

# **Title 15: Domestic Relations**

## ***Chapter 21: ABUSE PREVENTION***

### **§ 1150. Findings and intent**

(a) The general assembly finds that persons attempting to escape from actual or threatened domestic violence, sexual assault and stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them.

(b) It is the purpose of this subchapter to:

(1) enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, sexual assault or stalking;

(2) promote interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, sexual assault and stalking; and

(3) enable state agencies and local agencies to accept a program participant's use of an address, and local agencies to accept an address, designated by the secretary of state as a substitute mailing address. (Added 1999, No. 134 (Adj. Sess.), § 2, eff. Jan. 1, 2001.)

### **§ 1151. Definitions**

Unless the context clearly requires otherwise, the definitions in this section apply throughout the subchapter.

(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 under this chapter.

(2) "Agency" means any subdivision of the state of Vermont, a municipality, or a subdivision of a municipality.

(3) "Domestic violence" means an act of abuse as defined in subdivision 1101(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.

(4) "Law enforcement agency" means the department of public safety, a municipal police department, a sheriff's department, the attorney general's office, a state's attorney's office, or certified law enforcement officers of the department of motor vehicles, the agency of natural resources, or the department of liquor control. "Law enforcement agency" shall also mean the department of social and rehabilitation services when engaged in:

(A) the investigation of child abuse and neglect;

(B) the delivery of services to families and children with whom 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.

(5) "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 20 V.S.A. § 2056a(a)(1), sex offender registry information, and DNA material and information.

(6) "Program participant" means a person certified as a program participant under this chapter.

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

(8) "Secretary" means the Vermont secretary of state.

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

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

(11) "Substitute address" means the secretary's designated address for the address confidentiality program. (Added 1999, No. 134 (Adj. Sess.), § 2, eff. Jan. 1, 2001; amended 2001, No. 28, § 2, eff. May 21, 2001.)

**§ 1152. Address confidentiality program; application; certification**

(a) An adult person, a parent or legal guardian acting on behalf of a minor, or a legal guardian acting on behalf of an incapacitated person, may apply to the secretary of state to have an address designated by the secretary serve as the person's address or the address of the minor or incapacitated person. The secretary of state shall approve an application if it is filed in the manner and on the form prescribed by the secretary of state, and if it contains:

(1) a statement made under oath by the applicant that:

(A) 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;

(B) the applicant fears for his or her safety or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made;

(C) the parent or legal guardian applying on behalf of a minor or incapacitated person has legal authority to act on the person's behalf;

(D) 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; and

(E) 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;

(2) a designation of the secretary as agent for purposes of service of process and for the purpose of receipt of mail;

(3) the mailing address where the applicant can be contacted by the secretary and the phone number or numbers where the applicant can be called by the secretary;

(4) the new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, sexual assault or stalking;

(5) the signature of the applicant and the name of any individual or representative of any office who assisted in the preparation of the application and the date on which the applicant signed the application.

(b) Applications shall be filed with the office of the secretary.

(c) Upon receipt of a properly completed application, the secretary shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing, unless the certification is withdrawn or cancelled before that date. The secretary shall by rule establish a renewal procedure.

(d) A person who knowingly provides false or incorrect information to the secretary as required by this chapter may be prosecuted under 13 V.S.A. § 2904.

(e) A program participant shall notify the secretary of state of a change of actual address within seven days of the change of address. (Added 1999, No. 134 (Adj. Sess.), § 2, eff. Jan. 1, 2001; amended 2001, No. 28, § 3, eff. May 21, 2001.)

### **§ 1153. Certification cancellation**

(a) The secretary of state may cancel a program participant's certification if, after the passage of 14 days:

(1) from the date of changing his or her name, the program participant does not notify the secretary that he or she has obtained a name change; however, the program participant may reapply under his or her new name;

(2) from the date of changing his or her address, the program participant fails to notify the secretary of the change of address; or

(3) from the date the secretary first receives mail, forwarded to the program participant's address, returned as nondeliverable.

(b) The secretary shall cancel certification of a program participant who applies using false information.

(c) The secretary shall send notice of cancellation to the program participant. Notice of cancellation shall set out the reasons for cancellation. The program participant shall have 30 days to appeal the cancellation decision under procedures developed by the secretary.

(d) Program participants may withdraw from the program by giving the secretary written notice of their intention. The secretary shall establish, by rule, a secure procedure for ensuring that the request for withdrawal is legitimate. (Added 1999, No. 134 (Adj. Sess.), § 2, eff. Jan. 1, 2001; amended 2001, No. 28, § 4, eff. May 21, 2001.)

**§ 1154. Agency use of designated address; agency other than law enforcement agency**

(a) A program participant shall request that state and local agencies, other than law enforcement agencies, use the substitute address as the participant's address. When creating a new public record, state and local agencies, other than law enforcement agencies, shall accept the substitute address, unless the secretary has determined that:

(1) the agency has a bona fide requirement for the use of the actual address which would otherwise be confidential under this subchapter;

(2) the address will be used only for those statutory and administrative purposes;

(3) the agency has identified the specific program participant's record for which the waiver is requested;

(4) the agency has identified the individuals who will have access to the record; and

(5) the agency has explained how its acceptance of the substitute address will prevent the agency from meeting its obligations under the law and why it cannot meet its statutory or administrative obligation by a change in its internal procedures.

(b) During the review, evaluation, and appeal of an agency's request, the agency shall accept the use of a program participant's substitute address.

(c) 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 subsection (a) of this section.

(d) If the secretary finds that the agency has a bona fide purpose for the actual address and that the information will only be used for that purpose, the secretary shall issue the actual address to the agency. 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. If granted a waiver, the agency shall maintain the confidentiality of the program participant's address by redacting the actual address when the record is released to any person.

(e) Denial of the agency waiver request must be made in writing and include a statement of the reasons for denial.

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

(g) A program participant may use the address designated by the secretary as his or her work address.

(h) The office of the secretary shall forward all first class mail to the appropriate program participants.

(i) The secretary shall keep a record of all waivers and all documentation relating to requests for waivers.

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

(1) if requested by a law enforcement agency for a law enforcement purpose as defined in subdivision 1151(5) of this title; or

(2) if directed by a court order to a person identified in the order. (Added 1999, No. 134 (Adj. Sess.), § 2, eff. Jan. 1, 2001; amended 2001, No. 28, § 5, eff. May 21, 2001.)

**§ 1154a. Agency use of designated address; law enforcement agency**

(a) If requested in person by a program participant to the person creating the record prior to the creation of the record, and upon proof of participation in the program established by this chapter, a law enforcement agency shall use the participant's substitute address in:

(1) a summons or complaint for a violation within the jurisdiction of the judicial bureau as set forth in 4 V.S.A. § 1102.

(2) a citation to appear under Rule 3 of the Vermont Rules of Criminal Procedure; or

(3) an accident report filed with the department of motor vehicles.

(b) 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.

(c) A law enforcement agency may, in its discretion, use a substitute address in any record released by the agency. (Added 2001, No. 28, § 6, eff. May 21, 2001.)

**§ 1155. Disclosure of address prohibited; exceptions**

(a) The secretary of state may not make a program participant's address, other than the address designated by the secretary, available for inspection or copying, except under the following circumstances:

(1) if requested by a law enforcement agency for a law enforcement purpose as defined in subdivision 1151(5) of this title; or

(2) if directed by a court order to a person identified in the order; or

(3) to verify the participation of a specific program participant, in which case the secretary may only confirm information supplied by the requester.

(b) The secretary shall ensure by rule that:

(1) when a law enforcement agency determines it has an immediate need for a participant's actual address, disclosure of the address shall occur immediately; and

(2) in other circumstances, there is an expedited process for disclosure.

(c) The secretary may request that an agency review its disclosure requests to determine whether such requests were appropriate.

(d) The secretary shall provide immediate notification of disclosure to a program participant when disclosure takes place under subdivisions (a)(2) and (3) of this section.

(e)(1) No person shall knowingly and intentionally obtain a program participant's actual address from the secretary knowing that he or she was not authorized to obtain the address information.

(2) No employee of a state, local, or municipal agency or sheriff's department shall knowingly and intentionally disclose, with the intent to disseminate to the individual from whom the program participant is seeking address confidentiality, a participant's actual address to a person known to the employee to be prohibited from receiving the participant's actual address, unless such disclosure is permissible by law. This subdivision is only intended to apply when an employee obtains a participant's actual address during the course of the employee's official duties and, at the time of disclosure, the employee has specific knowledge that the address disclosed belongs to a person who is participating in the program.

(3) Nothing in this chapter shall prohibit an agency or agency employee from disclosing or providing a participant's actual address to an agency attorney providing advice to an agency or agency employee, nor shall any agency attorney be prohibited, except as set forth in section 1156 of this title, from disclosing a participant's actual address to other law enforcement employees, other agency attorneys, paralegals, or their support staff, if disclosure is related to providing such advice or to the agency attorney's representation of the agency or agency employee. In the case of law enforcement, agency attorneys shall also include the attorneys in the office of the state's attorneys, attorney general and the United States attorney. An attorney, during the course of providing advice to another person or agency, shall not be subject to the provisions set forth in subdivisions 1155(e)(1) and (2) of this title, nor shall any actionable duty arise from giving such advice.

(4) A person who violates subdivisions (1) or (2) of this subsection shall be assessed a civil penalty of not more than \$5,000.00. Each unauthorized disclosure shall constitute a separate civil violation. Nothing in this subdivision shall preclude criminal prosecution

for a violation. (Added 1999, No. 134 (Adj. Sess.), § 2, eff. Jan. 1, 2001; amended 2001, No. 28, § 7, eff. May 21, 2001.)

### **§ 1156. Nondisclosure of address in criminal and civil proceedings**

No person shall be compelled to disclose a program participant's actual address during the discovery phase of or during a proceeding before a court of competent jurisdiction or administrative tribunal unless the court or administrative tribunal finds, based upon a preponderance of the evidence, that the disclosure is required in the interests of justice. A court or administrative tribunal may seal that portion of any record that contains a program participant's actual address. Nothing in this subchapter shall prevent the state, in its discretion, from using a program participant's actual address in any document or record filed with a court or administrative tribunal if, at the time of filing, the document or record is not a public record. (Added 1999, No. 134 (Adj. Sess.), § 2, eff. Jan. 1, 2001; amended 2001, No. 28, § 8, eff. May 21, 2001.)

### **§ 1157. Assistance for program applicants**

The secretary of state shall make available a list of state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of domestic violence, sexual assault and stalking to assist persons applying to be program participants. Such information provided by the office of the secretary or designees to applicants shall in no way be construed as legal advice. (Added 1999, No. 134 (Adj. Sess.), § 2, eff. Jan. 1, 2001.)

### **§ 1158. Voting by program participant**

A program participant who is otherwise qualified to vote may register to vote and apply for an early voter absentee ballot pursuant to rules adopted by the secretary of state under section 1160 of this title. Such rules shall enable a town clerk to substitute, on all voting records of the town, the designation "blind ballot" wherever the name or address of the voter might otherwise appear. The program participant shall receive early voter absentee ballots for all elections in the jurisdictions for which that individual resides in the same manner as early or absentee voters who qualify under 17 V.S.A. § 2531. The town clerk shall transmit the early voter absentee ballot to the program participant at the address designated by the participant in his or her application. Neither the name nor the address of a program participant shall be included in any list of registered voters available to the public. (Added 1999, No. 134 (Adj. Sess.), § 2, eff. Jan. 1, 2001; amended 2001, No. 6, §§ 12(

a), 12(b), eff. April 10, 2001.)

### **§ 1159. Custody and visitation orders**



Nothing in this chapter, nor participation in this program, affects custody or visitation orders in effect prior to or during program participation. (Added 1999, No. 134 (Adj. Sess.), § 2, eff. Jan. 1, 2001.)

**§ 1160. Adoption of rules**

The secretary of state shall adopt rules necessary to perform his or her duties under this subchapter relating to: program application and certification; certification cancellation; agency use of designated addresses and exceptions; voting by program participants; and recording of vital statistics for program participants. All such rules shall conform with the findings and intent of the general assembly, as described in section 1150 of this title, and shall be designed with an understanding of the needs and circumstances of victims of domestic violence, sexual assault and stalking. (Added 1999, No. 134 (Adj. Sess.), § 2, eff. Jan. 1, 2001.)