

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2638

By: Peters

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5
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending
8 Section 1, Chapter 415, O.S.L. 2002 (22 O.S. Supp.
9 2007, Section 60.14), which relates to the Protection
10 from Domestic Abuse Act; transferring the Address
11 Confidentiality Program from the Office of the
12 Secretary of State to the Office of the Attorney
13 General; changing agency designation; allowing
14 certain persons to apply to the program; modifying
15 cancellation procedures; requiring certain mail be
16 forwarded at no cost to program participants;
17 modifying certain record keeping requirements;
18 prohibiting disclosure of certain information;
19 expanding list of entities designated by the Attorney
20 General to assist program participants; specifying
21 certain persons as application assistants;
22 authorizing Attorney General to enter into certain
23 agreements; transferring administrative rules to the
24 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.

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

1 SECTION 1. AMENDATORY Section 1, Chapter 415, O.S.L.
2 2002 (22 O.S. Supp. 2007, Section 60.14), is amended to read as
3 follows:

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

17 B. As used in this section:

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

22 2. "Program participant" means a person certified as a program
23 participant under this section;

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

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

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

12 D. 1. ~~Upon the creation of the Address Confidentiality Program~~
13 ~~Office, an~~ An adult person, a parent or guardian acting on behalf of
14 a minor, or a guardian acting on behalf of an incapacitated person,
15 as defined by Section 1-111 of Title 30 of the Oklahoma Statutes,
16 may apply to the ~~Secretary of State~~ Attorney General to have an
17 address designated by the ~~Secretary of State~~ Attorney General serve
18 as the address of the person or the address of the minor or
19 incapacitated person. The ~~Secretary of State~~ Attorney General shall
20 approve an application if it is filed in the manner and on the form
21 prescribed by the ~~Secretary of State~~ Attorney General and if it
22 contains:

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

1 (1) that the applicant, or the minor or incapacitated
2 person on whose behalf the application is made,
3 is a victim of domestic abuse, sexual assault, or
4 stalking, and

5 (2) that the applicant fears for the safety of self
6 or children, or the safety of the minor or
7 incapacitated person on whose behalf the
8 application is made,

9 b. a designation of the ~~Secretary of State~~ Attorney
10 General as agent for purposes of service of process
11 and for the purpose of receipt of mail,

12 c. the mailing address where the applicant can be
13 contacted by the ~~Secretary of State~~ Attorney General,
14 and the phone number or numbers where the applicant
15 can be called by the ~~Secretary of State~~ Attorney
16 General,

17 d. the new address or addresses that the applicant
18 requests not be disclosed for the reason that
19 disclosure will increase the risk of domestic abuse,
20 sexual assault, or stalking, and

21 e. the signature of the applicant and ~~of a representative~~
22 ~~of any office designated a referring agency under~~
23 ~~subsection C of this section~~ application assistant who
24 assisted in the preparation of the application, and

1 the date on which the applicant signed the
2 application.

3 2. An adult or minor child who resides with the applicant who
4 also needs to be a program participant in order to ensure the safety
5 of the applicant may apply. Each adult living in the household must
6 complete a separate application. An adult may apply on behalf of a
7 minor.

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

10 ~~3-~~ 4. Upon filing a properly completed application, the
11 ~~Secretary of State~~ Attorney General shall certify the applicant as a
12 program participant. Applicants shall be certified for four (4)
13 years following the date of filing unless the certification is
14 withdrawn or invalidated before that date. The ~~Secretary of State~~
15 Attorney General shall by rule establish a renewal procedure.

16 ~~4-~~ 5. A person who falsely attests in an application that
17 disclosure of the address of the applicant would endanger the safety
18 of the applicant or the safety of the children of the applicant or
19 the minor or incapacitated person on whose behalf the application is
20 made, or who knowingly provides false or incorrect information upon
21 making an application, may be found guilty of perjury under Sections
22 500 and 504 of Title 21 of the Oklahoma Statutes.

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

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

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

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

14 F. 1. A program participant may request that state and local
15 agencies use the address designated by the ~~Secretary of State~~
16 Attorney General as the address of the participant. When creating a
17 new public record, state and local agencies shall accept the address
18 designated by the ~~Secretary of State~~ Attorney General as a
19 substitute address for the program participant, unless the ~~Secretary~~
20 ~~of State~~ Attorney General has determined that:

- 21 a. the agency has a bona fide statutory or administrative
22 requirement for the use of the address which would
23 otherwise be confidential under this section, and
24

1 b. this address will be used only for those statutory and
2 administrative purposes.

3 2. A program participant may use the address designated by the
4 ~~Secretary of State~~ Attorney General as a work address.

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

11 G. The ~~Secretary of State~~ Attorney General may not make any
12 records in a file of a program participant available for inspection
13 or copying, other than the address designated by the ~~Secretary of~~
14 ~~State~~ Attorney General, except under the following circumstances:

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

17 2. To verify the participation of a specific program
18 participant to a state or local agency, in which case the ~~Secretary~~
19 ~~of State~~ Attorney General may only confirm information supplied by
20 the requester.

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

1 H. ~~The Secretary of State~~ Attorney General shall designate
2 state and local agencies, federal government, federally recognized
3 tribes, and nonprofit agencies to assist persons in applying to be
4 program participants. A volunteer or employee of a designated
5 entity that ~~provide~~ provides counseling and, referral, shelter, or
6 other services to victims of domestic abuse, sexual assault, or
7 stalking to assist persons applying to be program participants and
8 has been trained by the Attorney General shall be known as an
9 application assistant. Any assistance and counseling rendered by
10 the Office of the ~~Secretary of State~~ Attorney General or ~~its~~
11 ~~designees~~ an application assistant to applicants shall in no way be
12 construed as legal advice.

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

18 J. Effective July 1, 2008, all administrative rules promulgated
19 by the Office of the Secretary of State to implement this program
20 shall be transferred to and become part of the administrative rules
21 of the Office of the Attorney General. The Office of Administrative
22 Rules in the Office of the Secretary of State shall provide adequate
23 notice in the Oklahoma Register of the transfer of such rules, and
24 shall place the transferred rules under the Administrative Code

1 section of the Attorney General. Such rules shall continue in force
2 and effect as rules of the Office of the Attorney General from and
3 after July 1, 2008, and any amendment, repeal or addition to the
4 transferred rules shall be under the jurisdiction of the Attorney
5 General. The ~~Secretary of State~~ Attorney General shall adopt and
6 promulgate rules to implement this program, as applicable.

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

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

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

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24 51-2-8947 GRS 01/08/08