ADDRESS CONFIDENTIALITY PROGRAM ACT

Act 301 of 2020

AN ACT to create the address confidentiality program; to provide certain protections for victims of domestic violence, sexual assault, stalking, or human trafficking and for certain other individuals; to prescribe duties and responsibilities of certain state departments; to require the promulgation of rules; to create a fund; to prohibit the disclosure of certain information and obtaining a certification under this act by fraud; and to prescribe penalties.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020

The People of the State of Michigan enact:

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780.851 Short title.

Sec. 1.

This act shall be known and may be cited as the "address confidentiality program act".

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020

780.853 Definitions.

Sec. 3.

As used in this act:

(a) "Application assistant" means an employee or volunteer at an agency or organization that serves victims of domestic violence, stalking, human trafficking, or sexual assault who has received training and certification from the department of the attorney general to help individuals complete applications to become program participants.

(b) "Confidential address" means the address of a program participant's residence, as specified on an application to be a program participant or on a notice of change of information as provided under section 5 that is classified confidential by the department of the attorney general.

(c) "Designated address" means the mailing address at which the department of technology, management, and budget receives mail to forward to program participants.

(d) "Domestic violence" means the occurrence of any of the following acts by a person that is not an act of self-defense:

(i) Causing or attempting to cause physical or mental harm to a family or household member.

(ii) Placing a family or household member in fear of physical or mental harm.

(iii) Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress.

(iv) Engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(e) "Family or household member" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(f) "Governmental entity" means this state, a local unit of government, or any department, agency, board, commission, or other instrumentality of this state or a local unit of government.

(g) "Guardian of a ward" means a person who has qualified as a guardian of a legally incapacitated individual under a court appointment.

(h) "Human trafficking" means a violation of chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h.

(i) "Law enforcement agency" means that term as defined in section 2 of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.602.

(j) "Local unit of government" means a city, village, township, or county in this state.

(k) "Minor" means an individual under the age of 18 who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6.

(l) "Municipally owned utility" means electric, gas, or water services provided by a municipality.

(m) "Program" means the address confidentiality program created under this act.

(n) "Program participant" means an individual who is certified by the department of the attorney general as a program participant under section 5.

(o) "Sexual assault" means a violation, attempted violation, or solicitation or conspiracy to commit a violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(p) "Stalking" means that term as defined in section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.

(q) "Victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as the result of a commission of a crime.

(r) "Victim advocate" means an employee of the department of the attorney general, the department of state, or the department of technology, management, and budget, or an employee of a county prosecutor's office, who has received training and certification from the department of the attorney general to help individuals complete applications to become program participants, and who is available to help individuals complete the applications and is responsible for assisting program participants in navigating through and accessing all aspects of the program.

(s) "Ward" means that term as defined in section 1108 of the estates and protected individuals code, 1998 PA 386, MCL 700.1108.

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History: 2020, Act 301, Imd. Eff. Dec. 29, 2020

780.855 Address confidentiality program; creation; eligibility; application; duties of attorney general; certification of program participant; renewal or cancellation; minor; participation card; applicability to custody or parenting order.

Sec. 5.

(1) Subject to section 19(4), the address confidentiality program is created in the department of the attorney general.

(2) Except for an individual described in subsection (13), the following individuals are eligible to apply to the program and may submit an application, with the assistance of an application assistant or a victim advocate, for certification as a program participant by the department of the attorney general:

(a) If changing his or her residence, an individual who is 18 years of age or older or is an emancipated minor under 1968 PA 293, MCL 722.1 to 722.6.

(b) If changing the residence of a minor, a legal parent or the guardian of the minor appointed by a court.

(c) If the residence of a ward is changing, the guardian of that ward if the guardian is granted the power to apply by a court under section 5306 of the estates and protected individuals code, 1998 PA 386, MCL 700.5306.

(3) The application under subsection (2) must be filed with the department of the attorney general in the manner and form prescribed by the department of the attorney general and must contain the following:

(a) A notarized statement that meets 1 of the following requirements:

(i) If the applicant is an individual described under subsection (2)(a), a statement by that individual that disclosure of the address provided under subdivision (d) will increase the risk that he or she will be threatened or physically harmed by another person or that the individual is a victim of domestic violence, stalking, human trafficking, or sexual assault.

(ii) If the applicant is the legal parent of a minor or the guardian of a minor appointed by a court, a statement by that parent of a minor or guardian that disclosure of the address provided under subdivision (d) will increase the risk that the minor will be threatened or physically harmed by another person or that the parent or guardian, or the minor, is a victim of domestic violence, stalking, human trafficking, or sexual assault.

(iii) If the applicant is the guardian of a ward as provided under subsection (2)(c), a statement by that guardian that the disclosure of the address provided under subdivision (d) will increase the risk that the ward will be threatened or physically harmed by another person or that the ward is a victim of domestic violence, stalking, human trafficking, or sexual assault.

(b) A knowing and voluntary designation of the department of technology, management, and budget as the agent for the purposes of receiving mail and service of process.

(c) The mailing address, telephone number, and electronic mail address, if applicable, at which the department of the attorney general, the department of state, or the department of technology, management, and budget, may contact the individual, minor, or ward.

(d) The address of residence that the applicant requests not be disclosed.

(e) The signature of the applicant, the name and signature of the application assistant or victim advocate who assisted the applicant, and the date the application was signed.

(4) The application under subsection (2) may provide an option for an applicant to select the type of victimization the applicant believes warrants the need for participation in the program. The department of the attorney general may not consider information provided or withheld under this subsection in certifying a program participant.

(5) The department of the attorney general shall do all of the following after an individual, the parent or guardian of a minor, or a guardian of a ward files a completed application:

(a) Except as provided in subsection (6), certify the individual, minor, or ward as a program participant.

(b) Issue the program participant a unique identification number and a participation card.

(c) Classify each eligible address listed in the application as a confidential address.

(d) Provide the program participant with information concerning the manner in which the program participant may use the department of technology, management, and budget as the agent of the program participant for the purposes of receiving mail and service of process.

(e) If the program participant is eligible to vote, provide the program participant with information concerning the process to register to vote and to vote as a program participant under the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

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(f) Provide the program participant with information concerning the procedure from which the program participant will receive a corrected operator's or chauffeur's license under section 310f of the Michigan vehicle code, 1949 PA 300, MCL 257.310f, a corrected enhanced driver license or enhanced official state personal identification card under section 4 of the enhanced driver license and enhanced official state personal identification card act, 2008 PA 23, MCL 28.304, or a corrected official state personal identification card under section 2a of 1972 PA 222, MCL 28.292a.

(g) Provide the program participant with information regarding methods to protect a confidential address, including, but not limited to, information regarding the risks of disclosing the confidential address to other persons and the risks of using social media and other similar electronic technologies, including geotagging photographs; and other information that the attorney general determines would help the program participant protect his or her confidential address.

(6) An individual, minor, or ward must not be certified as a program participant if the department of the attorney general knows the confidential address provided in the application as described in subsection (3)(d) is an address that has been provided to the secretary of state for that individual, minor, or ward.

(7) A program participant shall update information provided in an application within 30 days after a change to that information has occurred by submitting a notice of change of information to the department of the attorney general on a form prescribed by the department of the attorney general.

(8) Unless the certification is canceled under section 9, the certification of a program participant is valid for 4 years from the date listed on the application under subsection (3), on the renewal application under subsection (10), or on the certification continuance application under subsection (11).

(9) The department of the attorney general may, with proper notice, cancel the certification of a program participant as provided under section 9.

(10) A program participant who continues to be eligible to participate in the program may renew the certification of the program participant. The renewal application must be on a form prescribed by the department of the attorney general and must meet the requirements under subsections (2) and (3). A renewal of certification of the program participant must not alter the unique identification number issued under subsection (5)(b).

(11) If a program participant certified as a minor becomes 18 years of age or older while his or her certification remains valid, the department of the attorney general shall mail a certification continuance application to that program participant. The certification continuance application must be on a form prescribed by the department of the attorney general, must meet the requirements under subsections (2) and (3), and must inform the program participant of his or her right to choose to continue or discontinue in the program. The program participant may continue certification as a program participant after becoming 19 years of age by completing the certification continuance application with the assistance of an application assistant or victim advocate and filing the application before the program participant becomes 19 years of age.

(12) An application submitted under this act and the information of a program participant described under section 15(1) is confidential, is not a public record, is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and may only be disclosed as authorized under this act.

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(13) An offender who is required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, is not eligible to submit an application and must not be certified as a program participant.

(14) The department of the attorney general shall create a participation card for the program. A participation card must contain the name and unique identification number of a program participant, and the designated address.

(15) The certification of a minor as a program participant does not prohibit a parent or guardian from voluntarily disclosing the minor's confidential address.

(16) The certification of a minor as a program participant does not amend or affect the enforceability of a custody or parenting time order issued by a court of competent jurisdiction, affect a parent's right to initiate a child custody action or use friend of the court services, or otherwise limit a court's authority in a child custody action.

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History: 2020, Act 301, Imd. Eff. Dec. 29, 2020

780.857 Use of designated address by governmental entity, employer, school, or institution of higher education; mail and service of process duties; inapplicable to municipally owned utility.

Sec. 7.

(1) A program participant may request that a governmental entity use the designated address as the program participant's address. Except as otherwise provided in subsection (6) and in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, if a request is made under this subsection, a governmental entity shall use the designated address. The program participant may provide his or her participation card as proof of his or her certification as a program participant.

(2) If a program participant's employer, school, or institution of higher education is not a governmental entity, the program participant may request that the employer, school, or institution of higher education use the designated address as the program participant's address.

(3) The department of technology, management, and budget shall, on each day the department of technology, management, and budget is open for business, place all first-class, registered, or certified mail of a program participant that the department of technology, management, and budget receives into an envelope or package and mail that envelope or package to the program participant at the mailing address the program participant provided on the application under section 5(3)(c) for that purpose. The department of technology, management, and budget may contract with the United States Postal Service for special rates for the mail forwarded under this subsection. Service by mail under this subsection of court papers, other than service of process, is complete 3 mailing days after the department of technology, management, and budget forwards the mail to the program participant.

(4) Upon receiving service of process on behalf of a program participant, the department of technology, management, and budget shall immediately forward the process by certified mail, return receipt requested, to the program participant at the mailing address the program participant provided on the application under section 5(3)(c) for that purpose.

(5) If a person intends to serve process on an individual and makes an inquiry with the department of the attorney general or the department of technology, management, and budget to determine if the individual is a program participant, the department of the attorney general or the department of technology, management, and budget shall only confirm that the

individual is or is not a program participant and, except as otherwise allowed under this subsection, must not disclose further information regarding the program participant. If process has been forwarded to a program participant under subsection (4), the department of technology, management, and budget shall disclose the date of mailing to the person attempting to serve the program participant.

(6) Subsection (1) does not apply to a municipally owned utility. The confidential address of a program participant that is maintained by a municipally owned utility must not be released, and is not a public record and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020

780.859 Cancellation of program participant certification; circumstances.

Sec. 9.

(1) The department of the attorney general may cancel the certification of a program participant if the program participant is not reachable at the mailing address, telephone number, and any electronic mail address provided under section 5(3)(c) for 60 or more days.

(2) The department of the attorney general shall cancel the certification of a program participant in any of the following circumstances:

(a) The program participant's application contained 1 or more false statements.

(b) The program participant or the legal parent of or a guardian appointed by a court for a minor that is a program participant or the guardian of a ward that is a program participant files a notarized request for cancellation on a form prescribed by the department of the attorney general.

(c) The program participant fails to file a renewal application while the initial certification as a program participant is valid as provided in section 5(8). The department of the attorney general may promulgate a rule to provide for a grace period.

(d) The program participant fails to file a continuance application required under section 5(11) before the program participant becomes 19 years of age.

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History: 2020, Act 301, Imd. Eff. Dec. 29, 2020

780.861 Request for disclosure of confidential information for legitimate governmental purpose; notice of request to program participant.

Sec. 11.

(1) A department of this state, a law enforcement agency, or a local unit of government may request the department of the attorney general to provide the confidential address, telephone number, and electronic mail address of a program participant if the requesting department of this state, a law enforcement agency, or a local unit of government requires access to the confidential address, telephone number, or electronic mail address of the program participant for a legitimate governmental purpose. A request may only be submitted under this subsection if the department of this state, the law enforcement agency, or the local unit of government was unsuccessful in contacting the program participant using the designated address. Upon

receiving a request under this subsection, the department of the attorney general shall confirm whether an individual, minor, or ward is a program participant but may not disclose further information except as provided under subsections (3) and (4).

(2) Upon the filing of a request under this section and if the program participant is not identified in the request as a suspect in a criminal investigation, the department of the attorney general shall promptly provide the program participant with notice of the request.

(3) Subject to subsection (4), the department of the attorney general may grant the request submitted under subsection (1) if the department of the attorney general determines that disclosure of the confidential address, telephone number, or electronic mail address of the program participant to the requesting department of this state, law enforcement agency, or local unit of government is necessary for a legitimate governmental purpose.

(4) If a request submitted under subsection (1) is for the confidential address, telephone number, or electronic mail address of a minor, the department of the attorney general must consider if disclosure of the information requested is harmful to the program participant.

(5) Except as otherwise provided under section 21(2), a person who receives a confidential address, telephone number, or electronic mail address of a program participant under this section shall not disclose that information to another person.

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History: 2020, Act 301, Imd. Eff. Dec. 29, 2020

780.863 Certification training program for application assistants and victim advocates.

Sec. 13.

(1) The department of the attorney general shall develop and offer a training program for application assistants and victim advocates to obtain certification under this act.

(2) The department of the attorney general shall certify a person applying for certification as an application assistant or as a victim advocate under this act if that person has completed the training program under subsection (1). The department of the attorney general shall make available on its website the names and contact information of the application assistants and victim advocates.

(3) An application assistant or victim advocate who provides assistance in accordance with this act does not violate section 916 of the revised judicature act of 1961, 1961 PA 236, MCL 600.916.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020

780.865 Computerized database of program participants; limited access by Michigan intelligence operations center.

Sec. 15.

(1) The department of the attorney general must create and maintain a computerized database that contains the name, unique identification number, confidential address, mailing address, telephone number, and any electronic mail address of each program participant. The database must also include information described in section 5(4) that is provided on an application. The department of the attorney general, the department of technology,

management, and budget, and the department of state may have access to the database as required to implement this act.

(2) The department of the attorney general must ensure the database under subsection (1) immediately provides the department of technology, management, and budget and the department of state, upon the certification of a program participant, the information listed in subsection (1), and upon the cancellation of a certification of a program participant under section 9, that status.

(3) The Michigan intelligence operations center in the department of state police shall only access the database created under subsection (1) in exigent circumstances and provide a program participant's information to a law enforcement agency if the center receives all of the following information from the law enforcement agency requesting the information:

(a) The originating agency identifier.

(b) A description of the exigent circumstances that require the disclosure of information from the database.

(c) The law enforcement agency's incident report number associated with the exigent circumstances described under subdivision (b).

(d) Whether the program participant is a suspect in a criminal investigation related to the exigent circumstances described under subdivision (b).

(4) The department of state police shall promptly provide the department of the attorney general with notice if a program participant's information is provided to a law enforcement agency under subsection (3). If the program participant is not identified as a suspect in a criminal investigation, the department of the attorney general shall promptly forward the notice to the program participant.

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History: 2020, Act 301, Imd. Eff. Dec. 29, 2020

780.867 Promulgation of rules.

Sec. 17.

The department of the attorney general may, in consultation with the Michigan domestic and sexual violence prevention and treatment board, the department of technology, management, and budget, and the department of state, promulgate rules to implement this act in compliance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020

780.869 Confidential address fund.

Sec. 19.

(1) The confidential address fund is created in the state treasury. The fund must be administered by the attorney general.

(2) The state treasurer may receive money and assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year must remain in the fund and must not lapse to the general fund.

(4) The department of the attorney general shall develop and implement the program not more than 2 years after an appropriation is made to the fund to develop and implement the program.

(5) The department of the attorney general shall expend money from the fund, upon appropriation, for the purpose of administering the program.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020

780.871 False statement or unauthorized disclosure; violation; penalties.

Sec. 21.

(1) A person shall not knowingly make a false statement in an application submitted under section 5.

(2) Except as otherwise provided by law, a person that is authorized under this act to access a confidential address, telephone number, or electronic mail address of a program participant or that is provided access to a confidential address, telephone number, or electronic mail address of a program participant under section 11 or 15(3) shall not knowingly disclose that confidential address, telephone number, or electronic mail address to any other person unless the disclosure is authorized under this act.

(3) A person that violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

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History: 2020, Act 301, Imd. Eff. Dec. 29, 2020

780.873 Address confidentiality program advisory council.

Sec. 23.

(1) The department of the attorney general shall establish an address confidentiality program advisory council composed of the following members:

(a) The attorney general, or his or her designee.

(b) The director of the department of technology, management, and budget, or his or her designee.

(c) The secretary of state, or his or her designee.

(d) The executive director of the Michigan Coalition to End Domestic and Sexual Violence, or his or her designee.

(e) The executive director of the Michigan domestic and sexual violence prevention and treatment board, or his or her designee.

(f) A representative of the state court administrative office.

(g) A representative of a unit of local government.

(2) Not later than 4 years after the effective date of this act, the first meeting of the advisory council must be called by the member described under subsection (1)(a).

(3) Except as provided in subsection (6), information collected by the advisory council under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) The advisory council shall not deliberate toward or render a decision on public policy, and a meeting of the advisory council is not a meeting of a public body under the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(5) Members of the advisory council shall serve without compensation. However, members of the advisory council may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the advisory council.

(6) The advisory council shall study the operations of and evaluate the program, and prepare and submit a report to the legislature of the findings. The advisory council shall not include in the report the name, confidential address, telephone number, or electronic mail address of a program participant or any other information that could reasonably be expected to identify a program participant. The report submitted under this subsection must be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020

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