includes the reasons
18 for cancellation.
19 (c) An individual who ceases to be a program participant
20 shall be responsible for notifying persons who use the



1 substitute address that the substitute address is no longer
2 valid.

3 (d) In accordance with program policies, any mail returned
4 as undeliverable or any mail that continues to be received by
5 the program following a certification cancellation may be
6 returned to the sender or destroyed sixty days after the
7 certification cancellation date.

8 § -7 **Appeal.** (a) Within thirty days of the date of the
9 notice of denial of an application or of certification
10 cancellation, an applicant or program participant may submit a
11 written appeal to the department; provided that the appeal shall
12 not be a contested case as defined by chapter 91.

13 (b) The department shall adopt rules pursuant to chapter
14 91 to implement this section; provided that the appeal process
15 shall not include a hearing and the department's final
16 determination shall not be subject to judicial review.

17 § -8 **Service of process.** (a) The service of process
18 upon an agent of the program shall constitute service upon the
19 program participant.

20 (b) Upon the receipt of service, the program shall forward
21 the served document to the program participant within three



1 calendar days of receipt; provided that if there is a legal
2 requirement to act within a prescribed period of ten days or
3 less after the service of process, notice, or demand, five days
4 shall be added to the prescribed period; provided further that
5 the program is not required to mail the served document by
6 certified or registered mail.

7 (c) The program shall maintain records of any served
8 documents.

9 § -9 Address use by state agencies; waiver request. (a)

10 The program participant shall be responsible for requesting that
11 an agency use the participant's substitute address for all
12 purposes for which the agency requires or requests a
13 residential, work, or school address.

14 (b) When a program participant submits a current and valid
15 address confidentiality program authorization card to an agency,
16 the agency shall accept the substitute address on the card as
17 the program participant's actual address to be used when
18 creating a new public record; provided that:

19 (1) The agency shall adopt procedures to prevent any
20 disclosure of the program participant's mailing



1 address, actual address, and telephone numbers that
2 may be on file with the agency;

3 (2) Election officials shall use a program participant's
4 actual address for purposes of determining residency
5 pursuant to section 11-13; provided that the
6 substitute address shall be used for all other
7 purposes and the program participant's name, mailing
8 address, actual address, or telephone number shall not
9 be published in any list or register;

10 (3) The department of education shall use a program
11 participant's actual address for school admission or
12 assignment and the substitute address for student
13 records;

14 (4) For tax purposes, the substitute address shall be used
15 solely as a mailing address or for purposes of public
16 records and shall not be used for the assessment of
17 any taxes or for any representation that the program
18 participant resides at the substitute address;

19 (5) Law enforcement may require the program participant to
20 provide an actual address for a legitimate law
21 enforcement purpose; provided that the actual address



1 shall remain confidential and used solely for the
2 legitimate law enforcement purpose; and

3 (6) The department of human services may require the
4 program participant to provide an actual address if
5 the actual address is necessary for the department of
6 human services to perform its functions; provided that
7 the substitute address shall be used as a mailing
8 address and the actual address shall remain
9 confidential.

10 (c) An agency may submit a request for a waiver from the
11 program by submitting a waiver request to the program director
12 who shall notify the agency of the waiver acceptance or denial
13 and provide the agency with the reasons for acceptance or denial
14 of the request. The waiver request shall be in writing, be in a
15 form designated by the program director, and include:

16 (1) A statement of how participation in the program
17 restricts the agency's ability to satisfy the agency's
18 obligations;

19 (2) A statement that upon acceptance of the waiver, the
20 agency shall only use the participant's actual address
21 for the purposes stated in the waiver request; and



1 (3) A copy of the agency's policies and procedures
2 regarding the use and confidentiality of an actual
3 address.

4 **§ -10 Disclosure of actual address prohibited; penalty.**

5 (a) Disclosure by the program of a program participant's
6 actual address shall be prohibited unless required by order of
7 a court. There shall be a presumption that the disclosure of
8 any record of the program constitutes an unwarranted invasion
9 of privacy and any applicant or program participant has a
10 significant privacy interest in any information provided to
11 the program.

12 (b) No court shall order the disclosure of a program
13 participant's actual address unless the court finds by clear and
14 convincing evidence that:

15 (1) The disclosure of the actual address is necessary for
16 a legitimate purpose;

17 (2) The use of the substitute address would unduly
18 frustrate the legitimate purpose; and

19 (3) Taking into consideration the safety of the program
20 participant, there is no reasonable alternative to
21 disclosure of the actual address.



1 The court shall enter written findings and any conditions on the
2 disclosure of the actual address that are necessary to
3 reasonably protect the safety and privacy of the program
4 participant.

5 (c) Any court order requiring the disclosure of a program
6 participant's actual address shall be stayed for ten days after
7 written legal notice is provided to the program participant.

8 (d) No employee, volunteer, or any person with access to
9 the records of the program or the records of any agency who has
10 received a request from the program participant to use a
11 substitute address shall knowingly disclose any address or
12 telephone number of a program participant other than the
13 substitute address.

14 (e) Any person who violates subsection (d) shall be guilty
15 of a misdemeanor.

16 **§ -11 Prohibitions; penalty.** (a) No applicant or
17 program participant shall falsely attest that disclosure of the
18 applicant's or program participant's actual address will
19 endanger the applicant's or program participant's safety or
20 knowingly provide false information on an initial application or
21 an application for renewal.



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

3 § -12 Indemnification. Nothing in this chapter shall be
4 construed to create a cause of action against the State, the
5 counties, or any of their employees, agencies, officials, or
6 volunteers except as set forth in section -10.

7 § -13 Rulemaking authority. The attorney general shall
8 adopt rules pursuant to chapter 91 as necessary to carry out the
9 provisions of this chapter."

10 SECTION 4. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so
12 much thereof as may be necessary for fiscal year 2018-2019 for
13 the implementation and operation of the address confidentiality
14 program.

15 The sum appropriated shall be expended by the department of
16 the attorney general for the purposes of this Act.

17 SECTION 5. This Act shall take effect on July 1, 2019;
18 provided that section 4 shall take effect on July 1, 2018.

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Michelle Kidani
Hani Goh
INTRODUCED BY: Rosaly H. Bala
Stef
John M.
Annex Mercedes Ku
Annex & Annexe

S.B. NO. 2346

Report Title:

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

Description:

Establishes the address confidentiality program to help survivors of domestic abuse, 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.

