

**Safe at Home Address Confidentiality Program**  
Effective Date: June 25, 2001 (Secretary of State # 01-35)

A. Statement of Purpose

These rules are promulgated pursuant to the address confidentiality statute (15 V.S.A. § 1150-1160, 18 V.S.A. § 5083 & 5132, 17 V.S.A. § 2122 & 2126) and 3 V.S.A. § 831 et seq.

B. Definitions

- 1) "Actual address" means the physical location where the applicant resides and may include a school address, or work address of an individual, as specified on the individual's application to be a program participant.
- 2) "Agency" means any subdivision of the state of Vermont, a municipality, or a subdivision of a municipality.
- 3) "Application assistant" means an employee of a state or local agency, or of a non-governmental agency or program that provides counseling, referral, or shelter services to victims of sexual assault, domestic violence, or stalking, who has been designated by their respective program, and who has been registered with the Secretary of State to assist individuals in the completion of program participation applications.
- 4) "Blind ballot voter" means a program participant who has applied and qualified as a voter in a town in accordance with the rules herein. The blind ballot voter's name will not appear on a checklist and the town clerk will send absentee voter ballots to the Secretary of State's office in accordance with the rules herein.
- 5) "Bona fide purpose" means a statutory or administrative requirement the agency is unable to fulfill without possession of an individual's actual address.
- 6) "Cancelled" means the status of a person who is no longer certified in the SAH program.
- 7) "Domestic violence" means an act of abuse as defined in subdivision 1101(1) of Title 15 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.
- 8) "Law enforcement agency" means:
  - (i) the Department of Public Safety, a municipal police department, a sheriff's department, the Attorney General's office, a State's Attorney's office, and certified law enforcement officers employed by the Department of Motor Vehicles, the Agency of

Natural Resources, or the Department of Liquor Control, and,

(ii) the Department of Social and Rehabilitation Services when the Department is engaged in:

a) the investigation of child abuse and neglect;

b) the delivery of services to families and children that the department is working with pursuant to the provisions of chapter 55 of Title 33; or

c) the performance of the department's responsibilities pursuant to an interstate compact to which the state is a party.

9) "Law enforcement purpose" means all matters relating to:

(A) the prevention, investigation, prosecution, or adjudication of criminal offenses, civil matters, or juvenile matters;

(B) the investigation, prosecution, adjudication, detention, supervision, or correction of persons suspected, charged, or convicted of criminal offenses or juvenile delinquencies;

(C) the protection of the general health, welfare, and safety of the public or the state of Vermont;

(D) the execution and enforcement of court orders;

(E) service of criminal or civil process or court orders;

(F) screening for criminal justice employment;

(G) other actions taken in performance of official duties, as set forth by statutes, rules, policies, judicial case law, and the United States and Vermont constitutions; and

(H) criminal identification activities, including the collection, storage, and dissemination of criminal history records, as defined in subdivision 2056a(a)(1) of Title 20, sex offender registry information, and DNA material and information.

10) "Program participant" means a person certified as a program participant in the address confidentiality program in accordance with the rules herein.

11) "Public record" means a public record as defined in 1 V.S.A. § 317.

12) "Resident" means an individual domiciled in the state of Vermont as evidenced by an intent to maintain a dwelling place in Vermont indefinitely and to return there if temporarily absent, coupled with an act or acts consistent with that intent.

13) "Safe At Home (SAH)" means the address confidentiality program created pursuant to 15 V.S.A. § 1150 et seq. within the Vermont Secretary of State's Office.

14) "Secretary" means the Secretary of State.

15) "Sexual assault" means an act of assault as defined in subsection 3252(a) or (b) (sexual assault) or in subsection 3253(a) (aggravated sexual assault) of Title 13, and includes a threat of such acts, regardless of whether these acts or threats have been reported to law enforcement officers.

16) "Stalking" means conduct as defined in section 1061(stalking) or in section 1063 (aggravated stalking) of Title 13, and includes a threat of such acts, regardless of whether these acts or threats have been reported to law enforcement officers.

17) "Substitute address" means the Secretary's designated address for the address confidentiality program.

18) "Vital record" means any record of birth, death, marriage, civil union, annulment or divorce held by the Department of Health.

#### C. Program Eligibility

1) An applicant must be a resident of Vermont and have recently relocated or plan to relocate in the next few weeks to a location unknown to the abuser.

2) An applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault or stalking.

3) The parent or legal guardian applying on behalf of a minor or incapacitated person must have legal authority to act on the person's behalf.

4) If the applicant is under the supervision of the Department of Corrections, the applicant has notified the Department of the actual address and the applicant authorizes the release of the actual address to the Department.

5) If the applicant is required to report the actual address for the sex offender registry under subchapter 3 of chapter 167 of Title 13, the applicant authorizes the release of the actual address to the registry.

#### D. Application Assistants

1) Any person may apply to the Secretary to become an application assistant. If the request is approved by the Secretary, that person shall be designated by the Secretary as an application assistant. Application assistants shall provide their name and the name and phone number of the government agency or non-governmental agency or program of which they are employed or affiliated, and when appropriate, the address of the agency or

program.

2) Agency or program directors shall approve employee designations prior to application assistant registration. All persons must be registered with the Secretary to serve as application assistants. Application assistants' registrations shall be renewed annually.

3) Application assistants must be trained, and the training shall include, but is not limited to, the application process, program components, program guidelines, program limitations, and the importance of safety planning.

4) The SAH program shall provide application assistants with all necessary application materials.

#### E. Application Process

1) Prospective participants may obtain SAH applications at local domestic violence or sexual assault programs, from victim advocates, or from any other application assistant.

2) Applicants must be given orientation information about the SAH program from an application assistant.

3) Application assistants shall request one or more forms of identification from program applicants. Upon request by the application assistant, a program participant shall provide identification to the application assistant that establishes the applicant's identity to the satisfaction of the application assistant. In the event that a program participant cannot provide such identification due to exigent circumstances, the Secretary may temporarily approve the application absent the identification if the application is otherwise properly completed. The application shall be temporarily approved for no more than 45 days upon which the participant must provide identification to the application assistant or Secretary.

4) A properly completed application form shall contain the following information:

(a) the applicant's name and date of birth, and the name and date of birth of the minor or incapacitated person on whose behalf the application is made; and

(b) (1) a statement made by the applicant that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault or stalking; and

(2) a statement made by the applicant that the applicant fears for her or his safety or her or his children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made; and

(c) a designation of the Secretary as agent for purposes of service of process and for the purpose of receipt of first-class mail; and

- (d) the actual address or addresses that the applicant requests not be disclosed; and
- (e) the phone number or numbers where the applicant can be called by the Secretary; and
- (f) the name and phone number of the application assistant, and the name of the respective program or agency, and the date on which the applicant signed the application; and
- (g) the applicant's signature; and
- (h) a signed statement that the applicant has read and understands the checklist of participant responsibilities; and
- (i) a statement made under oath that the applicant has affirmed under the penalties of perjury that the information on the application is true and accurate.

5) An application shall be considered properly completed when the application form is completed in accordance with 4) above and the following requirements are otherwise met:

- a) All household members living in one location shall file a single application including each co-applicant's name, date of birth, and relationship to applicant; and
- b) Applicants must sign an authorization card form for themselves and for each minor child or incapacitated person included on the application; and
- c) Applications shall be filed with the Secretary via first-class mail, in person, or fax provided that a hard copy is sent within 7 days following the fax transmittal.
- d) The legal guardian, if any has provided official copies of her or his appointment from probate court, and all orders that set forth the guardian's duties; and
- e) In emancipation situations, the minor has provided an official copy of the emancipation order.

#### F. Program Certification

- 1) Upon receipt of a properly completed application, the Secretary shall certify the applicant as a program participant.
- 2) An authorization card shall be issued within five working days after the application is received by the Secretary and the Secretary has certified the participant. The SAH program shall issue a program participant authorization card to each individual named on the completed application form. The authorization card shall include the program participant's name, authorization code, substitute mailing address, certification expiration date, applicant's signature, toll free number of the SAH program, and a statement that the

authorization card is not a legal form of identification.

3) Applicants shall be certified for four years following the date of certification, unless the certification is withdrawn or cancelled before that date.

4) A program participant shall notify the Secretary of any change of actual address or phone number within seven days of the change.

#### G. Certification Renewal

1) A program participant may renew her or his program certification by filing with the SAH program:

(a) a copy of her or his current authorization card or a statement that the authorization card has been lost or destroyed; and

(b) a properly completed certification renewal form, which shall require the applicant to provide all the information as set forth in E. 4 above; and

(c) documents and information set forth in E. 5) above.

2) If an applicant meets the requirements noted in section G. above, the SAH program shall:

(a) certify a program participant who has filed a properly completed certification renewal form to participate in the program for an additional four year term unless the certification is withdrawn or cancelled before that date.

(b) notify in writing the supervisor of Vital Records Registration if the participant has a protected birth, death, marriage, civil union, divorce or annulment record in the Health Department.

#### H. Certification Withdrawal

1) Upon receipt of a request for withdrawal, the Secretary shall ensure withdrawal is not coerced by using a secure method, which may include phone calls to the participant or application assistant, an investigation, or by requesting documents that support the withdrawal and to confirm the identity of the program participant.

2) Upon determination of withdrawal by the Secretary, if the withdrawn participant;

(a) has a protected birth, death, marriage, civil union, divorce or annulment record, the Secretary shall notify the supervisor of Vital Records Registration of the participant's withdrawal in writing. Upon receipt of the withdrawal notification, the supervisor of Vital Records Registration shall revise the record to reflect the participant's actual address as of the day the record was created. The supervisor of Vital Records Registration shall

transmit all appropriate vital records pertaining to the program participant to the appropriate town clerk's office, and will no longer be responsible for maintaining the confidentiality of a withdrawn program participant's record.

(b) was a blind ballot absentee voter, it shall be the program participant's responsibility to reapply for addition to the voter checklist in the town where she or he resides. The Secretary shall notify the clerk in the town where the program participant resided that the participant no longer qualifies for blind ballot voter privileges.

#### I. Certification Cancellation

1) The Secretary may cancel a program participant's certification if, after the passage of 14 days:

(a) from the date of changing her or his name, the program participant does not notify the Secretary that she or he has obtained a name change. The program participant may reapply under her or his new name by returning the old SAH authorization card, a new completed SAH application, and an identification card form reflecting the name change. If the program participant obtained a legal name change through any court proceeding or through marriage or civil union, the participant shall provide a copy of the court order or appropriate certificate; or

(b) from the date of changing her or his actual address, the program participant fails to notify the Secretary of the change of address; or

(c) from the date that mail forwarded to the program participant's actual address is returned as nondeliverable to the Secretary.

2) The Secretary shall cancel program certification if it has been determined that false information has been provided on an application.

3) The Secretary may cancel a program participant's certification if the program participant's certification term has expired and certification renewal has not been completed.

4) The Secretary shall notify the program participant that she or he has been cancelled from the SAH program by a method determined by the Secretary most likely to result in contact with the program participant by first-class mail and phone calls, or other methods reasonably likely to provide notice.

(a) Notice of cancellation shall set out the reasons for cancellation. The program participant shall have 30 days from the date of cancellation notice to appeal the cancellation decision by submitting in writing to the Secretary a request to reverse the cancellation decision including any information and documentation that supports the appeal.

(b) The Secretary shall review all submissions and render a decision within 30 days of the receipt of the appeal based on the written record and/or oral communication with the program participant. The Secretary's decision shall constitute final agency action.

5) If the cancelled participant;

a) has a protected birth, death, marriage, civil union, divorce or annulment record, the Secretary shall notify the supervisor of Vital Records Registration of the participant's cancellation in writing within 40 days unless an appeal is received, and in that case within 10 days of denial of the appeal.

(i) Upon receipt of the cancellation notification, the supervisor of Vital Records Registration shall revise the record to reflect the participant's actual address as of the day the record was created. The supervisor of Vital Records Registration shall transmit all appropriate vital records pertaining to the program participant to the appropriate town clerk's office, and will no longer be responsible for maintaining the confidentiality of a cancelled program participant's record.

b) was a blind ballot absentee voter, it shall be the program participant's responsibility to reapply for addition to the voter checklist in the town where she or he resides. The Secretary shall notify the clerk in the town where the program participant resided that the participant no longer qualifies for blind ballot voter privileges.

c) The Secretary shall not take further action until all appeal periods have expired or any appeal taken has been resolved.

#### J. Service of Process

1) Service on the Secretary of any summons, writ, notice, demand, or process shall be made by mail to the substitute address or by personal service on the Secretary.

2) When any summons, writ, notice, demand, or process is served on the Secretary, the Secretary shall immediately forward a copy to the program participant at the participant's current actual address.

3) The Secretary shall maintain in the program participant's file the date of service and a record of all summonses, writs, notices, demands, and processes served upon the Secretary.

4) Return of service shall not contain a participant's actual address.

#### K. Agency Use of Designated Address - Other than Law Enforcement Agency

1) At the time any state or local government agency creates a new public record or updates an existing public record, a program participant may request that the agency use the substitute mailing address as the participant's actual address.



2) A program participant shall show her or his authorization card to the agency and request address confidentiality through the use of the substitute mailing address as it appears on the authorization card in lieu of her or his actual address.

3) An agency shall accept the substitute mailing address for any public record that is the subject of the request unless the agency has received a written waiver from the Secretary pursuant to paragraph L. "Agency Waiver", or if pursuant to law, waiver or court order the agency is not required to use the substitute address for any such record.

#### L. Agency Waiver

1) An agency requesting a waiver must provide in writing to the Secretary the following:

(a) identification of the statute or administrative rule which demonstrates the agency's bona fide purpose for the use of the actual address of a participant; and

(b) identification of the specific program participant's record for which the waiver is requested; and

(c) identification of the individuals who will have access to the record; and

(d) an explanation of how the agency's acceptance of a substitute address will prevent the agency from meeting its obligations under the statute or rule identified above; and

(e) an explanation of why the agency cannot meet its statutory or administrative obligations by a change in its internal procedures.

2) During the review, evaluation, and appeal of an agency's request, the agency shall accept the use of a program participant's substitute address for any record that is the subject of the waiver request under review, evaluation or appeal.

3) The Secretary's determination to grant or withhold a requested waiver must be based on, but not limited to, an evaluation of the information under this section.

4) Acceptance or denial of the agency's waiver request constitutes final agency action. An aggrieved party may appeal.

5) Prior to granting the waiver, the Secretary shall notify the program participant of the waiver, including the name of the agency and the reasons for the waiver.

6) If granted a waiver, the agency shall maintain the confidentiality of a program participant's actual address information by redacting the actual address when the record is released to any person unless release of the actual address to the person is authorized by law, waiver or court order.

7) Any agency receiving a waiver may not make the program participant's actual address available for inspection or copying, except under the following circumstances:

(a) if requested by a law enforcement agency for a law enforcement purpose as defined in 15 V.S.A. 1151 (5); or

(b) if directed by a court order to a person identified in the order.

8) The Secretary shall keep a record of all waivers and all documentation relating to requests for waivers.

#### M. Law Enforcement Agency Exceptions

a) The Secretary may not make a program participant's actual address available unless requested by a law enforcement agency for a law enforcement purpose as defined in 15 V.S.A. 1151 (5).

1) In circumstances where there is not an immediate need for disclosure, the Secretary shall expediently release the actual address of a participant. The request shall be in writing (mail, e-mail or fax), or by personal contact, to the Secretary on agency letterhead stationary and shall contain:

(a) the name, signature if available, case identification number if available, address and phone number of the law enforcement employee requesting the information; and

(b) the request date; and

(c) the name of the program participant; and

(d) the name, address and phone number of the law enforcement employee's supervisor.

(e) Notwithstanding the provisions of sections M. a) 1)(a)-(d), if the Secretary is otherwise assured that the request is made by a law enforcement agency for a law enforcement purpose, disclosure may occur.

2) In circumstances when immediate disclosure is necessary, the Secretary shall immediately release the participant's actual address. The request shall be made by phone, or in writing (mail, e-mail or fax), or by personal contact, to the Secretary and shall include:

(a) the name, case identification number if available, address and phone number of the law enforcement officer requesting the information; and

(b) the name of the program participant.

b) The Secretary may request that an agency review its disclosure requests to determine

whether such requests were appropriate.

c) A program participant may request of a law enforcement employee creating the record noted below, and prior to the creation of the record and upon proof of participation in the program to the satisfaction of the law enforcement agency, that the participant's substitute address be used in:

(1) a summons or complaint for a violation within the jurisdiction of the judicial bureau as set forth in section 1102 of Title 4 (i.e. traffic violations, civil ordinance violations, etc);

(2) a citation to appear under Rule 3 of the Vermont Rules of Criminal Procedure (i.e. arrest without warrant); or

(3) an accident report filed with the Department of Motor Vehicles.

d) Nothing in this subchapter shall prevent a law enforcement agency from requiring that a program participant provide his or her actual address upon request from the agency.

e) A law enforcement agency may, in its discretion, use a substitute address in any record released by the agency.

#### N. Disclosure by Secretary

1) The Secretary shall not make a program participant's actual address available except if directed by court order to a person identified in the order, or pursuant to law or waiver.

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

3) The Secretary shall provide immediate notification of disclosure to a program participant when disclosure takes place pursuant to 15 V.S.A. 1155 (a) (2) and (3).

#### O. Voting as Blind Ballot

1) A program participant may notify the SAH program of any request for confidentiality in voting records by requesting to exercise blind ballot voter privileges. The Secretary shall send an application to the checklist and absentee voter request form to the program participant for completion.

2) The program participant shall enter the blind ballot voter number, as provided by the Secretary, on the line for the name and enter the substitute address as the mailing address. A properly completed application to the checklist and absentee voter request form shall be received by the SAH program by the third Saturday prior to any election. If the program participant was not previously registered to vote in Vermont, the voters oath must be administered by a notary and subscribed on the registration form.

3) The Secretary shall consult with the town clerk to determine the proper district where the participant resides for voting purposes. The Secretary shall sign an affirmation of the program participant's residency in the town and district.

4) The SAH program shall keep a copy of all applications and shall send to the clerk of the town where the participant resides: 1) a copy of the absentee voter request form omitting any information intended to be confidential, 2) the application to the checklist omitting any information intended to be confidential, and 3) the Secretary's affirmation of residency. Town clerks shall not have access to the confidential information of program participants.

5) The town clerk shall include blind ballot voters on the checklist by using blind ballot numbers and the substitute address in lieu of the voters' actual names and addresses.

6) The SAH program shall send the form authorizing removal from previous town checklists to the previous town clerk.

7) Not later than 30 days prior to the election, or within 1 day of receipt of a request for absentee ballots if the request is less than 30 days before the election, the town clerk will send the absentee voting ballots to the SAH program who will forward them to participants at their actual addresses.

#### P. Recording of Vital Statistics

1) When vital records are created and filed with the supervisor of Vital Records Registration they shall not contain the actual address of any program participant.

2) The supervisor of Vital Records Registration shall notify the SAH program when a vital record is received concerning a program participant. The SAH program shall then mail to the supervisor of Vital Records Registration the participant's actual address as of the date the vital record was created. The supervisor of Vital Records Registration shall keep the actual address confidential. Statutory Authority: 15 V.S.A. §§ 1150 through 1160, 17 V.S.A. §§ 2122 and 2126, 18 V.S.A §§ 5083 and 5132

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