

ENROLLED HOUSE
BILL NO. 2638

By: Peters of the House

and

Leftwich of the Senate

An Act relating to criminal procedure; amending Section 1, Chapter 415, O.S.L. 2002 (22 O.S. Supp. 2007, Section 60.14), which relates to the Protection from Domestic Abuse Act; transferring the Address Confidentiality Program from the Office of the Secretary of State to the Office of the Attorney General; changing agency designation; allowing certain persons to apply to the program; modifying cancellation procedures; requiring certain mail be forwarded at no cost to program participants; modifying certain record keeping requirements; prohibiting disclosure of certain information; expanding list of entities designated by the Attorney General to assist program participants; specifying certain persons as application assistants; authorizing Attorney General to enter into certain agreements; transferring administrative rules to the Office of the Attorney General; requiring notice of rule transfer to the Oklahoma Register; stating jurisdiction of transferred rules; eliminating certain position of the Address Confidentiality Program; transferring funds, property, records, personnel and financial obligations to the Office of the Attorney General; stating that all transferred personnel shall retain their employment position and certain benefits; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 415, O.S.L. 2002 (22 O.S. Supp. 2007, Section 60.14), is amended to read as follows:

Section 60.14 A. The Legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this section is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic abuse, sexual assault, or stalking, to enable interagency cooperation with the ~~Secretary of State~~ Attorney General in providing address confidentiality for victims of domestic abuse, sexual assault, or stalking, and to enable state and local agencies to accept an address designated by the ~~Secretary of State~~ Attorney General by a program participant as a substitute mailing address.

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

3. "Domestic abuse" means an act as defined in Section 60.1 of this title and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers; and

4. "Stalking" means an act as defined in Section 60.1 of this title regardless of whether the acts have been reported to law enforcement.

C. ~~On or after January 1, 2003, the Secretary of State, shall create an~~ The Address Confidentiality Program ~~Office to~~ shall be staffed by unclassified employees, who have been subjected to a criminal history records search.

D. 1. ~~Upon the creation of the Address Confidentiality Program Office, an~~ An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, as defined by Section 1-111 of Title 30 of the Oklahoma Statutes, may apply to the ~~Secretary of State~~ Attorney General to have an address designated by the ~~Secretary of State~~ Attorney General serve

as the address of the person or the address of the minor or incapacitated person. The ~~Secretary of State~~ Attorney General shall approve an application if it is filed in the manner and on the form prescribed by the ~~Secretary of State~~ Attorney General and if it contains:

- a. a sworn statement by the applicant that the applicant has good reason to believe:
 - (1) that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic abuse, sexual assault, or stalking, and
 - (2) that the applicant fears for the safety of self or children, or the safety of the minor or incapacitated person on whose behalf the application is made,
- b. a designation of the ~~Secretary of State~~ Attorney General 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~~ Attorney General, and the phone number or numbers where the applicant can be called by the ~~Secretary of State~~ Attorney General,
- d. the new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic abuse, sexual assault, or stalking, and
- e. the signature of the applicant and ~~of a representative of any office designated a referring agency under subsection C of this section~~ application assistant who assisted in the preparation of the application, and the date on which the applicant signed the application.

2. An adult or minor child who resides with the applicant who also needs to be a program participant in order to ensure the safety of the applicant may apply. Each adult living in the household must

complete a separate application. An adult may apply on behalf of a minor.

3. Applications shall be filed with the Office of the ~~Secretary of State~~ Attorney General.

~~3-~~ 4. Upon filing a properly completed application, the ~~Secretary of State~~ Attorney General 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~~ Attorney General shall by rule establish a renewal procedure.

~~4-~~ 5. 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 the children of the applicant or the minor or incapacitated person on whose behalf the application is made, 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.

E. 1. If the program participant obtains a name change, the participant loses certification as a program participant.

2. The ~~Secretary of State~~ Attorney General may cancel the certification of a program participant if there is a change in the residential address ~~from the one listed on the application~~, unless the program participant provides the ~~Secretary of State~~ Attorney General notice no later than seven (7) ~~days' prior notice of the change of address~~ days after the change occurs.

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

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

F. 1. A program participant may request that state and local agencies use the address designated by the ~~Secretary of State~~ Attorney General 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~~ Attorney General as a

substitute address for the program participant, unless the ~~Secretary of State~~ Attorney General 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~~ Attorney General as a work address.

3. The Office of the ~~Secretary of State~~ Attorney General shall forward all first class, certified and registered mail to the appropriate program participants for no charge. The Attorney General shall not be required to track or otherwise maintain records of any mail received on behalf of a participant unless the mail is certified or registered mail.

G. The ~~Secretary of State~~ Attorney General may 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~~ Attorney General, 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 to a state or local agency, in which case the ~~Secretary of State~~ Attorney General may only confirm information supplied by the requester.

No employee of a state or local agency shall knowingly and intentionally disclose a program participant's actual address unless disclosure is permitted by law.

H. The ~~Secretary of State~~ Attorney General shall designate state and local agencies, federal government, federally recognized tribes, and nonprofit agencies to assist persons in applying to be program participants. A volunteer or employee of a designated entity that provide provides counseling and, referral, shelter, or other services to victims of domestic abuse, sexual assault, or stalking to assist persons applying to be program participants and has been trained by the Attorney General shall be known as an

application assistant. Any assistance and counseling rendered by the Office of the Secretary of State Attorney General or its designees an application assistant to applicants shall in no way be construed as legal advice.

I. The Attorney General may enter into agreements with the federal government and federally recognized tribes in the State of Oklahoma or other entities for purposes of the implementation of the Address Confidentiality Program, including the use and acceptance of the substitute address designated by the Attorney General.

J. Effective July 1, 2008, all administrative rules promulgated by the Office of the Secretary of State to implement this program shall be transferred to and become part of the administrative rules of the Office of the Attorney General. The Office of Administrative Rules in the Office of the Secretary of State shall provide adequate notice in "The Oklahoma Register" of the transfer of such rules, and shall place the transferred rules under the Administrative Code section of the Attorney General. Such rules shall continue in force and effect as rules of the Office of the Attorney General from and after July 1, 2008, and any amendment, repeal or addition to the transferred rules shall be under the jurisdiction of the Attorney General. The Secretary of State Attorney General shall adopt and promulgate rules to implement this program, as applicable.

K. Beginning July 1, 2008, the Director of the Address Confidentiality Program shall cease to be a position within the Office of the Secretary of State. All unexpended funds, property, records, personnel, and outstanding financial obligations and encumbrances related to the position and the Office of Address Confidentiality Program with the Office of the Secretary of State shall be transferred to the Office of the Attorney General. All personnel shall retain their employment position and status as unclassified employees, any leave, sick and annual time earned, and any retirement and longevity benefits which have accrued during tenure with the Office of the Secretary of State.

SECTION 2. This act shall become effective July 1, 2008.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 6th day of March, 2008.

Presiding Officer of the House of
Representatives

Passed the Senate the 16th day of April, 2008.

Presiding Officer of the Senate