

PROPOSED ACTION

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Title 01

EXECUTIVE DEPARTMENT

Subtitle 02 SECRETARY OF STATE

01.02.11 Maryland Safe at Home Address Confidentiality Program

Authority: Family Law Article, §§4-519—[4-530] 4-531; *Real Property Article*, §§3-112—3-120; and *State Government Article*, §§7-301—7-313; Annotated Code of Maryland

Notice of Proposed Action

[18-283-P]

The Secretary of State proposes to amend Regulations **.01—**.10 and **.14**, and adopt new Regulations **.16—**.22 under **COMAR 01.02.11 Maryland Safe at Home Address Confidentiality Program**.

Statement of Purpose

The purpose of this action is to inform the process by which a participant in the Address Confidentiality Program may request the shielding of real property records. It specifies certain forms to be used to identify a participant and request the use of the substitute address or the shielding of real property records. It outlines the procedure and obligation of State and local government agencies upon receipt of a shielding request, details the request and procedure for authorized disclosure of a shielded deed, and enables the termination of shielding if an individual ceases to participate in the Program. Another purpose of this action is to enable this chapter to govern the Human Trafficking Address Confidentiality Program and to clarify that victims of human trafficking are eligible for Program participation. The proposed action requires any person to use a participant's substitute address and prohibits the disclosure of a participant's identity information except under certain circumstances as detailed by this action. It identifies what is acceptable as written notification of Program participation and details the obligation of any person who receives written notification of Program participation. Another purpose of this action is to better protect victims by requiring applicants to apply for participation through an application assistant registered with the Program, by requiring participants to inform the Program if address confidentiality is compromised, and by encouraging participants to withdraw from the Program if it ceases to provide protection. The proposed action updates the processes by which participants interact with the Motor Vehicle Administration and the State Board of Elections. It clarifies what location information participants shall disclose when filing State income tax returns. It also outlines the receipt and forwarding of service of process by the Program on behalf of participants.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Brittany Luzader, Human Trafficking Program Specialist, Address Confidentiality Program, Office of the Secretary of State, 16 Francis Street, Annapolis, MD 21401, or call 410-974-2679, or email to

brittany.luzader@maryland.gov. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

.01 Purpose.

A. The purpose of the Maryland Safe at Home Address Confidentiality Program is to:

- (1) Allow a victim of domestic violence *or human trafficking* to have a State or local government agency *and private entities* use a substitute address in place of an actual address;
- (2) Enable State and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence *or human trafficking*; [and]
- (3) Enable interagency cooperation in providing address confidentiality for victims of domestic violence *or human trafficking*; and
- (4) *Enable a Program participant to use an address designated by the Secretary as a substitute address.*

B. (text unchanged)

C. This chapter [does not require or prohibit the use of the substitute address by nongovernmental entities. Acceptance of the substitute address is at the discretion of that entity.] *requires the use of a participant's substitute address designated by the Secretary and prohibits disclosure of a participant's identity information as defined in Real Property Article, §3-114 (e), Annotated Code of Maryland, by both governmental and nongovernmental entities.* The Secretary[, however, will] *shall forward all first-class, registered, and certified mail received by the Secretary for a participant.*

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

- (1) "Application assistant" means an employee or volunteer:
 - (a) Of a federal, State, or local agency, or of a nongovernmental program, that provides counseling, referral, shelter, or other services to victims of domestic violence *or human trafficking*; and
 - (b) (text unchanged)
- (2)—(4) (text unchanged)
- (5) "*Notice of ACP Participation*" means the form prescribed by the Secretary in accordance with Family Law Article, §4-529(c)(1), or State Government Article, §7-311(c)(1), Annotated Code of Maryland, to identify an individual as a participant, request the use of the participant's substitute address, and prohibit disclosure of a participant's identity information.
 - [(5)] (6) (text unchanged)
 - [(6)] (7) "Program" means both the:
 - (a) Maryland Safe at Home Address Confidentiality Program established under Family Law Article, §§4-519—[4-530] 4-531, Annotated Code of Maryland; and
 - (b) *Human Trafficking Address Confidentiality Program established under State Government Article, §§7-301—7-313, Annotated Code of Maryland.*
 - (8) "*Real Property ACP Notice*" means the form prescribed by the Secretary in accordance with Real Property Article, §3-115, Annotated Code of Maryland, to request the shielding of real property records.
 - [(7)] (9)—[(8)] (10) (text unchanged)
 - [(9)] (11) "Victim of domestic violence" means an individual who has received deliberate, severe, and demonstrable physical injury, or is in fear of imminent, deliberate, severe, and demonstrable physical injury from a current or former *intimate partner or individual with whom the person has lived.*
 - (12) "*Victim of human trafficking*" means an individual who has been recruited, harbored, transported, provided, or obtained for labor, services, or a sexual act through the use of force, fraud, or coercion.

.03 Who May Apply.

Beginning October 1, 2006, an individual may apply to participate in the Program. To be designated as a participant in the Program, the individual shall:

- A. (text unchanged)
- B. Be a [past,] present[,] or future resident of Maryland;
- C.—D. (text unchanged)
- E. Have recently relocated or intend to relocate within 30 days from the date of application to an address unknown to the abuser[.]; and, *at the time of application, not readily accessible to the general public, according to the discretion of the Secretary; and*
- F. (text unchanged)

.04 Motor Vehicle Administration.

To request that the Motor Vehicle Administration use the substitute address, [an applicant] *a participant* shall [complete the form provided by the Secretary] *schedule an appointment with the Motor Vehicle Administration's Customer Service Ombudsman or other designated contact for participants.*

.05 Application Assistants.

- A. (text unchanged)
- B. The registration of an applicant assistant is valid [for 2 years] *indefinitely* unless withdrawn, suspended, or terminated.
- C.—F. (text unchanged)

.06 Documentation.

A. [If the] *The* application of a victim of domestic violence *or human trafficking* [is being] *shall be* supported by documentation under Family Law Article, [§4-522(b)(2)(ii) or (iii)] *§4-522(b)(2), or State Government Article, §7-304(b)(2),* Annotated Code of Maryland, and [is being] facilitated by an application assistant registered with the Secretary[, the signature of the application assistant on the application form is sufficient documentation].

B. If the application is being facilitated by an individual [affiliated with a person under Family Law Article, §4-522(b), Annotated Code of Maryland,] not registered *as an application assistant* with the Secretary, the Secretary shall contact the individual to register the individual as an application assistant.

[C. If the application is being filed on the applicant's own behalf, or with the assistance of an individual not on the Secretary's list of application assistants, the documentation required under Family Law Article, §4-522(b)(2), Annotated Code of Maryland, shall be provided.]

.07 Authorization Card.

A. Within [5] *10* working days of receipt of a completed and signed application, the Secretary shall approve or deny the applicant as a participant [and issue the participant an authorization card].

B. If an application is approved, an authorization card shall be issued within 5 working days after the application is approved. The Secretary shall issue an authorization card to each victim of domestic violence named on the application form. The authorization card shall include:

- (1)—(4) (text unchanged)
- (5) The expiration date; [and]
- (6) The [toll free] phone number of the Program[.]; *and*
(7) *A list of the Program requirements for the purposes of a notification under Family Law Article, §4-529(c)(1), and State Government Article, §7-311(c)(1), Annotated Code of Maryland.*

C. If an [authorization card] *applicant* is denied, the Secretary shall notify the applicant of the denial and the reasons for the denial within 5 working days of the denial.

D. Use of Authorization Card.

(1) A participant may request that a State or local agency *or any person* use the substitute address [provided] *designated* by the Secretary as the participant's [mailing] address.

(2) The participant shall show the participant's authorization card to the agency employee responsible for the record *or to any person* and request use of the substitute address.

(3) Agency personnel *or any person*:

(a)—(b) (text unchanged)

(4) The agency *or person* shall accept the substitute address unless there is a waiver granted for a specific participant by the Secretary.

(5) Agency personnel *or any person*:

(a) May not question the participant regarding the details of the participant's inclusion in the Program; [and]

(b) [Shall accept the designation of the Secretary.] *May not require a participant to submit any address that could be used to physically locate the participant either instead of or in addition to the substitute address, or as a condition of receiving a service or benefit, unless the service or benefit would be impossible to provide without knowledge of the participant's physical location;*

(c) *May not require any additional proof of Program participation other than the Notice of ACP Participation in accordance with Family Law Article, §4-526 (b)(2), or State Government Article, §7-308(b)(2), Annotated Code of Maryland;*

(d) *May not charge any fee to comply with this chapter; and*

(e) *Shall accept the substitute address as the address of the participant.*

(6) *A current and valid authorization card presented to agency personnel or any person shall be acceptable as a form to put an agency or a person on notice of Program participation in accordance with Family Law Article, §4-529, or State Government Article, §7-311, Annotated Code of Maryland.*

E. (text unchanged)

.08 Renewal of Application.

A.—C. (text unchanged)

D. The Secretary may not renew an applicant if, at the time of renewal, the Secretary determines that the applicant's actual address is readily accessible to the general public.

.09 Change of Name, Address, or Telephone Number.

A.—B. (text unchanged)

C. A participant may change the participant's address [or telephone number] in accordance with Family Law Article, §4-524, or State Government Article, §7-306, Annotated Code of Maryland, by filing a form provided by the Secretary.

D. A participant may change the participant's telephone number in accordance with Family Law Article, §4-524, or State Government Article, §7-306, Annotated Code of Maryland, by notifying the Secretary by telephone or by filing a form provided by the Secretary.

.10 Withdrawal from Program.

A.—B. (text unchanged)

C. A participant shall advise the Secretary and the participant's application assistant as soon as possible on suspicion or knowledge that the actual address is known to the abuser or readily accessible to the general public.

D. On receipt of information from the participant or any other person that the actual address is known to the abuser or readily accessible to the general public, the Secretary may investigate by contacting the participant or the application assistant that assisted the participant, or both.

E. A participant is encouraged to submit a request for withdrawal from the Program if:

(1) The participant is no longer eligible for Program participation; or

(2) The Secretary determines that a participant's actual address is readily accessible to the general public and the participant does not intend to relocate within 30 days to an address unknown to the abuser and not readily accessible to the general public.

.14 Board of Elections.

Under Family Law Article, §4-527, and State Government Article, §7-309, Annotated Code of Maryland, a participant's residential address must be used for voter registration purposes. The local board may not disclose a participant's address except as described in Family Law Article, §4-527, or State Government Article, §7-309, Annotated Code of Maryland. A participant may request a local board of elections or the State Board of Elections to keep the address confidential under COMAR 33.04.02.02C. [To apply, the participant shall submit to the State Board its form and a photocopy of the participant's authorization card]. *To register to vote as a participant, the participant shall contact the State Board directly to identify as a participant. The State Board shall verify Program participation and voting precinct with the Secretary.*

.16 Service of Process.

A. Under Family Law Article, §4-530(b), and State Government Article, §7-312(b), Annotated Code of Maryland, service of process on a participant, by a person or an agency that has received notice that the individual is a participant, shall be made:

(1) In person on the participant; or

(2) By mail on the Secretary.

B. On receipt of service of process by mail, the Secretary shall:

(1) Notify the participant; and

(2) Forward process by mail to the participant.

.17 State Income Tax.

If a participant uses the substitute address when filing a State income tax return, the participant shall disclose the actual Maryland county and actual city, town, or taxing area.

.18 Obligation on Receipt of Notice of Program Participation.

A. An agency or person who receives notification of Program participation in accordance with Family Law Article, §4-529(c)(1), or State Government Article, §7-311(c)(1), Annotated Code of Maryland, shall adhere to the requirements under Regulation .07 of this chapter.

B. Written notification acceptable as a form to put an agency or a person on notice under Family Law Article, §4-529(c)(1), or State Government Article, §7-311(c)(1), Annotated Code of Maryland, includes any one of the following as long as they state the requirements of the Program and that the individual is a participant:

(1) Notice of ACP Participation;

(2) Current and valid authorization card;

(3) A copy of the welcome letter issued to the participant on designation as a participant; or

(4) Written communication from the Secretary identifying an individual as a participant.

- C. The Notice of ACP Participation shall be on the form that the Secretary prescribes and shall include the:
- (1) Full legal name of the participant;
 - (2) Participant's ACP number;
 - (3) Substitute address designated by the Secretary as the participant's address;
 - (4) Program requirements in accordance with Family Law Article, §4-529(c)(1), and State Government Article, §7-311(c)(1), Annotated Code of Maryland;
 - (5) Telephone number of the Program; and
 - (6) Signature of the participant.
- D. The Notice of ACP Participation satisfies the request that a bank, a credit union, any other depository institution, or any other financial institution within the meaning of Financial Institutions Article, §1-101, Annotated Code of Maryland, may require under Family Law Article, §4-526(b)(2), or State Government Article, §7-308(b)(2), Annotated Code of Maryland.
- E. An agency or person who receives notification of Program participation in accordance with Family Law Article, §4-529(c)(1), or State Government Article, §7-311(c)(1), Annotated Code of Maryland, may not knowingly disclose the participant's name, home address, work address, or school address unless the:
- (1) Person to whom the address is disclosed also lives, works, or goes to school at the disclosed address; or
 - (2) Participant has provided written consent to the disclosure of the participant's name, home address, work address, or school address for the purpose for which the disclosure will be made.
- F. An agency or person on notice and authorized to disclose the name, home address, work address, or school address of a participant by the participant's consent under Family Law Article, §4-529(c)(1)(ii), or State Government Article, §7-311(c)(1)(ii), Annotated Code of Maryland, shall limit disclosure to only those disclosures that are necessary for the purpose for which the consent is provided.
- G. On disclosure under Family Law Article, §4-529(c), or State Government Article, §7-311(c), Annotated Code of Maryland, an agency or person on notice shall forward the notification of Program participation to the agency or person to whom the disclosure is made in order to put that agency or person on notice.
- H. An agency or person on notice is presumed to have specific knowledge that the address and other identity information belongs to a participant.
- I. An agency or person on notice shall use the participant's substitute address for mailed correspondence.
- J. Consent of the participant as set forth in Family Law Article, §4-529(c), and State Government Article, §7-311(c), Annotated Code of Maryland, is required before an agency or person on notice may use the participant's actual address on internal records or electronic databases that may be sold, transferred, or shared with third parties.

.19 Procedure to Request Shielding of Real Property Records.

- A. To request the shielding of real property records, a participant shall notify the Secretary of initial consideration to purchase property before applying for financing or initiating the transaction, or, if the property was acquired without financing, immediately after acquiring an ownership interest in the real property.
- B. On request for shielding, the Secretary shall provide the following forms to the participant:
- (1) Notice of ACP Participation in accordance with Family Law Article, §4-529(c)(1), and State Government Article, §7-311(c)(1), Annotated Code of Maryland; and
 - (2) Real Property ACP Notice required under Real Property Article, §3-115(b)(2), Annotated Code of Maryland.
- C. A participant or any agent of the participant shall submit a copy of the Notice of ACP Participation to any person involved in the real property transaction, including, but not limited to, the following:
- (1) Attorney;
 - (2) Realtor;
 - (3) Mortgage broker;
 - (4) Lender;
 - (5) Title company; and
 - (6) Home owner's association.
- D. On receipt of a Notice of ACP Participation or Real Property ACP Notice, any person involved in the real property transaction shall adhere to the requirements under Regulations .07 and .18 of this chapter.
- E. A participant or any agent of the participant shall submit a copy of the Real Property ACP Notice with the deed or other instrument to be recorded and the intake sheet required under Real Property Article, §3-104, Annotated Code of Maryland, to both the:
- (1) Appropriate county finance office; and
 - (2) Clerk of the circuit court.
- F. A participant shall submit to the Secretary a copy of any Real Property ACP Notice submitted under Real Property Article, §3-115(b), Annotated Code of Maryland.
- G. If a participant intends to request the shielding of real property records, the participant may not submit any instrument for recordation electronically.
- H. A participant shall use a separate Real Property ACP Notice for each property in which the participant acquires an ownership interest.

.20 Obligation on Receipt of Real Property ACP Notice.

A. On receipt of a Real Property ACP Notice:

(1) State and local agencies shall follow the established procedure in accordance with Real Property Article, §§3-115 and 3-117, Annotated Code of Maryland; and

(2) A clerk of the circuit court shall provide a copy of any Real Property ACP Notice received under Real Property Article, §3-115, Annotated Code of Maryland, to both the:

(a) State Department of Assessments and Taxation; and

(b) Maryland State Archives.

B. All State and local agencies shall use the participant's substitute address for all mailed correspondence.

C. Restriction on Disclosures.

(1) Except as provided in Real Property Article, §3-116(b) and (c), Annotated Code of Maryland, a clerk of the circuit court and any State or local agency that receives a Real Property ACP Notice under Real Property Article, §3-115, Annotated Code of Maryland, may not disclose the participant's identity information in conjunction with the property identified in the Notice.

(2) A participant's identity information may be disclosed in conjunction with a property identified in a Real Property ACP Notice if:

(a) The participant consents to the disclosure for a specific purpose identified in a writing acknowledged by the participant;

(b) The information is subject to disclosure in accordance with a court order; or

(c) The Secretary authorizes the disclosure in accordance with Real Property Article, §3-118, Annotated Code of Maryland.

(3) Prohibition on disclosure shall continue until:

(a) The participant consents to the termination of the Real Property ACP Notice in a writing acknowledged by the participant;

(b) The Real Property ACP Notice is terminated in accordance with a court order;

(c) The participant no longer holds a record interest in the property identified in the Real Property ACP Notice; or

(d) The Secretary gives written notice to the clerk of the circuit court that the individual named in the Real Property ACP Notice is no longer a participant.

.21 Termination of Shielding on Program Cancellation.

If an individual who has requested the shielding of property records in accordance with Real Property Article, §3-115, Annotated Code of Maryland, ceases to be a participant;

A. The Secretary shall give written notice to the clerk of the appropriate circuit court and the Maryland State Archives within 30 days after the individual ceases to participate in the Program; and

B. The clerk of the circuit court and the Maryland State Archives shall cease shielding all real property records relating to the property identified in the Real Property ACP Notice.

.22 Authorized Disclosure for Title Examination.

A. On request, the Secretary may authorize the disclosure of real property records that have been shielded under Real Property Article, §3-116, Annotated Code of Maryland, for the purpose of performing a bona fide title examination.

B. A request under Real Property Article, §3-118, Annotated Code of Maryland, shall include:

(1) The name, title, address, and affiliated organization, if applicable, of the individual requesting the disclosure;

(2) The individual's purpose for requesting the disclosure;

(3) The individual's relationship, if any, to the participant;

(4) A legal description of the property subject to the title examination;

(5) A statement that any information disclosed to the individual shall be treated as confidential and shall be used and disclosed only for the purpose identified in the request;

(6) The individual's signature; and

(7) Any other information required by the Secretary to respond to the request.

C. On receipt of a request under Real Property Article, §3-118, Annotated Code of Maryland, the Secretary shall provide a written response approving or denying the request within 2 business days.

D. The Secretary shall approve a properly completed request under Real Property Article, §3-118, Annotated Code of Maryland, if:

(1) The Secretary confirms that the property subject to the title examination is the property identified in the Real Property ACP Notice of a current participant; and

(2) The Secretary determines that the request is for the purpose of performing a bona fide title examination.

JOHN C. WOBENSMITH
Secretary of State