

Task Force to Study the Recording of Deeds for Victims of Domestic Violence
Tuesday, August 29, 2017
10 a.m. to 11:30 a.m.
Fred L. Wineland Building, 16 Francis Street, Annapolis, Maryland 21401

Members in Attendance

Secretary of State John Wobensmith

Senator Susan Lee

Michael Lore, Chief of Staff for Senator Lee

Tim Baker, Maryland State Archives

James Cosgrove, Maryland Land Title Association

Brett Dieck, the Law Office of Brett M. Dieck, LLC and Old Line Title Company, Inc.

Anne Hoyer, Director of the Address Confidentiality Program

Dorothy Lennig, House of Ruth Domestic Violence Legal Clinic

April Morton, Legislative Services

Frederick Smalls, Maryland Municipal League

Kevin Swanson, Maryland State Archives

Corbett Webb, Maryland Department of Assessments and Taxation

Josaphine Yuzuik, Assistant Attorney General

Kathleen Blough, Circuit Court Clerk, Supervisor of Land Records

Matthew Fox, Maryland Bankers Association

Other Attendees

Sydney Harrison, Circuit Court Clerk

Charles Cluster, SDAT

Kelley Mitchell, ACP

Brittany Luzader, ACP

Sarah Smalt, ACP

Emma Craig, ACP

Opening Remarks

Secretary Wobensmith thanked everyone for their attendance and praised the group for their great work as we wrap everything up. The task force will most likely meet one more time to go over the final report. He introduced Sydney Harrison, circuit court clerk, and thanked him for joining us today eager to share his insight on how our deed shielding process may be implemented in PG county.

Approval of Minutes

As there were no corrections to the minutes previously circulated to the members, the minutes from the meeting in June were approved.

Legislative Draft

The Secretary thanked Ms. Morton for her hard work in drafting the bill and asked her to introduce it to the group. Ms. Morton explained that she prepared a draft and circulated it to the members participating in the legislative subgroup. They met to discuss the draft but were left with some questions for the circuit court clerks. Ms. Blough shared notes from her meetings with other clerks and the county finance office. Ms. Morton revised the draft to reflect the subgroup discussion and the comments from the clerks. She walked the task force through this newer draft, highlighting the changes to the Family Law Article and State Government Article as well as new provisions under the Real Property Article. She also showed where the purpose of the ACP is expanded to include entities other than government agencies among those required to accept a participant's substitute address. She mentioned two issues that had not yet been decided: who should be responsible for notifying the clerks once a participant leaves the ACP and spelling out the procedure for clerks and SDAT to follow upon receipt of a notice to shield. Ms. Hoyer said the ACP will notify the clerks if a participant leaves the program. The group decided to include a general statement in the bill requiring clerks and SDAT to develop and implement a uniform process rather than outline the process itself within the bill.

Establishing Shielding Procedure

Mr. Cosgrove insisted on one uniform procedure for clerks versus a different procedure in each county. Mr. Webb agreed that only one set process was preferable. Ms. Blough said that the general guideline in the draft allows for one uniform procedure to be established. She believes this will be possible though the recording process varies from county to county. She clarified that the process begins at the county finance office, not with the clerks. Two meetings she had with the Anne Arundel county finance office and other agencies affected revealed their enthusiasm and willingness to do what they can to implement a process that will protect victims. Ms. Blough promised that once they are told what is expected, they will gladly comply. Her concern with the draft as it is written, giving clerks the responsibility of informing the finance office of the need to shield the deed, is that, since the deed originates in the finance office, it may already be public record by the time they are informed by the clerks.

Mr. Harrison said that in Prince George's County, recording is done electronically. The deed must first go through the treasury of the local county. Once it is cleared, it goes to the clerk's office where it is entered into the system automatically. He suggested meeting with the vendor to see how the deed can be shielded or redacted from the automatic electronic system. He emphasized the importance of knowing how the treasury intends to shield the deed before it gets to the clerks. He mentioned the Family Justice Center, a one stop shop for victims of domestic violence, as a resource. He considers deed shielding for victims a great idea, but worries about the high number of foreclosures in PG county and how that could be a problem, especially considering third party buyers.

Mr. Cosgrove responded that for these particular transactions, recording may have to be done on paper instead of electronically. In spite of technological advances, there are specific transactions that cannot be done electronically; deed recording for ACP participants may be among those. Ms. Yuzuik asked if we should consider drafting an exception so these deeds would not be filed electronically. Ms. Blough said that Minnesota has a law preventing electronic recording for the deeds of their ACP participants. Mr. Harrison asked how encumbrances work. Would they also be shielded just like the deed itself? Ms. Hoyer responded that they would be shielded; parties will be able to see that there is a lien on a specific property, but it will not be associated with an individual's name. When an abstractor needs that information, he or she must seek access through the ACP at the office of the Secretary of State.

To further clarify, Ms. Lennig explained that her organization, the House of Ruth, provides services for victims of domestic violence and has an office at PG County's Family Justice Center. They are one of many organizations initially responsible for verifying that a person is a true victim of domestic violence or trafficking before assisting with the application to join the ACP. She assured him that of these victims, the number of people able to purchase a home is very small, so even PG County should not be inundated with shielded liens for ACP participants. Mr. Harrison said that the recording instruments should at least be hand-walked in. Ms. Blough agreed and said that was the plan for Maryland State Archives as well when managing a shielded deed. Mr. Webb asked under what name would the deed be entered; will the property address itself be listed as the name? Mr. Swanson said that this was not something we want to legislate, especially considering the low number of participants purchasing property and how that might make it easy for an abuser to identify ACP deeds and narrow them down to the one belonging to the victim. Ms. Blough agreed, and stressed the importance of every entity being properly advised of the deed shielding and where they can find the information if needed. She said the cleanest way to alert people that they are at the right place is by using the property address as the name.

The group debated a few more details of the bill and the Secretary asked if all were in agreement with the bill once revised as discussed. All voted in favor.

Other Concerns

Mr. Cosgrove again voiced his concern with 24 different procedures being set up by 24 different county clerks. Mr. Dieck reminded that the bill requires a uniform statewide procedure to be established. Ms. Blough said that the procedure may have to vary a little due to each county being so different. The Secretary requested that Ms. Blough reach out to the clerk of Montgomery County, one of the counties rumored to have a more complicated recording system. Ms. Blough agreed and reminded the group that we are working towards establishing a procedure that is as simple and clean as possible and that every agency she has spoken with is on board. The clerks' office is the most task heavy regarding deed shielding, but they do not consider the burden too large. Mr. Harrison, as Vice Chair of the Circuit Court Clerks' Association, offered to bring the deed shielding issue to the Chair of the association. Ms. Blough said that the county finance offices meet together from time to time. She recommends we attend one of those meetings for their input and buy in.

Mr. Cosgrove asked if the bill would become effective October 1. Ms. Lennig said that was necessary to give everyone a chance to buy in since it typically takes six months to get organized. Mr. Harrison asked if settlement companies, who house a lot of personal information, have been included in conversation. Mr. Cosgrove replied that he is their representative on the task force. Senator Lee expressed that we have a good group with many entities represented, and that we are happy to include anyone else to have everything worked out before session starts.

Mr. Harrison referenced emergency hearings for child custody and asked how that correlates to this program. Ms. Lennig explained that in order to join the ACP, a participant must first move to a place unknown to the abuser. The majority of participants rent their homes; the ACP is not just for victims looking to purchase property. Ms. Yuzuik added that the courts already use the substitute address provided by the Secretary of State to participants. Ms. Hoyer offered to provide a background and a more thorough explanation of the ACP after the meeting. The Secretary briefly summed up that the ACP works closely with the MVA, Board of Elections and public schools to keep a participant's information off public record.

Mr. Harrison expressed his concerns with the number of tax liens in Prince George's County and asked how that makes sense with what this bill aims to accomplish. He also mentioned the importance of disseminating the new information among employees and the training that would involve. Ms. Blough agreed that liens are definitely a concern as they come from the IRS or other companies not subject to these laws. Ms. Hoyer explained that the participant's substitute address would be used to file with any

company, so the actual address should never be linked to the participant's name. Ms. Lennig believes the biggest challenge will be the infrequent use of this deed shielding system; that those trained on the procedure will no longer be in their positions when the need to shield a deed finally comes along. She reminded the group that since Minnesota, with a similar population to that of Maryland and about the same number of participants in their ACP, implemented a similar deed shielding system in 2014, only about 50 people have purchased a home. The Secretary stated that Maryland's ACP is expanding, that they have recently become a team of 8 employees and that they will be throughout the State, in every county, to provide support as needed.

When Mr. Harrison asked about exploring other options, such as a private trust, Mr. Dieck stated that he puts himself as the filer. He explained that the group did not consider an LLC an option due to filing fees and limited protection. The trust option was explored, but ruled out as there are limitations in conventional lending that would impair a participant from obtaining a commercially reasonable mortgage rate of interest to purchase property.

Legislative Strategy

Senator Lee expressed her appreciation for all the questions this meeting as they will prepare everyone for the hearing. The group briefly considered the best strategy for introducing the bill and will keep the dialogue open. Senator Lee praised the cooperation between the executive and legislative branches as very beneficial for victims of domestic violence.

Closing Remarks

The Secretary thanked everyone for coming together and looks forward to further input from the clerks to see what else needs to be done. The meeting adjourned a few minutes before 11:30 am.