

FINAL BILL REPORT

SHB 1421

C 18 L 08

Synopsis as Enacted

Brief Description: Modifying address confidentiality program provisions.

Sponsors: By House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Green, Miloscia, Kretz, Armstrong, Appleton, Kessler, Ormsby, Warnick and Moeller; by request of Secretary of State).

House Committee on State Government & Tribal Affairs
Senate Committee on Government Operations & Elections

Background:

The Address Confidentiality Program (ACP) allows victims of domestic violence, sexual assault, or stalking to have an alternative address designated as his or her substitute mailing address. The ACP also allows state and local agencies to comply with requests for public records without disclosing the confidential location of a victim.

In order to become a participant in the ACP, a person must submit an application to the Secretary of State (Secretary). The Secretary must approve any application that includes:

- a sworn statement from the applicant that he or she is a victim of domestic violence, sexual assault, or stalking, and fears for his or her safety or the person's children's safety;
- a designation of the Secretary as the applicant's agent for purposes of service of process and receipt of mail;
- the mailing address and phone number where the applicant can be contacted by the Secretary;
- the address that the applicant requests be kept confidential; and
- the applicant's signature.

Applicants are certified as program participants for four years, subject to renewal, withdrawal, or invalidation.

A program participant who is qualified to vote may apply to receive ongoing absentee ballots for all elections in the jurisdiction for which that participant resides. The county auditor (auditor) is required to send absentee ballots to the participant at the address designated by the participant in his or her absentee ballot application. The auditor may not release the participant's address pursuant to a public records request except when the request is by a law enforcement agency or pursuant to court order. The name and address of a program participant is excluded from any list of registered voters available to the public. Other than the alternate address designated by the Secretary, information in the participant's file is not subject to disclosure except in the following circumstances: if the request is made by a law

enforcement agency or directed by court order, or for purposes of verifying that a person is a participant in the ACP.

The Secretary may cancel a person's participation in the ACP if the participant's residential address changes and he or she fails to give the Secretary at least seven days notice of the address change, or if mail forwarded by the Secretary to the participant is returned as non-deliverable. The Secretary must cancel a person's participation in the ACP if the participant changes his or her name or if the participant provides false information in the application.

Summary:

A definition for "stalking" is added to the ACP statute. "Stalking" has the same meaning as used in the criminal statutes on harassment, and also includes the threat of being stalked, regardless of whether the acts of stalking or threats of stalking have been reported to law enforcement officers.

A person who applies to participate in the ACP must include an address where the applicant can be contacted by the Secretary.

The Secretary may cancel a person's participation in the ACP if there is a change in the person's residential address but he or she fails to notify the Secretary in writing within at least two days of the address change. A participant in the ACP loses certification as a participant if he or she obtains a legal change of identity.

Except for the address designated by the Secretary, a participant's records may only be released by the Secretary and pursuant to court order.

The sworn statement by the applicant for the ACP is made under penalty of perjury. If applicable, a sworn statement is made, also under the penalty of perjury, by the applicant for the ACP that the applicant has reason to believe he or she is a victim of domestic violence, sexual assault, or stalking perpetrated by an employee of a law enforcement agency.

If requested by a law enforcement agency, the Secretary may make a participant's file available to the law enforcement agency if the participant did not indicate that the perpetrator of the domestic violence, sexual assault, or stalking was a law enforcement employee. This request must be in accordance with official law enforcement duties, be in writing on official law enforcement letterhead, and signed by the law enforcement agency's chief officer or designee. The Secretary may make a participant's file available under court order, to the person identified in the order, if the request is made by a non-law enforcement agency or when the participant's file indicates he or she has reason to believe the perpetrator of the domestic violence, sexual assault, or stalking is a law enforcement employee.

A court order for the ACP program participants may only be issued upon a probable cause finding by a judicial officer that the release of the ACP participant's information is legally necessary in the course of a criminal investigation or prosecution, or to prevent the immediate risk to a minor and meets the statutory requirements of Washington's child welfare system.

Obsolete references to "service voter" are replaced with current "absentee voter" designations.

Votes on Final Passage:

House	96	0
House	96	0
Senate	49	0

Effective: June 12, 2008