
A BILL FOR AN ACT

RELATING TO DOMESTIC VIOLENCE.

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

1 PART I

2 SECTION 1. Section 321-472, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "[+]§321-472[+] **Multidisciplinary and multiagency reviews.**

5 The department [~~may~~] shall conduct multidisciplinary and
6 multiagency reviews of domestic violence fatalities, near-
7 deaths, and suicides to reduce the incidence of preventable
8 [~~deaths-~~] intimate partner homicides. The director may form
9 domestic violence fatality review teams, as necessary, by
10 appointing individuals to review domestic violence fatalities.
11 A domestic violence fatality review team shall not be subject to
12 part I, chapter 92."

13 SECTION 2. Section 321-473, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[+]§321-473[+] **Access to information.** (a) Upon request
16 of the director or a domestic violence fatality review team, all
17 medical examiners, physicians acting under the direction of a
18 coroner, providers of medical care, state agencies, and county



1 agencies shall disclose to the department and the domestic
2 violence fatality review team all information and records
3 regarding the circumstances of a victim's death so that the
4 department may conduct a multidisciplinary and multiagency
5 review of domestic violence fatalities pursuant to this part.

6 (b) Members of the domestic violence fatality review team
7 shall develop procedures related to near-deaths resulting from
8 intimate partner violence.

9 (c) The department may enter into memoranda of
10 understanding with the relevant state agencies and branches of
11 government and county agencies to obtain information relating to
12 near-deaths resulting from intimate partner violence.

13 ~~[(b)]~~ (d) To the extent that this section conflicts with
14 other state confidentiality laws, the provisions of this section
15 shall require disclosure, notwithstanding the existence of a
16 specific confidentiality statute.

17 ~~[(e)]~~ (e) An entity represented on a domestic violence
18 fatality review team and any entity cooperating with an entity
19 represented on a domestic violence fatality review team may
20 share with other members of the team:

21 (1) Information in its possession concerning the victim;



1 (2) Information in its possession concerning any person
2 who was in contact with the victim; and

3 (3) Any other information in its possession deemed by the
4 entity to be pertinent to the domestic violence
5 fatality review.

6 [~~d~~] (f) Any information shared by an entity with other
7 members of a domestic violence fatality review team is subject
8 to the same restrictions on disclosure of the information or the
9 records as the originating entity.

10 (g) To the extent possible, the review conducted pursuant
11 to section 321-472 shall commence no later than one year
12 following the death, near-death, or suicide."

13 SECTION 3. Section 321-475, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~+~~§321-475~~+~~ **Use of domestic violence fatality review**
16 **information and records.** (a) Except as otherwise provided in
17 this part, all information and records acquired by the
18 department during its review of domestic violence fatalities
19 pursuant to this part are confidential and shall only be
20 disclosed as necessary to carry out the purposes of this part.



1 (b) Domestic violence fatality review information and
2 statistical compilations of data that do not contain any
3 information not previously publicly disclosed that would permit
4 the identification of any person, shall be public records.

5 (c) An individual participating in the domestic violence
6 fatality review of a victim's death shall not be questioned in
7 any civil or criminal proceeding regarding information presented
8 in or an opinion formed as a result of a domestic violence
9 fatality review meeting. Nothing in this section shall be
10 construed to prevent an individual from testifying to
11 information obtained independently of the domestic violence
12 fatality review of a victim's death, or which is public
13 information, or where law or court order requires disclosure.

14 (d) Domestic violence fatality review information held by
15 the department as a result of domestic violence fatality reviews
16 conducted under this part shall not be subject to subpoena,
17 discovery, or introduction into evidence in any civil or
18 criminal proceeding, except that domestic violence fatality
19 review information otherwise available from other sources shall
20 not be immune from subpoena, discovery, or introduction into



1 evidence through those sources solely because it was provided as
2 required by this part.

3 (e) Information collected and recommendations derived from
4 the review process shall be compiled for use in system reform
5 efforts relating to the reduction of preventable deaths, near-
6 deaths, and suicides resulting from domestic violence."

7 PART II

8 SECTION 4. This part shall be known and may be cited as
9 the "Address Confidentiality Program Act".

10 The legislature finds that persons attempting to escape
11 from actual or threatened domestic violence, sexual offenses, or
12 stalking frequently move to a new address to prevent being found
13 by an assailant or potential assailant. However, this new
14 address, is only useful for this purpose if an assailant or
15 potential assailant does not discover it. Therefore, to help
16 victims of domestic violence, sexual offenses, or stalking, it
17 is the intent of the legislature to establish an address
18 confidentiality program, whereby the confidentiality of a
19 victim's address may be maintained through, among other things,
20 the use of a substitute address for purposes of public records
21 and confidential mail forwarding.



1 An address confidentiality program provides victims with a
 2 substitute legal address to use in place of their physical
 3 address to be used whenever an address is required for public
 4 records, such as voter or driver's license registries. Mail is
 5 received at the substitute address and forwarded to the victim's
 6 true address. State and local government agencies will be able
 7 to use program participants' substitute addresses whenever
 8 possible and have access to participants' actual addresses, when
 9 appropriate, through a mail forwarding system for program
 10 participants.

11 The purpose of this part is to develop an address
 12 confidentiality program to assist victims of domestic violence,
 13 sexual offenses, or stalking to relocate and keep their
 14 relocation addresses confidential.

15 SECTION 5. Chapter 351, Hawaii Revised Statutes, is
 16 amended by adding a new part to be appropriately designated and
 17 to read as follows:

18 "PART . ADDRESS CONFIDENTIALITY PROGRAM

19 §351-A Definitions. As used in this part:

20 "Actual address" means a residential, work, or school
 21 address as specified on an individual's application to be a



1 program participant under this part, and includes the
2 individual's county of residence and voting precinct.

3 "Address confidentiality program" or "program" means the
4 program created under this part to protect the confidentiality
5 of the actual address of a relocated victim of domestic
6 violence, a sexual offense, or stalking.

7 "Applicant" means an individual identified as such in an
8 application received by the program.

9 "Domestic violence" means an act described in section 586-
10 1.

11 "Person" means any individual, corporation, limited
12 liability company, partnership, trust, estate, or other
13 association of any state, the United States, or any subdivision
14 thereof.

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 in accordance
19 with this part.

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 any offense under part V of chapter
6 707.

7 "Stalking" means an act of harassment as described in
8 section 711-1106.

9 "State or local government agency" or "agency" means every
10 elected or appointed state or local public office, public
11 officer, or official; board, commission, bureau, committee,
12 council, department, authority, agency, institution of higher
13 education, or other unit of the executive, legislative, or
14 judicial branch of the state; or any city, county, city and
15 county, town, special district, school district, local
16 improvement district, or any other kind of municipal, quasi-
17 municipal, or public corporation.

18 "Substitute address" means an address designated under the
19 address confidentiality program that is used instead of a
20 program participant's actual address as set forth in this part.



1 "Victim advocate or victim service provider" means any
2 professional who is trained to support victims of crime
3 including domestic violence, sexual offenses, or stalking.

4 **§351-B Address confidentiality program; creation;**
5 **substitute address; application assistance centers.** (a) There
6 is created within the crime victim compensation commission the
7 address confidentiality program to keep the actual address of a
8 relocated victim of domestic violence, a sexual offense, or
9 stalking confidential and prevent the victim's assailants or
10 potential assailants from finding the victim through public
11 records. The program shall:

12 (1) Designate a substitute address for each program
13 participant that shall be used by state and local
14 government agencies as specified in this part; and
15 (2) Receive mail sent to each program participants at the
16 substitute address and forward the mail to the
17 participant as set forth in subsection (b).

18 (b) The program shall receive first-class, certified, or
19 registered mail on behalf of program participants and shall
20 forward the mail to participants at no charge to the
21 participant. The program may provide for signature on behalf of



1 a participant for purposes of receiving certified or registered
2 mail. The program director or the program director's designee
3 may arrange to receive and forward other classes or kinds of
4 mail at the participant's expense. The program shall not be
5 required to track or otherwise maintain records of any mail
6 except certified or registered mail received on behalf of a
7 participant.

8 (c) Notwithstanding any provision of law to the contrary,
9 service on a program participant by registered mail or certified
10 mail, return receipt requested, addressed to the participant at
11 the participant's substitute address may be effective for any
12 process, notice, or demand required or permitted by law to be
13 served on the program participant. Service is perfected under
14 this subsection when the program participant receives the
15 process, notice, or demand or five days after the date shown on
16 the return receipt if signed on behalf of the program
17 participant, whichever occurs first. Notwithstanding the
18 availability of service under this subsection, service of
19 process, notice, or demand upon a participant in the State may
20 be effected as otherwise provided by law.



1 Whenever the laws of the State provide a program
2 participant a legal right to act within a prescribed period that
3 is ten days or less after the service of process, notice, or
4 demand upon the participant and the process, notice, or demand
5 is served upon the participant by mail pursuant to this
6 subsection or by first-class mail as otherwise authorized by
7 law, five days shall be added to the prescribed period.

8 (d) The program director or designee may designate as an
9 application assistant any person who completes a training and
10 registration process required by the program director.

11 (e) Assistance to an applicant pursuant to this part shall
12 in no way be construed as legal advice.

13 **§351-C Filing and certification of applications;**
14 **authorization card.** (a) Beginning on July 1, 2015, upon the
15 recommendation of a qualifying victim advocate or victim service
16 provider, the following persons may apply to participate in the
17 address confidentiality program:

- 18 (1) An adult individual;
- 19 (2) A parent or guardian acting on behalf of a minor who
20 resides with the parent or guardian; or



1 (3) A guardian acting on behalf of an incapacitated
2 individual.

3 (b) A victim advocate or victim service provider shall
4 assist the individual in the preparation of the application.
5 The application shall be dated, signed, and verified by the
6 applicant and shall be signed and dated by the victim advocate
7 or victim service provider who assisted in the preparation of
8 the application. The signature of the victim advocate or victim
9 service provider shall serve as the recommendation of that
10 person that the applicant have an address designated by the
11 program to serve as the substitute address of the applicant. A
12 minor or incapacitated individual on whose behalf a parent or
13 guardian completes an application pursuant to subsection (a)(2)
14 or (3) shall be considered the applicant, but any statements
15 that are required to be made by the applicant shall be made by
16 the parent or guardian acting on behalf of the minor or
17 incapacitated individual.

18 (c) The application shall be on a form prescribed by the
19 program director and shall contain all of the following:

20 (1) The applicant's name;



- 1 (2) A statement by the applicant that the applicant is a
2 victim of domestic violence, a sexual offense, or
3 stalking and that the applicant fears for the
4 applicant's safety;
- 5 (3) Evidence that the applicant is a victim of domestic
6 violence, a sexual offense, or stalking, including any
7 of the following:
- 8 (A) Records or files of a law enforcement agency,
9 court, non-profit organization, or other federal,
10 state, or local government agency;
- 11 (B) Documentation from a domestic violence program,
12 agency, or facility, including but not limited to
13 a shelter or safe house; or
- 14 (C) Documentation from a sexual assault program;
- 15 (4) A statement by the applicant that disclosure of the
16 applicant's actual address would endanger the
17 applicant's safety;
- 18 (5) A statement by the applicant that the applicant has
19 confidentially relocated in the past ninety days or
20 will confidentially relocate within the state;



- 1 (6) A designation of the program director or program as an
- 2 agent for the applicant for purposes of receiving
- 3 certain mail;
- 4 (7) The mailing address and telephone number where the
- 5 applicant can be contacted by the program;
- 6 (8) The applicant's actual address;
- 7 (9) A statement as to whether there is any existing court
- 8 order or court action involving the applicant or an
- 9 individual identified in paragraph (10) related to
- 10 dissolution of marriage proceedings, child support, or
- 11 the allocation of parental responsibilities or
- 12 parenting time, including the court that issued the
- 13 order or has jurisdiction over the action;
- 14 (10) The name of any person who resides with the applicant
- 15 who shall be included as a program participant to
- 16 ensure the safety of the applicant and, if the person
- 17 named is eighteen years of age or older, the consent
- 18 of that person to be a program participant; or
- 19 (11) A sworn statement by the applicant, under the penalty
- 20 of perjury, that to the best of the applicant's



1 knowledge, the information contained in the
2 application is true.

3 (d) Upon determining that an application has been properly
4 completed, the program shall certify the applicant and any
5 person who is identified in subsection (c)(10) as a program
6 participant. Upon certification, the program shall issue to the
7 participant an address confidentiality program authorization
8 card, which shall include the participant's substitute address.
9 The card shall remain valid for as long as the participant
10 remains certified under the program.

11 (e) Program participants shall be certified for four years
12 following the date of certification unless the certification is
13 withdrawn or canceled. A program participant may withdraw the
14 certification by filing a request for withdrawal acknowledged
15 before a notary public with the program. A certification may be
16 renewed by filing a renewal application with the program at
17 least thirty days prior to the expiration of the current
18 certification. The renewal application shall be dated, signed,
19 and verified by the applicant. The renewal application shall
20 contain:



1 (1) Any statement or information that is required by
2 subsection (c) that has changed from the most recent
3 prior application or renewal application; and

4 (2) A sworn statement by the applicant, under the penalty
5 of perjury, that to the best of the applicant's
6 knowledge, the information contained in the renewal
7 application and all prior applications is true.

8 **§351-D Change of name, address, or telephone number. (a)**

9 A program participant shall notify the program within thirty
10 days after the participant has obtained a legal name change by
11 providing a certified copy of any judgment or order evidencing
12 the change or any other documentation the program director deems
13 to be sufficient evidence of the name change.

14 (b) A program participant shall notify the program of a
15 change in contact address or telephone number or actual address
16 from those listed on the most recent application or renewal
17 application pursuant to section 351-C(c)(7) and (8) no later
18 than seven days after the change occurs.

19 **§351-E Certification cancellation; records. (a)** The
20 certification of a program participant shall be canceled under
21 any of the following circumstances:



1 (1) The program participant files a request for withdrawal
2 of the certification pursuant to section 351-C(e);

3 (2) The program participant fails to notify the program of
4 a change in the participant's name, address, or
5 telephone number as required by section 351-D;

6 (3) The program participant or applicant knowingly submits
7 false information in the program application; or

8 (4) Mail forwarded to the program participant by the
9 program is returned as undeliverable.

10 (b) If the program determines that there is one or more
11 grounds for cancelling certification of a program participant
12 pursuant to subsection (a), the program director shall send
13 notice of cancellation to the program participant. Notice of
14 cancellation shall set out the reasons for cancellation. The
15 participant shall have thirty days to appeal the cancellation
16 decision under procedures developed by the program director
17 pursuant to chapter 91.

18 (c) An individual who ceases to be a program participant
19 is responsible for notifying persons who use the substitute
20 address that the designated substitute address is no longer
21 valid.



1 §351-F Address use by state or local government agencies.

2 (a) The program participant is responsible for requesting that
3 a state or local government agency use the participant's
4 substitute address as the participant's residential, work, or
5 school address for all purposes for which the agency requires or
6 requests the address.

7 (b) Except as otherwise provided in this section or unless
8 the program grants a state or local government agency's request
9 for disclosure pursuant to section 351-H, when a program
10 participant submits a current and valid address confidentiality
11 program authorization card to the agency, the agency shall
12 accept the substitute address on the card as the participant's
13 address to be used as the participant's residential, work, or
14 school address when creating a new public record. The
15 substitute address given to the agency shall be the last known
16 address for the participant used by the agency until such time
17 that the agency receives notification pursuant to section
18 351-E(c). The agency may make a photocopy of the card for the
19 records of the agency and thereafter shall immediately return
20 the card to the program participant.



1 (c) The chief election officer or county clerk shall use
2 the actual address of a program participant for precinct
3 designation and all official election-related purposes and shall
4 keep the participant's actual address confidential. The chief
5 election officer or county clerk shall use the substitute
6 address for all correspondence and mailings placed in the United
7 States mail. The substitute address shall not be used as an
8 address for voter registration.

9 A state or local government agency's access to a program
10 participant's voter registration information shall be governed
11 by the disclosure process set forth in section 351-H.

12 This subsection shall apply only to a program participant
13 who submits a current and valid address confidentiality program
14 authorization card when registering to vote or updating voter
15 registration information.

16 (d) A program participant who completes an application to
17 register to vote at a driver's license examination facility
18 while receiving a driver's license or an identification card
19 shall be required to have the participant's actual address on
20 the driver's license or identification card.



1 (e) The substitute address shall not be used for purposes
2 of listing, appraising, assessing, or collecting property taxes.

3 (f) Whenever a program participant is required by law to
4 swear or affirm to the participant's address, the participant
5 may use the participant's substitute address.

6 (g) The substitute address shall not be used for purposes
7 of assessing any taxes or fees on a motor vehicle or for titling
8 or registering a motor vehicle. Notwithstanding any law to the
9 contrary, any record that includes a program participant's
10 actual address pursuant to this subsection shall be confidential
11 and not available for inspection by anyone other than the
12 program participant.

13 (h) The substitute address shall not be used on any
14 document related to real property recorded with a county clerk
15 and recorder.

16 (i) A school district shall accept the substitute address
17 as the address of record and shall verify student enrollment
18 eligibility through the program. The program shall facilitate
19 the transfer of student records from one school to another.

20 (j) Except as otherwise provided in this section, a
21 program participant's actual address and telephone number



1 maintained by a state or local government agency or disclosed
2 pursuant to section 351-H is not a public record that is subject
3 to inspection.

4 This subsection shall not apply to:

5 (1) Any public record created more than ninety days prior
6 to the date that the program participant applied to be
7 certified in the program; or

8 (2) Any public record for which a program participant
9 voluntarily requests that a state or local government
10 agency use the participant's actual address or
11 voluntarily provides the actual address.

12 (k) For any public record created within ninety days prior
13 to the date that a program participant applied to be certified
14 in the program, a state or local government agency shall redact
15 the actual address or change the actual address to the
16 substitute address upon request by the participant and
17 presentation of a current and valid program authorization card.

18 **§351-G Disclosure of actual address prohibited.** (a) The
19 program is prohibited from disclosing any address or telephone
20 number of a program participant other than the substitute
21 address except under the following circumstances:



- 1 (1) The information is required by a court order; provided
2 that any person to whom a program participant's
3 address or telephone number has been disclosed shall
4 not disclose the address or telephone number to any
5 other person unless ordered or permitted to do so by
6 the court;
- 7 (2) An agency request granted pursuant to section 351-H;
8 or
- 9 (3) The program participant is required to disclose the
10 participant's actual address as part of a registration
11 required by chapter 846E.

12 The program shall provide immediate notification of
13 disclosure to a program participant when disclosure is made
14 pursuant to paragraph (1) or (2).

15 (b) If, at the time of certification as a program
16 participant under section 351-C, an applicant or an individual
17 designated in section 351-C(c)(10) is involved in a judicial
18 proceeding or is subject to a court order related to dissolution
19 of marriage proceedings, child support, or the allocation of
20 parental responsibilities or parenting time, the program shall
21 notify the court that has jurisdiction over the proceeding or



1 issued the order of the program participant's certification in
2 the address confidentiality program and the substitute address.

3 (c) No person shall knowingly and intentionally obtain a
4 program participant's actual address or telephone number from
5 the program or any agency if the person is not authorized to
6 obtain the information.

7 (d) No personnel of the program or of any agency shall
8 knowingly and intentionally disclose a program participant's
9 actual address or telephone number unless the disclosure is
10 required by or permissible by law. This subsection shall only
11 apply to a participant's actual address or telephone number
12 obtained during the course of official duties and for which, at
13 the time of disclosure, the person has specific knowledge that
14 the actual address or telephone number disclosed belongs to a
15 participant.

16 (e) Any person who knowingly and intentionally obtains or
17 discloses information in violation of this part shall be guilty
18 of a misdemeanor.

19 **§351-H Request for disclosure.** (a) A state or local
20 government agency requesting disclosure of a program
21 participant's actual address pursuant to this section shall make



1 a request in writing to the program on agency letterhead and
2 shall provide the following information:

3 (1) The name of the program participant whose actual
4 address the agency seeks;

5 (2) A statement, with explanation, setting forth the
6 reason or reasons that the agency needs the program
7 participant's actual address and a statement that the
8 agency cannot meet its statutory or administrative
9 obligations without disclosure of the participant's
10 actual address;

11 (3) A particular statement of facts showing that other
12 methods to locate the program participant or the
13 participant's actual address have been tried and have
14 failed or that the methods reasonably appear to be
15 unlikely to succeed;

16 (4) A statement that the agency has adopted a procedure
17 setting forth the steps the agency will take to
18 protect the confidentiality of the program
19 participant's actual address; and



1 (5) Any other information that the program may reasonably
2 request in order to identify the program participant
3 in the program's records.

4 (b) The program shall provide the program participant with
5 notice of any request for disclosure received pursuant to this
6 section, and, to the extent possible, the participant shall be
7 afforded an opportunity to be heard regarding the request.

8 Except as otherwise provided, the program shall provide the
9 program participant with written notification whenever a request
10 for a disclosure has been granted or denied pursuant to this
11 section.

12 No notice or opportunity to be heard shall be given to the
13 program participant when the request for disclosure is made by a
14 state or local law enforcement agency conducting a criminal
15 investigation involving alleged criminal conduct by the
16 participant or when providing notice to the participant would
17 jeopardize an ongoing criminal investigation or the safety of
18 law enforcement personnel.

19 (c) The program shall promptly conduct a review of all
20 requests received pursuant to this section. In conducting a
21 review, the program shall consider all information received



1 pursuant to subsections (a) and (b) and any other appropriate
2 information that the program may require.

3 (d) The program shall grant a state or local government
4 agency's request for disclosure and disclose a program
5 participant's actual address pursuant to this section if:

6 (1) The agency has a bona fide statutory or administrative
7 need for the actual address;

8 (2) The actual address will only be used for the purpose
9 stated in the request;

10 (3) Other methods to locate the program participant or the
11 participant's actual address have been tried and have
12 failed or such methods reasonably appear to be
13 unlikely to succeed; and

14 (4) The agency has adopted a procedure for protecting the
15 confidentiality of the actual address of the program
16 participant.

17 (e) Upon granting a request for disclosure pursuant to
18 this section, the program shall provide the state or local
19 government agency with:

20 (1) The program participant's actual address;



- 1 (2) A statement setting forth the permitted use of the
- 2 actual address and the names or classes of persons
- 3 permitted to have access to and use of the actual
- 4 address;
- 5 (3) A statement that the agency is required to limit
- 6 access to and use of the actual address to the
- 7 permitted use and persons set forth in the disclosure;
- 8 and
- 9 (4) The date on which the permitted use expires, if
- 10 expiration is appropriate, after which the agency may
- 11 no longer maintain, use, or have access to the actual
- 12 address.
- 13 (f) A state or local government agency whose request is
- 14 granted pursuant to this section shall:
- 15 (1) Limit the use of the program participant's actual
- 16 address to the purposes set forth in the disclosure;
- 17 (2) Limit the access to the program participant's actual
- 18 address to the persons or classes of persons set forth
- 19 in the disclosure;



1 (3) Cease to use and dispose of the program participant's
2 actual address upon the expiration of the permitted
3 use, if applicable; and

4 (4) Except as otherwise set forth in the disclosure,
5 maintain the confidentiality of a program
6 participant's actual address.

7 (g) Upon denial of a state or local government agency's
8 request for disclosure, the program shall provide prompt written
9 notification to the agency stating that the agency's request has
10 been denied and setting forth the specific reasons for the
11 denial.

12 (h) A state or local government agency may file written
13 exceptions with the program no more than fifteen days after
14 written notification of denial is provided pursuant to
15 subsection (g). The exceptions shall restate the information
16 contained in the request for disclosure, state the grounds upon
17 which the agency asserts that the request for disclosure should
18 be granted, and specifically respond to the specific reasons for
19 denial.

20 (i) Unless the state or local government agency filing
21 exceptions agrees otherwise, the program shall make a final



1 determination regarding the exceptions within thirty days after
2 the filing of exceptions pursuant to subsection (h). Prior to
3 making a final determination regarding the exceptions, the
4 program may request additional information from the agency or
5 the program participant and conduct a hearing. If the final
6 determination of the program director or the program director's
7 designee is that the denial of the agency's request for
8 disclosure was properly denied, the program shall provide the
9 agency with written notification of this final determination
10 stating that the agency's request has again been denied and
11 setting forth the specific reasons for the denial. If the final
12 determination is that the agency's request for disclosure was
13 improper, the program shall grant the agency's request for
14 disclosure in accordance with this section. The final
15 determination of the program director or program director's
16 designee shall constitute final agency action subject to review
17 pursuant to chapter 91.

18 (j) The record before any judicial review of a final
19 agency action pursuant to subsection (i) shall consist of the
20 state or local government agency's request for disclosure, the
21 program's written response, the agency's exceptions, the hearing



1 transcript, if any, and the program director's or program
2 director's designee's final determination.

3 (k) During any period of review, evaluation, or appeal,
4 the agency shall, to the extent possible, accept and use the
5 program participant's substitute address.

6 (l) Notwithstanding any other provision of this section,
7 the program shall establish an expedited process for disclosure
8 to be used by a criminal justice official or agency for
9 situations where disclosure is required pursuant to a criminal
10 trial, hearing, proceeding, or investigation involving a program
11 participant. An official or agency receiving information
12 pursuant to this subsection shall certify to the program that
13 the official or agency has a system in place to protect the
14 confidentiality of a participant's actual address from the
15 public and from personnel who are not involved in the trial,
16 hearing, proceeding, or investigation.

17 (m) Nothing in this section shall be construed to prevent
18 the program from granting a request for disclosure to a state or
19 local government agency received pursuant to this section upon
20 receipt of the program participant's written consent to do so.



1 **§351-I Nondisclosure of address in criminal and civil**
2 **proceedings.** No person shall be compelled to disclose a program
3 participant's actual address during the discovery phase of or
4 during a proceeding before a court unless the court finds, based
5 upon a preponderance of the evidence, that the disclosure is
6 required in the interests of justice. A court may seal the
7 portion of any record that contains a program participant's
8 actual address. Nothing in this section shall prevent a state or
9 local government agency, in its discretion, from using a program
10 participant's actual address in any document or record filed
11 with a court if, at the time of filing, the document or record
12 is not a public record.

13 **§351-J Participation in the program; orders relating to**
14 **allocation of parental responsibilities or parenting time.** (a)
15 Nothing in this part, nor the fact of a person's participation
16 in the program, shall affect an order relating to the allocation
17 of parental responsibilities or parenting time in effect prior
18 to or during program participation.

19 (b) Program participation, by itself, shall not constitute
20 evidence of domestic violence, a sexual offense, or stalking and
21 shall not be considered for purposes of a court order allocating



1 parental responsibilities or parenting time; provided that that
2 a court may consider practical measures to keep a program
3 participant's actual address confidential when issuing an order
4 allocating parental responsibilities or parenting time.

5 §351-K Rule-making authority. The commission shall adopt
6 rules pursuant to chapter 91 as necessary to carry out the
7 provisions of this part.

8 §351-L Surcharge; collection and distribution; address
9 confidentiality program surcharge fund; definitions. (a) On
10 and after July 1, 2015, each person who is convicted of the
11 crimes set forth in subsection (b) of this section shall be
12 required to pay a surcharge of \$28 to the clerk of the court for
13 the judicial district in which the conviction occurs.

14 (b) The following crimes shall be subject to the surcharge
15 set forth in subsection (a) of this section:

- 16 (1) Stalking;
- 17 (2) A crime, the underlying factual basis of which has
18 been found by the court on the record to include an
19 act of domestic violence;
- 20 (3) Sexual offenses; or



1 (4) Criminal attempt, conspiracy, or solicitation to
2 commit the crimes set forth in paragraphs (1), (2), and
3 (3).

4 (c) The clerk of the court shall allocate the surcharge
5 required by this section as follows:

6 (1) Five per cent shall be retained by the clerk of the
7 court for administrative costs incurred pursuant to
8 this section. Such amount retained shall be
9 transmitted to the state treasurer for deposit in the
10 crime victim compensation special fund; and

11 (2) Ninety-five per cent shall be transferred to the state
12 treasury to be credited to the address confidentiality
13 program surcharge fund established pursuant to
14 subsection (d).

15 (d) There is created in the state treasury the address
16 confidentiality program surcharge fund, which shall consist of
17 moneys received pursuant to this section, any gifts, grants, or
18 donations received by the program for the fund pursuant to
19 subsection (f) of this section. The moneys in the fund shall be
20 subject to annual appropriation for the purpose of paying for
21 the administration costs incurred by the program. All interest



1 derived from the deposit and investment of moneys in the fund
2 shall be credited to the fund. Any moneys not appropriated
3 shall remain in the fund and shall not be transferred or revert
4 to the general fund at the end of any fiscal year.

5 (e) The court may waive all or any portion of the
6 surcharge required by this section if the court finds that a
7 person subject to the surcharge is indigent or financially
8 unable to pay all or any portion of the surcharge. The court
9 may waive only that portion of the surcharge that the court
10 finds that the person is financially unable to pay.

11 (f) The program is authorized to seek, accept, and expend
12 gifts, grants, and donations from private or public sources for
13 the implementation of the program. All private and public funds
14 received through gifts, grants, and donations shall be
15 transmitted to the state treasury to be credited to the fund.

16 (g) As used in this section, "convicted" and "conviction"
17 mean a plea of guilty accepted by the court, including a plea of
18 guilty entered pursuant to a deferred sentence, a verdict of
19 guilty by a judge or jury, or a plea of no contest accepted by
20 the court."



1 PART III

2 SECTION 6. In codifying the new sections added by section
3 5 of this Act, the revisor of statutes shall substitute
4 appropriate section numbers for the letters used in designating
5 the new sections in this Act.

6 SECTION 7. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 8. This Act shall take effect on July 1, 2050.



Report Title:

Women's Legislative Caucus Package; Domestic Violence Fatality Reviews; Department of Health; Address Confidentiality Program; Address Confidentiality Program Surcharge Fund; Crime Victim Compensation Commission

Description:

Requires the Department of Health (DOH) to conduct reviews of domestic violence fatalities, near-deaths, and suicides. Authorizes DOH to enter into memoranda of understanding to obtain information relating to near-deaths resulting from intimate partner violence. Establishes the address confidentiality program to help victims of domestic violence and sexual assault relocate and keep their addresses confidential. Creates the address confidentiality program surcharge fund. Effective 7/1/2050. (HB448 SD1 Proposed)

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

