

Address Confidentiality Program for Victims Fleeing Violence

(Legislative Session 2003/04)

Background

Domestic violence is an insidious crime with complex dynamics that make each situation different; however, one commonality exists – domestic violence perpetrators use physical force to control victims. When batterers believe that they are about to lose control of victims, the violence often escalates. Thus, it should be

no surprise that victims' attempts to leave a violent relationship appear to be one of the greatest risk factors indicating that a domestic violence offender will seriously injure or kill a victim.¹

PCADV's Position

The Pennsylvania Coalition Against Domestic Violence (PCADV) supports the legislative enactment of an Address Confidentiality Program to protect the confidential locations of victims fleeing violence.

Clearly, escaping an abusive relationship is not as easy as the words suggest; leaving is a perilous process. Batterers can be relentless and use innovative methods to track down their victims. Relocation is not fail-safe. Often the fewer people who know where a victim of domestic violence or stalking is, the safer that victim will be. The proposed legislation to establish an Address Confidentiality Program seeks to assist victims with this process.

The Address Confidentiality Program is designed to provide victims of domestic violence and stalking with a means to prevent assailants from using public records to locate them. The program offers victims a legal substitute address provided by the Office of the Victim Advocate (OVA).

This address may be used to fulfill the address requirements of court and government records, such as drivers' licenses, library cards, public utility billings, traffic tickets, motor vehicle registrations, employment security, workers' compensation, school records, and court petitions. The OVA is charged with safeguarding the actual addresses of program participants with few waived exceptions.

Although the proposed legislation does not purport to protect victims' actual addresses from disclosure in every situation, the Address Confidentiality Program provides a significant step toward freedom and safety for victims who are forced to flee from violence. A confidential address can be a critical component of safety planning for victims who fear further violence or even lethal retaliation from their batterers. The Address Confidentiality Program will help victims protect this confidentiality.



¹ Farr, Kathryn Ann. (2002). "Battered Women Who Were 'Being Killed and Survived It': Straight Talk from Survivors," 17 Violence & Victims 267-268.



Rationale

- ★ **The Address Confidentiality Program provides necessary protection to victims, who are fleeing from extreme violence and/or stalking.**

Escaping a violent relationship is a dangerous process. Victims are often forced to flee their homes, assume new names, change Social Security numbers, and take myriad other precautions to keep their locations secret. A confidential address can be a critical component of safety planning for victims who fear further abuse or even lethal retaliation.

- ★ **Participation in the Address Confidentiality Program is limited to specific classes of victims and their minor children.**

The Address Confidentiality Program is available to victims of domestic violence, sexual assault and stalking who fear imminent jeopardy. Minor children of a qualified program participant or children who independently qualify for the program (and have a legal custodian acting on their behalf) may also receive the protections of the Address Confidentiality Program. Victims of domestic violence, sexual assault, and/or stalking are particularly vulnerable to continued violence and harassment. The Address Confidentiality Program recognizes the dangerous nature of these crimes and offers protection accordingly.

- ★ **The Address Confidentiality Program enables state and local agencies to respond to requests for public records without disclosing the location of victims.**

The program provides victims with a legal substitute address, which may be documented in public records, such as drivers' licenses, library cards, public utility billings, traffic tickets, motor vehicle registrations, employment security, workers' compensation, school records, court actions and many other court and governmental records. This allows victims to protect the confidentiality of their actual location, while complying with demands of courts and government officials.

- ★ **The Address Confidentiality Program provides a legal mechanism for victims of domestic violence and stalking to protect and maintain the confidentiality of their addresses.**

The Office of the Victim Advocate (OVA) will forward all first class mail at no additional cost to a program participant. The OVA may arrange to receive and forward other classes and kinds of mail at the program participant's expense.

- ★ **The Office of the Victim Advocate is an ideal location for the Address Confidentiality Program.**

The OVA has developed capacity to handle this type of program. The OVA is designed to be a secure place for crime victims to receive government help. As such, the staff is well trained to work with victims and has experience maintaining confidentiality of victim-identifying information. Moreover, the OVA already serves as a conduit for many forms of victim notification and has developed complex mailing systems that may be easily adapted to meet the needs of the Address Confidentiality Program.

PCADV's Position

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★ **The Address Confidentiality Program contains provisions to guard against misuse of the program to evade law enforcement.**

Program applicants must file a written request on a form prescribed by the OVA. The OVA would then certify the eligibility of applicants as program participants. Applicants who are released offenders complying with parole provisions,² who are registered sexual offenders,³ or who are convicted offenders subject to home detention are not eligible to participate in the program.

Furthermore, the Address Confidentiality Program requires that program participants provide the OVA with a list of pending court cases; whereby the OVA would promptly notify applicable district attorneys of the participants' involvement with the program and provide the district attorney with the program address.

In addition, OVA will be equipped to handle law enforcement requests for actual addresses of program participants on an emergent basis, thereby allowing law enforcement to proceed with investigations, in-hand service of civil orders, and warrant execution. The OVA is empowered to accept service of process, thus maintaining participant contact with the legal system.

Finally, any program participant who knowingly provides false information in regard to a material fact in an application shall be subject to termination from the program and may be assigned criminal penalties.

★ **The Address Confidentiality Program provides criminal sanctions for attempts to fraudulently obtain the confidential address of a program participant.**

Perpetrators who attempt to gain access to a program participant's actual address through fraud or misrepresentation will be subject to a misdemeanor of the first degree.⁴

★ **The Address Confidentiality Program does not prevent the Office of Children, Youth, and Families (CYF) or other emergency services from obtaining program participant addresses.**

The OVA may disclose the address of a program participant in order to provide emergency medical care or social services. Additionally, if failure to disclose a participant's actual address may result in physical harm to a program participant or a participant's family member, the OVA is required to release the actual address, on an emergent basis, to appropriate authorities, including CYF officials.

★ **The Address Confidentiality Program does not violate any statutory or Constitutional provisions in Pennsylvania.**

The proposed Address Confidentiality Program was modeled after a successful program in Washington State. Washington's program, established in 1991, has encountered no legal challenges. Since 1991, over 20 states have established and maintained successful Address Confidentiality Programs. Finally, researchers at the Public Interest Clinic of Widner University School of Law found no Pennsylvania statute or court case that would prevent a participant from using a substitute mailing address in court or governmental documents.

² pursuant to 37 Pa. Code Ch. 63

³ 42 Pa.C.S. § 9795.1 and 9795.2

⁴ punishable under 18 Pa.C.S. sections 106(a)(5) and 106(b)(6) and 18 Pa.C.S. section 1101 (4)



Pennsylvania Coalition Against Domestic Violence

Pennsylvania Coalition Against Domestic Violence (PCADV) – the nation’s first state domestic violence coalition – is a private, nonprofit, membership organization comprised of 62 community-based programs serving all 67 counties in the Commonwealth of Pennsylvania. PCADV and its member organizations provide integral services to domestic violence victims and their children including 24-hour emergency hotlines, shelter, counseling, legal advocacy and representation, medical advocacy, children’s advocacy, transitional housing, and many other emergency and support services. Now in its 27th year of operation, PCADV has a long and successful history of promoting the development and implementation of public policies and legislation that strengthen legal protections for domestic violence victims and their children.

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