

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1262 Session of
2003

INTRODUCED BY TRUE, YOUNGBLOOD, ADOLPH, BAKER, BALDWIN, BARD, BEBKO-JONES, BOYD, BROWNE, BUNT, CAPPELLI, CAWLEY, CIVERA, CLYMER, CRAHALLA, CREIGHTON, CURRY, DeWEESE, DiGIROLAMO, EGOLF, D. EVANS, FRANKEL, FREEMAN, GEORGE, GOODMAN, GRUCELA, HARHAI, HARPER, HENNESSEY, HERMAN, HICKERNELL, HORSEY, JAMES, JOSEPHS, KELLER, KOTIK, LAUGHLIN, LEACH, LEDERER, MANDERINO, MANN, McGEEHAN, McILHATTAN, McNAUGHTON, MELIO, R. MILLER, S. MILLER, MUNDY, O'NEILL, PETRARCA, PHILLIPS, PICKETT, READSHAW, REICHLEY, RUBLEY, SCRIMENTI, SHANER, B. SMITH, STERN, TANGRETTI, E. Z. TAYLOR, J. TAYLOR, TIGUE, VANCE, WASHINGTON, WATSON, WEBER, WHEATLEY AND WOJNAROSKI, APRIL 30, 2003

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 30, 2003

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, establishing a system to create and
3 maintain confidentiality of the addresses of victims of
4 domestic violence; providing for the powers and duties of the
5 Office of Victim Advocate; and prescribing penalties.

6 The General Assembly finds and declares as follows:

7 (1) Victims of domestic violence and others in physical
8 danger frequently need to adopt a confidential address in
9 order to prevent assailants and/or their agents from finding
10 them.

11 (2) This act is intended to assist victims by
12 establishing a system to create and maintain confidentiality
13 of addresses and by requiring State and local agencies to
14 accept a participant's use of a substitute mailing address.

1 work address of an individual.

2 "Criminal justice agency." The term shall have the same
3 meaning given to it under 18 Pa.C.S. § 9102 (relating to
4 definitions).

5 "Program participant." A person certified by the Office of
6 Victim Advocate as eligible to participate in the address
7 confidentiality program established by this chapter.

8 "Office of Victim Advocate." The office that is responsible
9 for the address confidentiality program established by this
10 chapter.

11 "Substitute address." The official address of the Office of
12 Victim Advocate or an address designated by the Office of Victim
13 Advocate.

14 "Victim of domestic violence." A person who is a victim as
15 defined by section 6102 (relating to definitions).

16 § 6703. Address Confidentiality Program.

17 (a) Establishment.--The Office of Victim Advocate shall
18 establish a program to be known as the Address Confidentiality
19 Program. Upon application, persons eligible under section 6705
20 (relating to persons eligible to become program participants)
21 shall receive a substitute address.

22 (b) Administration.--The Office of Victim Advocate shall
23 forward all first class mail at no additional expense to a
24 program participant. The Office of Victim Advocate may arrange
25 to receive and forward other classes or kinds of mail at the
26 program participant's expense.

27 § 6704. Application and certification process.

28 (a) General rule.--An applicant must file an application
29 with the Office of Victim Advocate on a form prescribed by the
30 Office of Victim Advocate. The Office of Victim Advocate shall

1 certify all eligible applicants as program participants.
2 Certification shall be valid for three years following the date
3 of certification unless the certification is withdrawn or
4 canceled before that date.

5 (b) Requirements for certification.--The Office of Victim
6 Advocate shall certify applications for a substitute address if:

7 (1) The applicant meets the eligibility requirements
8 under section 6705 (relating to persons eligible to become
9 program participants).

10 (2) The applicant designates the Office of Victim
11 Advocate as an agent for the purpose of receiving service of
12 process.

13 (3) The application contains the actual address and
14 telephone number where the applicant can be contacted.

15 (4) The application contains a statement that the
16 information provided by the applicant is true to the best of
17 the applicant's knowledge, which the applicant shall attest
18 to by signing.

19 (5) The application contains the date, the applicant's
20 signature and the signature of any person who assisted in the
21 preparation of the application.

22 § 6705. Persons eligible to become program participants.

23 The following persons shall qualify as program participants:

24 (1) Victims of domestic violence who:

25 (i) have filed a protection from abuse order
26 pursuant to Chapter 61 (relating to protection from
27 abuse);

28 (ii) are eligible to file for a protection from
29 abuse order pursuant to Chapter 61 and file an affidavit
30 stating their belief that the affiant fears violent acts

1 by the affiant's assailant;

2 (iii) have obtained a foreign protection order as
3 defined in section 6102 (relating to definitions),
4 whether or not such an order is filed;

5 (iv) have applied for or received crime victim
6 compensation related to the act of violence; or

7 (v) have received a statutory or legal determination
8 of good cause or finding of domestic violence.

9 (2) A person who is a member of the same household as a
10 qualified program participant under paragraph (1).

11 (3) Minor children who:

12 (i) qualify under paragraph (1) and have a parent or
13 legal guardian acting on their behalf; or

14 (ii) are children of a qualified program participant
15 under paragraph (1) or (2).

16 (4) Victims of sexual offense or stalking, as set forth
17 in 18 Pa.C.S. (relating to crimes and offenses), who:

18 (i) have filed charges against another person for
19 committing such a crime;

20 (ii) are eligible to file such criminal charges and
21 file an affidavit stating their belief that the affiant
22 fears violent acts by the affiant's assailant;

23 (iii) have filed a protection from abuse order
24 pursuant to Chapter 61;

25 (iv) are eligible to file for a protection from
26 abuse order pursuant to Chapter 61 and file an affidavit
27 stating their belief that the affiant fears violent acts
28 by the affiant's assailant;

29 (v) have obtained a foreign protection order as
30 defined in section 6102 whether or not such an order is

1 filed; or

2 (vi) have applied for or received crime victim
3 compensation related to said act of violence.

4 (5) Program participants who notify the Office of Victim
5 Advocate of the intent to continue in the program.

6 § 6706. Cancellation and voluntary withdrawal.

7 (a) Basis for cancellation.--The Office of Victim Advocate
8 may cancel certification of a program participant if:

9 (1) the applicant willingly provides false information
10 on any portion of the application;

11 (2) the program participant fails to notify the Office
12 of Victim Advocate within 14 days of a name change or address
13 change; or

14 (3) the program participant's mail is returned to the
15 Office of Victim Advocate as nondeliverable.

16 (b) Procedure for withdrawal or termination.--

17 (1) A program participant may withdraw at any time by
18 notifying the Office of Victim Advocate in writing.

19 (2) If cancellation or expiration is pending, the Office
20 of Victim Advocate shall provide written notification to the
21 participant's last known address of the intended termination
22 to the program participant 30 days prior to termination.

23 (3) Upon notification, a program participant shall have
24 ten days to appeal the termination under procedures developed
25 by the Office of Victim Advocate.

26 § 6707. Agency use of designated address.

27 State and local government agencies shall accept the address
28 designated by the Office of Victim Advocate as the program
29 participant's substitute address, except as follows:

30 (1) A local or government agency has been granted a

1 waiver pursuant to section 6709 (relating to waiver process
2 by Office of Victim Advocate).

3 (2) The program participant is any of the following:

4 (i) a released offender complying with parole
5 provisions pursuant to 37 Pa. Code Ch. 63 (relating to
6 conditions governing parole);

7 (ii) a convicted sexual offender who has fulfilled
8 his sentence but must register his community residence as
9 required under 42 Pa.C.S. §§ 9795.1 (relating to
10 registration) and 9795.2 (relating to registration
11 procedures and applicability); or

12 (iii) a convicted offender subject to home
13 detention.

14 § 6708. Disclosure of confidential address.

15 (a) General rule.--The Office of Victim Advocate may not
16 disclose the address of a program participant except under one
17 of the following circumstances:

18 (1) To an agency that has been granted a waiver by the
19 Office of Victim Advocate pursuant to section 6709 (relating
20 to waiver process by Office of Victim Advocate).

21 (2) Upon order of the court, to the person identified in
22 that order.

23 (3) To providers of medical care, social services
24 personnel or others similarly situated when emergency
25 disclosure is necessary pursuant to section 6710 (relating to
26 emergency disclosure).

27 (b) Notice to program participant.--

28 (1) Except when disclosure is made to a criminal justice
29 agency or occurs in an instance subject to subsection (a)(2),
30 the Office of Victim Advocate shall provide written

1 notification of disclosure to the program participant five
2 business days prior to disclosure. When disclosure occurs
3 under subsection (a)(3), the Office of Victim Advocate shall
4 simultaneously notify a program participant of disclosure.

5 (2) Except in the instance of court order, the Office of
6 Victim Advocate shall seek input from the victim related to
7 the disclosure request and consider such information in their
8 determination to disclose the participant's confidential
9 address.

10 (3) When disclosure is denied, the Office of Victim
11 Advocate shall provide written notification to the program
12 participant not more than five business days after the
13 disclosure is denied.

14 § 6709. Waiver process by Office of Victim Advocate.

15 (a) Information required for request.--An agency that
16 requests disclosure under section 6708 (relating to disclosure
17 of confidential address) shall provide in writing to the Office
18 of Victim Advocate:

19 (1) Identification of the law or administrative rule or
20 procedure that demonstrates the agency's bona fide
21 requirement and authority for the use of the actual address
22 of the program participant.

23 (2) Identification of the specific program participant's
24 record for which the waiver is requested.

25 (3) Identification of the persons who will have access
26 to the record.

27 (4) Explanation of how the agency's acceptance of a
28 substitute address will prevent the agency from meeting its
29 obligations under the law.

30 (5) An explanation of why the agency cannot meet its

1 statutory or administrative obligations by a change in its
2 internal procedures.

3 (b) Review by Office of Victim Address.--

4 (1) The Office of Victim Advocate shall file and review
5 an agency's waiver request. During the review, evaluation and
6 appeal of an agency's waiver request, the agency shall accept
7 the use of a program participant's substitute address.

8 (2) The Office of Victim Advocate's determination to
9 grant or withhold a requested waiver shall be based on, but
10 not limited to, an evaluation of the information provided
11 under subsection (a), as well as information obtained from
12 the program participant.

13 (c) Criteria for granting waiver.--

14 (1) If the Office of Victim Advocate determines that an
15 agency has a bona fide statutory or administrative need for
16 the actual address and that the information will be used only
17 for that purpose, the Office of Victim Advocate may issue the
18 actual address to the agency.

19 (2) When granting a waiver, the Office of Victim
20 Advocate shall notify and require the agency to:

21 (i) Maintain the confidentiality of a program
22 participant's actual address.

23 (ii) Limit the use and access of that address.

24 (iii) Designate an address disposition date after
25 which the agency may no longer maintain the record of the
26 address.

27 (iv) Adopt any other provisions and qualifications
28 determined appropriate by the Office of Victim Advocate.

29 (d) Denial.--The Office of Victim Advocate's denial of an
30 agency's waiver request shall be made in writing and include a

1 statement of specific reasons for denial.

2 (e) Appeal.--An agency may appeal the denial of its request
3 pursuant to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and
4 procedure of Commonwealth agencies).

5 § 6710. Emergency disclosure.

6 (a) General rule.--The Office of Victim Advocate shall
7 establish a system to handle emergencies that will provide, on a
8 24-hour basis, access to the actual address of a program
9 participant.

10 (b) Criteria.--The Office of Victim Advocate may provide
11 disclosure where:

12 (1) failure to disclose a participant's actual address
13 may result in physical harm to a program participant or the
14 participant's family member if immediate disclosure is not
15 made; or

16 (2) for law enforcement purposes, where the agency is
17 carrying out its normal functions and circumstances warrant
18 immediate disclosure.

19 (c) Procedure.--The Office of Victim Advocate, when
20 disclosing the program participant's actual address under this
21 section, shall:

22 (1) Verify the requesting party's identity and an
23 immediate need to receive the information.

24 (2) Upon a finding that the agency satisfies the
25 criteria under subsection (b), provide the agency with the
26 actual address.

27 (d) Limited liability.--In no event shall the Office of
28 Victim Advocate be liable for good faith disclosure of a program
29 participant's actual address, nor shall the Office of the Victim
30 Advocate be liable for failure to disclose a program

1 participant's actual address under this section.

2 § 6711. Penalties.

3 (a) False information.--Any person who knowingly provides
4 false information in regard to a material fact in an application
5 under section 6704 (relating to application and certification
6 process) or 6705 (relating to persons eligible to become program
7 participants) shall be subject to termination from the program
8 and criminal penalties under 18 Pa.C.S. § 4904(a) (relating to
9 unsworn falsification to authorities).

10 (b) Access by fraud or misrepresentation.--

11 (1) Any person who attempts to gain access to any
12 program participant's actual address through fraud or
13 misrepresentation commits a misdemeanor of the first degree
14 punishable under 18 Pa.C.S. §§ 106(a)(5) and (b)(6) (relating
15 to classes of offenses) and 1101(4) (relating to fines).

16 (2) Any person who commits:

17 (i) a subsequent offense under paragraph (1); or

18 (ii) a first offense under paragraph (1) who has
19 previously been convicted of any crime involving any
20 program participant or the participant's family or
21 household members as defined by section 6102 (relating to
22 definitions), including, but not limited to, a violation
23 of:

24 (A) 18 Pa.C.S. § 2701 (relating to simple
25 assault);

26 (B) 18 Pa.C.S. § 2702 (relating to aggravated
27 assault);

28 (C) 18 Pa.C.S. § 2705 (relating to recklessly
29 endangering another person);

30 (D) 18 Pa.C.S. § 2709 (relating to harassment)

1 (E) 18 Pa.C.S. § 2901 (relating to kidnapping);

2 (F) 18 Pa.C.S. § 3121 (relating to rape);

3 (G) 18 Pa.C.S. § 3123 (relating to involuntary
4 deviate sexual intercourse);

5 (H) 18 Pa.C.S. § 4954 (relating to protective
6 orders); or

7 (I) 23 Pa.C.S. § 6108 (relating to relief);

8 commits a felony of the third degree punishable under
9 18 Pa.C.S. §§ 106(a)(4) and (b)(4) and 1101(3).

10 § 6712. Rules and regulations.

11 The Office of Victim Advocate may adopt rules and regulations
12 to administer this chapter.

13 Section 2. This act shall take effect in 180 days.