

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2529

By: Miller (Doug)

AS INTRODUCED

An Act relating to criminal procedure; defining terms; creating Witness Address Confidentiality Program; authorizing use of address confidentiality program for witnesses; establishing application process; prohibiting certain acts; authorizing cancellation of certification under certain circumstances; authorizing request to state and local agencies to use confidential address; providing exceptions; providing for delivery of certain mail to participants; prohibiting disclosure of records; providing exceptions; providing for designation of certain agencies; providing for promulgation of rules; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 738 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Address" means a residential street address, school address, or work address of an individual, as specified on the application of an individual to be a program participant under this section;

2. "Family members" means:

- a. spouses,
- b. parents, including grandparents, stepparents, adoptive parents, and foster parents,
- c. children, including grandchildren, stepchildren, adopted children and foster children, and
- d. persons living in the same household;

3. "Harassment" means a knowing and willful course or pattern of conduct directed at a specific person which seriously alarms or annoys the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial distress to the person. "Harassment" shall include, but not be limited to, harassing or obscene telephone calls in violation of Section 1172 of Title 21 of the Oklahoma Statutes, threats of physical or mental harm through force or fear in violation of Section 455 of Title 21 of the Oklahoma Statutes, and fear of death or bodily injury;

4. "Program participant" means a person certified as a program participant under this section;

5. "Stalking" means the willful, malicious, and repeated following of a person by an adult, emancipated minor, or minor thirteen (13) years of age or older, with the intent of placing the person in reasonable fear of death or great bodily injury; and

6. "Witness" means any person who is a witness to a violent crime or sex offense and who has been duly summoned, subpoenaed, or endorsed on the criminal information or juvenile petition as a witness.

B. Upon the effective date of this act, a Witness Address Confidentiality Program shall be created within the Address Confidentiality Program Office of the Secretary of State.

C. 1. Upon the creation of a Witness Address Confidentiality Program, any witness may apply to the Secretary of State to have an address designated by the Secretary of State serve as the address of the witness. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State and if it contains:

- a. a sworn statement by the applicant that the applicant has good reason to believe:

- (1) that the applicant is a victim of harassment or stalking, and
 - (2) that the applicant fears for the safety of self or family members,
- b. a designation of the Secretary of State as agent for purposes of service of process and for the purpose of receipt of mail,
 - c. the mailing address where the applicant can be contacted by the Secretary of State, and the phone number or numbers where the applicant can be called by the Secretary of State,
 - d. the new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of harassment or stalking, and
 - e. the signature of the applicant and of a representative of any office designated a referring agency under subsection F of this section who assisted in the preparation of the application, and the date on which the applicant signed the application.

2. Applications shall be filed with the Office of the Secretary of State.

3. Upon filing a properly completed application, the Secretary of State shall certify the applicant as a program participant. Applicants shall be certified for four (4) years following the date of filing unless the certification is withdrawn or invalidated before that date. The Secretary of State shall by rule establish a renewal procedure.

4. A person who falsely attests in an application that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of family members of the applicant or who knowingly provides false or incorrect information upon making an

application, may be found guilty of perjury under Sections 500 and 504 of Title 21 of the Oklahoma Statutes.

D. 1. If the program participant obtains a name change, the Secretary of State shall cancel the certification of the program participant.

2. If there is a change in the residential address of the program participant from the address listed on the application, the program participant shall notify the Secretary of State no less than seven (7) days prior to moving from the listed address. If the program participant fails to provide said notification, the Secretary of State may cancel the certification of the program participant.

3. The Secretary of State may cancel certification of a program participant if mail forwarded by the Secretary of State to the address of the program participant is returned as nondeliverable.

4. The Secretary of State shall cancel certification of a program participant who applies using false information.

E. 1. A program participant may request that state and local agencies use the address designated by the Secretary of State as the address of the participant. When creating a new public record, state and local agencies shall accept the address designated by the Secretary of State as a substitute address for the program participant, unless the Secretary of State has determined that:

- a. the agency has a bona fide statutory or administrative requirement for the use of the address which would otherwise be confidential under this section, and
- b. this address will be used only for those statutory and administrative purposes.

2. A program participant may use the address designated by the Secretary of State as a work address.

3. The Office of the Secretary of State shall forward all first class mail to the appropriate program participants.

F. The Secretary of State shall not make any records in a file of a program participant available for inspection or copying, other than the address designated by the Secretary of State, except under the following circumstances:

1. If directed by a court order, to a person identified in the order; or

2. To verify the participation of a specific program participant, in which case the Secretary of State may only confirm information supplied by the requester.

G. The Secretary of State shall designate state and local agencies that provide services to witnesses to assist those witnesses applying to be program participants. Any assistance rendered by the Office of the Secretary of State or its designees to applicants shall in no way be construed as legal advice.

H. The Secretary of State shall promulgate rules to implement this program.

SECTION 2. This act shall become effective November 1, 2006.

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