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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 940 Session of  
2023

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INTRODUCED BY CAPPELLETTI, SCHWANK, SAVAL, HAYWOOD, FONTANA,  
KANE, HUGHES, COMMITTA, KEARNEY, TARTAGLIONE AND BREWSTER,  
OCTOBER 3, 2023

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REFERRED TO HEALTH AND HUMAN SERVICES, OCTOBER 3, 2023

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AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania  
2 Consolidated Statutes, in public safety, establishing the  
3 Reproductive Health Services Address Confidentiality Program;  
4 and imposing penalties.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Part III of Title 35 of the Pennsylvania  
8 Consolidated Statutes is amended by adding a chapter to read:

9 CHAPTER 59

10 REPRODUCTIVE HEALTH SERVICES

11 ADDRESS CONFIDENTIALITY

12 Sec.

13 5901. Scope of chapter.

14 5902. Definitions.

15 5903. Establishment and administration of program.

16 5904. Eligibility to apply for program participation.

17 5905. Application and certification process.

18 5906. Cancellation, expiration and voluntary withdrawal of

1           certifications.

2 5907. Acceptance of substitute addresses by State and local  
3           government entities.

4 5908. Disclosure of actual addresses.

5 5909. Waiver process.

6 5910. Emergency disclosure.

7 5911. Penalties.

8 5912. Civil immunity.

9 5913. Guidelines and regulations.

10 § 5901. Scope of chapter.

11       This chapter relates to reproductive health services address  
12 confidentiality.

13 § 5902. Definitions.

14       The following words and phrases when used in this chapter  
15 shall have the meanings given to them in this section unless the  
16 context clearly indicates otherwise:

17       "Actual address." A residential address, school address or  
18 work address of an individual.

19       "Department." The Department of Health of the Commonwealth.

20       "Eligible person." A person specified under section 5904  
21 (relating to eligibility to apply for program participation).

22       "Law enforcement agency." A municipal police department, the  
23 Pennsylvania State Police, a district attorney's office or the  
24 Office of Attorney General.

25       "Program." The Reproductive Health Services Address  
26 Confidentiality Program established under section 5903 (relating  
27 to establishment and administration of program).

28       "Program participant." A person certified by the department  
29 as eligible to participate in the program.

30       "Reproductive health service provider." A public or private

1 hospital, clinic, center, medical school, medical training  
2 institution, health care facility, physician's office,  
3 infirmary, dispensary, ambulatory surgical treatment center or  
4 other institution or location that provides reproductive health  
5 services, including an employee, volunteer or contractor of the  
6 provider of the reproductive health services.

7 "Reproductive health services." Medical, surgical,  
8 counseling or referral services relating to the human  
9 reproductive system, including services relating to pregnancy,  
10 contraception or the termination of pregnancy.

11 "Substitute address." The official address of the department  
12 or a confidential address designated by the department.

13 § 5903. Establishment and administration of program.

14 (a) Establishment.--The Reproductive Health Services Address  
15 Confidentiality Program is established within the department.  
16 Upon filing an application and certification by the department  
17 under section 5905 (relating to application and certification  
18 process), a program participant shall receive a confidential  
19 substitute address provided by the department, which shall  
20 utilize a post office box number.

21 (b) Administration.--The department shall forward all of a  
22 program participant's first class, registered and certified mail  
23 to the program participant at no expense to the program  
24 participant within three business days of receipt of the mail.  
25 The department may arrange to receive and forward other classes  
26 or kinds of the program participant's mail at the program  
27 participant's expense.

28 (c) Notice.--Upon certification by the department under  
29 section 5905(b), the department shall provide a notice of  
30 participation and the program participant's substitute address

1 to appropriate officials involved in an ongoing civil or  
2 criminal case in which the program participant is a victim,  
3 witness, plaintiff or defendant.

4 (d) Records.--All records relating to an eligible person who  
5 submits an application under section 5905(a) or a program  
6 participant shall be the property of the department. The  
7 department shall keep the records confidential, including a  
8 record relating to an application filed under section 5905(a), a  
9 program participant's actual address or a waiver process under  
10 section 5909 (relating to waiver process), and shall not be  
11 subject to access under the act of February 14, 2008 (P.L.6,  
12 No.3), known as the Right-to-Know Law, except to a law  
13 enforcement agency as necessary for the prosecution of an  
14 offense under section 5911 (relating to penalties).  
15 § 5904. Eligibility to apply for program participation.

16 Any of following may submit an application to the department  
17 to become a program participant:

18 (1) A reproductive health service provider or a patient  
19 of the reproductive health service provider who files an  
20 affidavit with the department stating that the affiant fears  
21 a future violent act by the affiant's assailant, including a  
22 description of the assailant's violent act or threatened  
23 violent act toward the affiant, or that the affiant fears a  
24 violent act from another individual.

25 (2) A person who is a member of the same household as a  
26 program participant.

27 (3) A program participant who notifies the department of  
28 the program participant's intent to continue in the program  
29 before the expiration of the certification under section  
30 5905(b) (relating to application and certification process).

1 § 5905. Application and certification process.

2 (a) Process.--An eligible person may file an application  
3 with the department on a form prescribed by the department to  
4 become a program participant. The department shall certify an  
5 eligible person who submits an application under this subsection  
6 as a program participant in accordance with subsection (b).  
7 Certification as a program participant shall be valid for a  
8 period of three years after the date of certification by the  
9 department unless the certification is voluntarily withdrawn or  
10 canceled under section 5906 (relating to cancellation,  
11 expiration and voluntary withdrawal of certifications) before  
12 the expiration of the three-year period.

13 (b) Certification.--The department shall certify an eligible  
14 person who submits an application under subsection (a) as a  
15 program participant if all of the following apply:

16 (1) The eligible person designates the department as an  
17 agent for the purpose of receiving service of process.

18 (2) The application contains the eligible person's  
19 actual address and telephone number where the eligible person  
20 can be contacted.

21 (3) The application contains a list of all pending civil  
22 and criminal proceedings in which the eligible person is a  
23 victim, witness, plaintiff or defendant and, if applicable,  
24 the eligible person's involvement with the Pennsylvania  
25 Parole Board or a county office of probation and parole.

26 (4) The application contains a statement signed by the  
27 eligible person affirming that the information provided by  
28 the eligible person is true to the best of the eligible  
29 person's information, knowledge and belief.

30 (5) The application contains a statement signed by the

1 eligible person acknowledging that the eligible person has a  
2 continuing duty to notify the department of a change in the  
3 information provided to the department in accordance with  
4 this chapter for the duration of participation in the  
5 program.

6 (6) The application contains the date, the eligible  
7 person's signature and the signature of any person who  
8 assisted in the preparation of the application.

9 (c) Participation card.--Upon certifying an eligible person  
10 for program participation, the department shall issue a program  
11 participation card to the program participant with a substitute  
12 address.

13 § 5906. Cancellation, expiration and voluntary withdrawal of  
14 certifications.

15 (a) Cancellation.--The department shall cancel the  
16 certification of a program participant under section 5905(b)  
17 (relating to application and certification process) if any of  
18 the following apply:

19 (1) The program participant willingly provided false  
20 information on the application under section 5905(a).

21 (2) The program participant failed to notify the  
22 department within 10 days of a name change or an address  
23 change.

24 (3) The program participant's mail is returned to the  
25 department as nondeliverable.

26 (b) Expiration.--Certification as a program participant  
27 under section 5905(b) shall be valid for a period of three years  
28 after the date of certification by the department. The  
29 department shall send a written notification of pending  
30 expiration to a program participant's last known actual address

1 no later than 30 days before the expiration of the  
2 certification.

3 (c) Withdrawal.--A program participant may withdraw from  
4 participating in the program at any time by notifying the  
5 department in writing.

6 (d) Effect of cancellation, expiration or withdrawal.--  
7 Notwithstanding the provisions of this section, an eligible  
8 person may reapply for participation in the program.

9 § 5907. Acceptance of substitute addresses by State and local  
10 government entities.

11 A State or local government entity shall accept the  
12 substitute address designated on a valid program participation  
13 card issued to the program participant by the department as the  
14 program participant's address except if any of the following  
15 apply:

16 (1) The State or local government entity has been  
17 granted a waiver under section 5909 (relating to waiver  
18 process).

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

20 (i) A released offender complying with the  
21 requirements of the Pennsylvania Parole Board or a county  
22 office of probation and parole.

23 (ii) A convicted sexual offender who has fulfilled  
24 the offender's sentence, but is required to register the  
25 offender's community residence as required under 42  
26 Pa.C.S. Ch. 97 Subch. H (relating to registration of  
27 sexual offenders) or I (relating to continued  
28 registration of sexual offenders) or any similar  
29 registration requirement imposed by any other  
30 jurisdiction.

1 § 5908. Disclosure of actual addresses.

2 The department may not disclose the actual address of a  
3 program participant except to any of the following:

4 (1) A State or local government entity that has been  
5 granted a waiver by the department if the disclosure is made  
6 in accordance with section 5909 (relating to waiver process).

7 (2) A State or local government entity when disclosure  
8 is determined by the department to be required due to an  
9 emergency if the disclosure is made in accordance with  
10 section 5910 (relating to emergency disclosure).

11 (3) A person identified in an order of court of  
12 competent jurisdiction directing the department to disclose  
13 the program participant's actual address if the disclosure is  
14 made in accordance with the order.

15 § 5909. Waiver process.

16 (a) Requests for waivers.--A State or local government  
17 entity seeking the disclosure of a program participant's actual  
18 address shall make the request in writing on the State or local  
19 government entity's letterhead to the department and provide the  
20 department with all of the following information:

21 (1) The name of the program participant.

22 (2) A statement explaining the reason why the State or  
23 local government entity needs the program participant's  
24 actual address and a statement that the State or local  
25 government entity cannot meet its statutory or administrative  
26 obligations without disclosure of the program participant's  
27 actual address.

28 (3) A statement of facts showing that other methods to  
29 locate the program participant or the program participant's  
30 actual address have been tried and have failed or that the

1 other methods reasonably appear to be unlikely to succeed.

2 (4) A statement that the State or local government  
3 entity has adopted a procedure detailing the steps that the  
4 State or local government entity will take to protect the  
5 confidentiality of the program participant's actual address.

6 (b) Notice to program participants.--

7 (1) Except as provided under paragraph (3), the  
8 department shall provide a program participant with notice of  
9 a request for a waiver under subsection (a). To the extent  
10 possible, the department shall afford the program participant  
11 with an opportunity to be heard regarding the request.

12 (2) Except as provided in paragraph (3), the department  
13 shall provide a program participant with a written  
14 notification whenever a request for a waiver under subsection  
15 (a) has been granted or denied under subsection (d).

16 (3) The department may not provide a program participant  
17 with a notice or opportunity to be heard under paragraph (1)  
18 or (2) when the request for disclosure is made by a law  
19 enforcement agency conducting a criminal investigation  
20 involving alleged criminal conduct by the program participant  
21 or when providing notice to the program participant would  
22 jeopardize an ongoing criminal investigation or the safety of  
23 law enforcement agency personnel.

24 (c) Review of requests for waivers.--The department shall  
25 promptly conduct a review of a request for a waiver under  
26 subsection (a). In conducting the review, the department shall  
27 consider all information received under subsections (a) and (b)  
28 and any other appropriate information that the department deems  
29 necessary.

30 (d) Criteria for granting waivers.--The department shall

1 grant a State or local government entity's request for a waiver  
2 under subsection (a) and release a program participant's actual  
3 address if all of the following apply:

4 (1) The State or local government entity has a bona fide  
5 statutory or administrative need for the actual address.

6 (2) The actual address will only be used for the purpose  
7 stated in the request.

8 (3) Other methods to locate the program participant or  
9 the program participant's actual address have been tried and  
10 have failed or the other methods reasonably appear to be  
11 unlikely to succeed.

12 (4) The State or local government entity has adopted a  
13 procedure for protecting the confidentiality of the actual  
14 address of the program participant.

15 (e) Forms of waivers.--Upon granting a request for waiver  
16 under subsection (d), the department shall provide the State or  
17 local government entity receiving the waiver with a form  
18 containing all of the following:

19 (1) The program participant's actual address.

20 (2) A statement detailing the permitted use of the  
21 actual address and the names or classes of persons permitted  
22 to have access to and use of the actual address.

23 (3) A statement that the State or local government  
24 entity is required to limit access to and use of the actual  
25 address to the permitted use and persons specified under  
26 paragraph (2).

27 (4) The date on which the waiver expires if the  
28 permitted use makes the expiration appropriate. After the  
29 expiration of the waiver, the State or local government  
30 entity may not continue to maintain, use or have access to

1 the actual address.

2 (f) State or local government entity requirements.--A State  
3 or local government entity that is granted a request for a  
4 waiver under subsection (d) shall comply with all of the  
5 following:

6 (1) Limit the use of the program participant's actual  
7 address to the purposes stated on the waiver.

8 (2) Limit access to the program participant's actual  
9 address to the persons or classes of persons stated in the  
10 waiver.

11 (3) Cease to use and dispose of the program  
12 participant's actual address upon the expiration of the  
13 waiver.

14 (4) Except as otherwise stated in the waiver, maintain  
15 the confidentiality of the program participant's actual  
16 address.

17 (g) Denial of requests for waivers.--Upon denial of a State  
18 or local government entity's request for a waiver under  
19 subsection (a), the department shall provide prompt written  
20 notification of the denial to the State or local government  
21 entity and state the specific reason for the denial.

22 (h) Filing of exceptions.--A State or local government  
23 entity may file a written exception with the department no later  
24 than 15 days after a written notification is provided under  
25 subsection (g). In the written exception, the State or local  
26 government entity shall restate the information contained in the  
27 request for a waiver under subsection (a), state the grounds  
28 upon which the State or local government entity asserts that the  
29 request for a waiver should be granted and specifically respond  
30 to the department's reason for denying the request for a waiver.

1 (i) Review of exceptions and determination.--Unless the  
2 State or local government entity agrees otherwise, the  
3 department shall make a final determination regarding the  
4 written exception under subsection (h) within 30 days after the  
5 date of the filing. Before making a final determination  
6 regarding the written exception, the department may request  
7 additional information from the State or local government entity  
8 or the program participant and conduct a hearing. If the final  
9 determination of the department is that the denial under  
10 subsection (g) is proper, the department shall provide the State  
11 or local government entity with a written notification of the  
12 final determination stating that the State or local government  
13 entity request has again been denied and the specific reason for  
14 the denial. If the final determination of the department is that  
15 the denial of the State or local government entity request for  
16 waiver has been improperly denied under subsection (g), the  
17 department shall grant the State or local government entity  
18 request for a waiver in accordance with this section. The final  
19 determination of the department under this subsection shall be  
20 the final order of the department.

21 (j) Appeal of final determinations.--Within 30 days after  
22 notification that the department has made a final determination  
23 affirming the denial of the State or local government entity's  
24 request for a waiver under subsection (i), the State or local  
25 government entity may appeal the final determination in  
26 accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial  
27 review of Commonwealth agency action).

28 (k) Records on appeal.--The record before a court of  
29 competent jurisdiction hearing an appeal under subsection (j)  
30 shall consist of the State or local government entity's request

1 for a waiver under subsection (a), the department's written  
2 notification under subsections (g) and (i), the State or local  
3 government entity's written exception under subsection (g), the  
4 hearing transcript under subsection (g), if any, and the  
5 department's final determination under subsection (i).

6 (l) Use of substitute addresses.--During a period of review  
7 of a request for a waiver under subsection (a), including an  
8 appeal under subsection (j), a State or local government entity  
9 shall, to the extent possible, accept and use a program  
10 participant's substitute address.

11 (m) Written consent.--Nothing in this section shall be  
12 construed to prevent the department from granting a request for  
13 a waiver under subsection (a) to a State or local government  
14 entity upon receipt of a program participant's written consent  
15 to grant the request.

16 § 5910. Emergency disclosure.

17 (a) Establishment.--The department shall establish a system  
18 to respond to a request for an emergency disclosure that will  
19 provide for 24-hour access to a program participant's actual  
20 address.

21 (b) Requests for emergency disclosures.--A State or local  
22 government entity may request that the department disclose a  
23 program participant's actual address through the system  
24 established under subsection (a). The department shall disclose  
25 the program participant's actual address if the disclosure:

26 (1) will prevent physical harm to the program  
27 participant or the program participant's family member; or

28 (2) is made to a law enforcement agency for law  
29 enforcement purposes and the circumstances warrant immediate  
30 disclosure.

1 (c) Requirements for emergency disclosures.--Before  
2 disclosing a program participant's actual address under  
3 subsection (b), the department shall require all of the  
4 following:

5 (1) Verification of the requester's identity and the  
6 requester's employment with a State or local government  
7 entity.

8 (2) Verification of the stated reason for the request to  
9 adequately ensure that emergency disclosure is necessary.

10 (3) Proof, to the satisfaction of the department, that  
11 other methods to locate the program participant or the  
12 program participant's actual address have been tried and have  
13 failed or the other methods reasonably appear to be unlikely  
14 to succeed given the circumstances of the stated reason for  
15 the request.

16 (4) That the program participant's actual address only  
17 be used by the requester or the State or local government  
18 entity to the extent necessary to respond to the stated  
19 reason for the request.

20 (5) That the requester and the State or local government  
21 entity maintain the confidentiality of the actual address of  
22 the program participant.

23 (6) That the requester and the State or local government  
24 entity agree to dispose of the program participant's actual  
25 address as soon as practicable after the circumstances  
26 surrounding the stated reason for the request no longer  
27 require an emergency disclosure.

28 § 5911. Penalties.

29 (a) False information.--A person who knowingly provides  
30 false information in regard to a material fact contained in an

1 application made under section 5905 (relating to application and  
2 certification process) shall be subject to termination from the  
3 program and to criminal penalties under 18 Pa.C.S. § 4904  
4 (relating to unsworn falsification to authorities).

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

6 (1) Except as provided under paragraph (2), a person who  
7 intentionally, knowingly or recklessly attempts to gain  
8 access to or gains access to a program participant's actual  
9 address by fraud or misrepresentation commits a misdemeanor  
10 of the second degree. A second or subsequent violation of  
11 this paragraph shall be graded as a felony of the third  
12 degree.

13 (2) A first offense under paragraph (1) shall be graded  
14 as a felony of the third degree if it is committed by any  
15 person who has previously been convicted of a crime of  
16 violence involving the program participant under paragraph  
17 (1) or the program participant's family or household members  
18 as defined in 23 Pa.C.S. § 6102 (relating to definitions),  
19 including any of the following:

20 (i) 18 Pa.C.S. § 2701 (relating to simple assault).

21 (ii) 18 Pa.C.S. § 2702 (relating to aggravated  
22 assault).

23 (iii) 18 Pa.C.S. § 2705 (relating to recklessly  
24 endangering another person).

25 (iv) 18 Pa.C.S. § 2709 (relating to harassment).

26 (v) 18 Pa.C.S. § 2709.1 (relating to stalking).

27 (vi) 18 Pa.C.S. § 2718 (relating to strangulation).

28 (vii) 18 Pa.C.S. § 2901 (relating to kidnapping).

29 (viii) 18 Pa.C.S. § 3121 (relating to rape).

30 (ix) 18 Pa.C.S. § 3123 (relating to involuntary

1 deviate sexual intercourse).

2 (x) 18 Pa.C.S. § 4954 (relating to protective  
3 orders).

4 (xi) 23 Pa.C.S. § 6108 (relating to relief).

5 (c) Unauthorized disclosures or uses.--A person who lawfully  
6 obtains a program participant's actual address due to a written  
7 exception under section 5909(h) (relating to waiver process) and  
8 who subsequently discloses or uses the actual address in a  
9 manner not authorized by this chapter commits a summary offense.  
10 § 5912. Civil immunity.

11 Except for gross negligence, recklessness or intentional  
12 misconduct, the department, a law enforcement agency or an  
13 agent, contractor or employee of the department or the law  
14 enforcement agency shall be immune from civil liability in an  
15 action arising in relation to the provisions of this chapter.  
16 § 5913. Guidelines and regulations.

17 (a) Guidelines.--The department shall adopt guidelines to  
18 implement this chapter and submit the guidelines to the  
19 Legislative Reference Bureau for publication in the Pennsylvania  
20 Bulletin. The guidelines shall not be subject to any of the  
21 following:

22 (1) Section 612 of the act of April 9, 1929 (P.L.177,  
23 No.175), known as The Administrative Code of 1929.

24 (2) Sections 201, 202, 203, 204 and 205 of the act of  
25 July 31, 1968 (P.L.769, No.240), referred to as the  
26 Commonwealth Documents Law.

27 (3) Sections 204(b) and 301(10) of the act of October  
28 15, 1980 (P.L.950, No.164), known as the Commonwealth  
29 Attorneys Act.

30 (4) The act of June 25, 1982 (P.L.633, No.181), known as

1 the Regulatory Review Act.

2 (b) Regulations.--No later than July 1, 2025, the department  
3 shall promulgate regulations to replace the guidelines under  
4 subsection (a).

5 (c) Expiration.--The guidelines under subsection (a) shall  
6 take effect 180 days after the date of publication in the  
7 Pennsylvania Bulletin and shall expire on the date when the  
8 regulations take effect under subsection (b), or July 1, 2026,  
9 whichever is earlier.

10 Section 2. This act shall take effect in 60 days.