

HOUSE BILL No. 5654

June 11, 2014, Introduced by Reps. Hovey-Wright, Barnett, Slavens, Singh, Roberts, Knezek and Oakes and referred to the Committee on Judiciary.

A bill to create the address confidentiality program; to provide certain protections for victims of domestic abuse, sexual assault, stalking, or human trafficking; and to prescribe duties and responsibilities of certain state departments and agencies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Address" means a residential street address, a school
3 address, or a work address of an individual as specified on an
4 individual's application to be a program participant.

5 (b) "Domestic violence" means that term as defined in section
6 1 of 1978 PA 389, MCL 400.1501.

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

9 (d) "Incapacitated individual" means that term as defined in

1 section 1105 of the estates and protected individuals code, 1998 PA
2 386, MCL 700.1105.

3 (e) "Minor" means an individual under the age of 18 years.

4 (f) "Personal protection order" means a personal protection
5 order issued under section 2950 or 2950a of the revised judicature
6 act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, and includes
7 a valid foreign protection order.

8 (g) "Program participant" means an individual certified as a
9 program participant under section 5.

10 (h) "Sexual assault" means assault with intent to commit
11 criminal sexual conduct.

12 (i) "Stalking" means that term as defined in section 411h or
13 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and
14 750.411i.

15 Sec. 3. The following individuals may apply to the department
16 of attorney general to have an address designated by the attorney
17 general serve as the individual's address or as the address of a
18 minor or an incapacitated individual:

19 (a) An individual who is at least 18 years of age.

20 (b) A parent or guardian acting on behalf of a minor.

21 (c) A guardian acting on behalf of an incapacitated
22 individual.

23 (d) A minor who has been emancipated under 1968 PA 293, MCL
24 722.1 to 722.6.

25 Sec. 5. (1) The department of attorney general shall approve
26 an application filed in the manner and on a form prescribed by the
27 department of attorney general if the application contains all of

1 the following:

2 (a) A sworn statement by the applicant that the applicant has
3 good reason to believe that he or she, or a minor or an
4 incapacitated individual on whose behalf the application is made,
5 is a victim of domestic violence, sexual assault, stalking, or
6 human trafficking and the applicant fears for his or her safety or
7 the safety of a minor or an incapacitated individual on whose
8 behalf the application is made.

9 (b) A copy of a valid personal protection order issued on
10 behalf of the applicant, the minor, or the incapacitated individual
11 on whose behalf the application is made.

12 (c) A designation of the department of attorney general as an
13 applicant's agent for the purpose of service of process and receipt
14 of mail.

15 (d) The mailing address and telephone number where the
16 applicant may be contacted by the department of attorney general.

17 (e) The new address that the applicant requests not be
18 disclosed because disclosure may increase the risk of domestic
19 violence, sexual assault, stalking, or human trafficking.

20 (f) The signature of the applicant and of any representative
21 of an agency designated under this act that assisted in the
22 preparation of the application.

23 (g) The date the applicant signed the application.

24 (2) Upon approving an application under subsection (1), the
25 department of attorney general shall certify the applicant as a
26 program participant.

27 (3) Except as provided in section 13, the name, address,

1 telephone number, and any other identifying information relating to
2 a program participant, as contained in a record created under this
3 act, is confidential and exempt from disclosure under the freedom
4 of information act, 1976 PA 442, MCL 15.231 to 15.246.

5 (4) A program participant may use an address designated by the
6 department of attorney general as the program participant's work
7 address.

8 (5) A program participant who is otherwise qualified to vote
9 may apply to vote as provided in state law using an address
10 provided by the department of attorney general under this act.

11 (6) The department of attorney general shall forward first-
12 class mail belonging to a program participant to the program
13 participant.

14 Sec. 7. (1) Certification as a program participant expires 2
15 years after the date on which the department of attorney general
16 certifies or renews the certification of the applicant as a program
17 participant. A program participant may apply to renew the
18 certification under this act.

19 (2) The department of attorney general shall notify the
20 program participant that the certification will expire at least 30
21 days before the certification expiration date.

22 (3) The department of attorney general shall approve an
23 application for renewal of certification filed in the manner and on
24 a form prescribed by the department of attorney general if the
25 application contains the requirements set forth in this act. A
26 program participant who applies for renewal of certification under
27 this act does not have to provide a copy of a valid personal

1 protection order.

2 Sec. 9. A person who knowingly or intentionally falsely
3 attests in an application made under this act that disclosure of
4 the applicant's address would endanger the applicant's safety or
5 the safety of a minor or an incapacitated individual upon whose
6 behalf the application is made or who provides false or incorrect
7 information upon making an application under this act is guilty of
8 perjury. This section applies to an application for certification
9 under this act and to an application for renewal of certification
10 under this act.

11 Sec. 11. (1) A program participant who obtains a change of
12 name shall provide a copy of the court order changing the program
13 participant's name to the department of attorney general not more
14 than 30 days after the court enters the order.

15 (2) The program participant, and not the department of
16 attorney general, is responsible for requesting other persons to
17 use the address designated by the department of attorney general as
18 the program participant's address.

19 (3) A program participant may request that any person,
20 including a state or local agency, use the address designated by
21 the department of attorney general as the program participant's
22 address.

23 Sec. 13. The department of attorney general shall not disclose
24 for public inspection or copying the name, address, telephone
25 number, or any other identifying information relating to a program
26 participant that is declared confidential under this act, as
27 contained in a record created under this act, except as follows:

1 (a) When requested by a law enforcement agency, to the law
2 enforcement agency.

3 (b) When directed by a court order, to a person identified in
4 the order.

5 Sec. 15. (1) The department of attorney general shall
6 designate state and local agencies and nonprofit agencies that
7 provide counseling and shelter services to victims of domestic
8 violence to assist persons in applying to be program participants.

9 (2) Whenever a state or local department or agency creates a
10 new public record, that state or local department or agency shall
11 accept the address designated by the department of attorney general
12 as a program participant's substitute address unless the department
13 of attorney general determines that the state or local department
14 or agency is required by statute or administrative rule to use an
15 address that would otherwise be confidential under this act.

16 (3) A state or local department or agency that uses a
17 confidential address under subsection (2) may use the confidential
18 address only for the purpose set forth in the statute or
19 administrative rule identified under subsection (2).

20 (4) If subsection (2) does not apply and federal law does not
21 specifically require that the person use an address that otherwise
22 would be confidential under this act, a person who receives a
23 request under section 11(2) shall use the address designated by the
24 department of attorney general as the program participant's
25 address.

26 (5) A person who ceases to be a program participant is
27 responsible for notifying persons who use the address designated by

1 the department of attorney general as the program participant's
2 address that the designated address is no longer the person's
3 address.

4 (6) Assistance and counseling provided by the department of
5 attorney general or its designees to applicants under this act is
6 not legal advice.

7 Sec. 17. (1) The department of attorney general may revoke a
8 program participant's certification if the program participant
9 changes his or her residential address from the address listed on
10 the application, unless the program participant provides the
11 department of attorney general with written notice not less than 7
12 days before the change of address.

13 (2) The department of attorney general may revoke a program
14 participant's certification if mail forwarded by the department of
15 attorney general to the program participant's address is returned
16 as undeliverable.

17 (3) The department of attorney general shall revoke a program
18 participant's certification who has applied to the address
19 confidentiality program using false information.

20 (4) Unless the program participant's certification has been
21 renewed under this act, the department of attorney general shall
22 revoke a program participant's certification if the department of
23 attorney general determines that the protective order on which the
24 certification is based has been terminated or otherwise
25 invalidated.

26 Sec. 19. (1) The address confidentiality fund is created
27 within the state treasury.

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

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

7 (4) The department of attorney general shall be the
8 administrator of the fund for auditing purposes.

9 (5) The department of attorney general shall expend money from
10 the fund, upon appropriation, only for 1 or more of the following
11 purposes:

12 (a) Administering the program created under this act.

13 (b) Fund administration.

14 Sec. 21. The department of attorney general shall promulgate
15 rules to implement this act according to the administrative
16 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.