

No. 2004-188

AN ACT

HB 1262

Amending Titles 23 (Domestic Relations) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, providing for application for license; establishing a system to create and maintain confidentiality of the addresses of victims of domestic violence, sexual assault and stalking; providing for the powers and duties of the Office of Victim Advocate; providing for application for certificate of title, for perfection of a security interest in a vehicle, for application for registration and for issuance and content of driver's license; and prescribing penalties.

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

Section 1. Section 1302 of Title 23 of the Pennsylvania Consolidated Statutes is amended to read:

§ 1302. Application for license.

(a) General rule.—No marriage license shall be issued except upon written and verified application made by both of the parties intending to marry.

(b) Contents.—The application shall contain the following:

(1) The full name of the applicants.

(2) The occupation, birthplace, residence and age of the applicants. *An applicant intending to marry who is a program participant in the Address Confidentiality Program under Chapter 67 (relating to domestic and sexual violence victim address confidentiality) may use the substitute address designated by the Office of Victim Advocate pursuant to Chapter 67 as the address of their residence.*

(3) Whether the marriage contemplated is the first, second or other marriage of an applicant.

(4) A statement that neither of the applicants is afflicted with transmissible disease.

(5) The full name, residence, occupation and birthplace of the parents of each applicant, including the maiden name of the mother of each applicant. *An applicant may use the substitute address designated by the Office of Victim Advocate pursuant to Chapter 67 for a parent's residence if:*

(i) the applicant is a program participant in the Address Confidentiality Program under Chapter 67 and the applicant resides with the applicant's parents; or

(ii) the applicant's parent is a program participant in the Address Confidentiality Program under Chapter 67.

(6) Any other facts necessary to determine whether a legal impediment to the proposed marriage exists.

Section 2. Title 23 is amended by adding a chapter to read:

CHAPTER 67
DOMESTIC AND SEXUAL VIOLENCE VICTIM ADDRESS
CONFIDENTIALITY

Sec.

- 6701. Short title of chapter.
- 6702. Definitions.
- 6703. Address Confidentiality Program.
- 6704. Persons eligible to apply.
- 6705. Application and certification process.
- 6706. Cancellation, expiration and voluntary withdrawal.
- 6707. Agency use of designated address.
- 6708. Disclosure of actual address.
- 6709. Waiver process.
- 6710. Emergency disclosure.
- 6711. Penalties.
- 6712. Rules and regulations.
- 6713. Civil immunity.

§ 6701. Short title of chapter.

This chapter shall be known and may be cited as the Domestic and Sexual Violence Victim Address Confidentiality Act.

§ 6702. Definitions.

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

“Actual address.” A residential address, school address or work address of an individual.

“Law enforcement agency.” A police department of a city, borough, incorporated town or township, the Pennsylvania State Police, district attorneys’ offices and the Office of Attorney General.

“Office of Victim Advocate.” The office established under section 301 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, that is responsible for the address confidentiality program pursuant to this chapter.

“Program participant.” A person certified by the Office of Victim Advocate as eligible to participate in the address confidentiality program established by this chapter.

“Substitute address.” The official address of the Office of Victim Advocate or a confidential address designated by the Office of Victim Advocate.

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

“Victim of sexual assault.” A victim of an offense enumerated in 18 Pa.C.S. §§ 3121 (relating to rape), 4302 (relating to incest), 6312 (relating to

sexual abuse of children), 6318 (relating to unlawful contact with minor) and 6320 (relating to sexual exploitation of children).

“Victim of stalking.” A victim of an offense enumerated in 18 Pa.C.S. § 2709.1 (relating to stalking).

§ 6703. Address Confidentiality Program.

(a) Establishment.—The Office of Victim Advocate shall establish a program to be known as the Address Confidentiality Program. Upon application and certification, persons eligible under section 6704 (relating to persons eligible to apply) shall receive a confidential substitute address provided by the Office of Victim Advocate.

(b) Administration.—The Office of Victim Advocate shall forward all first class, registered and certified mail at no expense to a program participant within three business days. The Office of Victim Advocate may arrange to receive and forward other classes or kinds of mail at the program participant’s expense.

(c) Notice.—Upon certification, the Office of Victim Advocate shall provide notice of participation and the program participant’s substitute address to appropriate officials involved in an ongoing civil or criminal case in which a program participant is a victim, witness, plaintiff or defendant.

(d) Records.—All records relating to applicants and program participants are the property of the Office of Victim Advocate. These records, including program applications, participants’ actual addresses and waiver proceedings, shall be kept confidential and shall not be subject to the provisions of the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, except that records may be released as specifically set forth in this chapter and to a district attorney to the extent necessary for the prosecution of conduct as set forth in section 6711 (relating to penalties).

§ 6704. Persons eligible to apply.

The following persons shall be eligible to apply to become program participants:

(1) A victim of domestic violence who files an affidavit with the Office of Victim Advocate stating the affiant’s eligibility for a protection from abuse order and further stating that the affiant fears future violent acts by the perpetrator of the abuse.

(2) A victim of sexual assault who files an affidavit with the Office of Victim Advocate describing the perpetrator’s violent actions or threatened violent actions toward the affiant and further stating that the affiant fears future violent acts by the perpetrator of the sexual violence.

(3) A victim of stalking who files an affidavit with the Office of Victim Advocate describing the perpetrator’s course of conduct or repeated actions toward the affiant meeting the criteria enumerated in 18 Pa.C.S. § 2709.1 (relating to stalking) and further stating that the affiant fears future violent acts by the perpetrator of the stalking.

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

(5) A program participant who notifies the Office of Victim Advocate of the participant's intent to continue in the program prior to the expiration of certification.

§ 6705. Application and certification process.

(a) General rule.—A person must file an application with the Office of Victim Advocate on a form prescribed by the Office of Victim Advocate. The Office of Victim Advocate shall certify eligible applicants as program participants in accordance with the procedures outlined in subsection (b). Certification shall be valid for a period of three years following the date of certification unless the certification is withdrawn or canceled before the expiration of that period.

(b) Requirements for certification.—The Office of Victim Advocate shall certify an applicant as a program participant if:

(1) The applicant meets the eligibility requirements under section 6704 (relating to persons eligible to apply).

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

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

(4) The application contains a list of all pending civil and criminal proceedings in which the applicant is a victim, witness, plaintiff or defendant and, if applicable, the applicant's involvement with State and county probation and parole.

(5) The application contains a statement signed by the applicant affirming that the information provided by the applicant is true to the best of the applicant's information, knowledge and belief.

(6) The application contains a statement signed by the applicant acknowledging that the applicant has a continuing duty to notify the Office of Victim Advocate of any change in the information provided to the Office of Victim Advocate in accordance with this chapter. The duty shall remain in effect for the duration of participation in the program.

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

§ 6706. Cancellation, expiration and voluntary withdrawal.

(a) Cancellation.—The Office of Victim Advocate shall cancel the certification of a program participant if:

(1) the program participant willingly provided false information on any portion of the application;

(2) the program participant failed to notify the Office of Victim Advocate within five days of a name change or an address change; or

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

(b) Expiration.—Certification as a program participant shall expire three years from the date on which an applicant was certified as a program participant. The Office of Victim Advocate shall send written notification of

pending expiration to a program participant's last known actual address 30 days prior to the expiration of certification.

(c) **Withdrawal.**—A program participant may withdraw at any time by notifying the Office of Victim Advocate in writing.

(d) **Effect of cancellation, expiration or withdrawal.**—Notwithstanding cancellation, expiration or prior withdrawal from the program, all persons eligible to apply to become program participants may reapply for participation in the program.

§ 6707. Agency use of designated address.

State and local government agencies shall accept the substitute address designated on a valid program participation card issued to the program participant by the Office of Victim Advocate as the program participant's address except as follows:

(1) when the State or local government agency has been granted a waiver pursuant to section 6709 (relating to waiver process); or

(2) when the program participant is any of the following:

(i) a released offender complying with State or county probation or parole requirements; or

(ii) a convicted sexual offender who has fulfilled the offender's sentence but must register the offender's community residence as required under 42 Pa.C.S. §§ 9795.1 (relating to registration) and 9795.2 (relating to registration procedures and applicability) or any similar registration requirement imposed by any other jurisdiction.

§ 6708. Disclosure of actual address.

The Office of Victim Advocate shall not disclose the actual address of a program participant except to any of the following:

(1) A State or local government agency when the State or local government agency has been granted a waiver by the Office of Victim Advocate and the disclosure is made pursuant to section 6709 (relating to waiver process).

(2) A person or agency when disclosure is determined by the Office of Victim Advocate to be required due to an emergency and the disclosure is made pursuant to section 6710 (relating to emergency disclosure).

(3) A person identified in an order of court directing the Office of Victim Advocate to disclose the program participant's actual address and disclosure is made pursuant to the court order.

§ 6709. Waiver process.

(a) **Request for waiver.**—A State or local government agency requesting disclosure of a program participant's actual address pursuant to this section shall make such a request in writing on agency letterhead and shall provide the Office of Victim Advocate with the following information:

(1) The name of the program participant for whom the agency seeks disclosure of the actual address.

(2) A statement, with explanation, setting forth the reason or reasons that the agency needs the program participant's actual address and a

statement that the agency cannot meet its statutory or administrative obligations without disclosure of the program participant's actual address.

(3) A particular statement of facts showing that other methods to locate the program participant or the program participant's actual address have been tried and have failed or that the methods reasonably appear to be unlikely to succeed.

(4) A statement that the agency has adopted a procedure setting forth the steps the agency will take to protect the confidentiality of the program participant's actual address.

(b) Notice to program participant.—

(1) Except as provided in paragraph (3), the Office of Victim Advocate shall provide the program participant with notice of a request for waiver received pursuant to subsection (a), and, to the extent possible, the program participant shall be afforded an opportunity to be heard regarding the request.

(2) Except as provided in paragraph (3), the Office of Victim Advocate shall provide the program participant with written notification whenever a waiver has been granted or denied pursuant to this section.

(3) No notice or opportunity to be heard shall be given to the program participant when the request for disclosure is made by a State or local law enforcement agency conducting a criminal investigation involving alleged criminal conduct by the program participant or when providing notice to the program participant would jeopardize an ongoing criminal investigation or the safety of law enforcement personnel.

(c) Review of request for waiver.—The Office of Victim Advocate shall promptly conduct a review of all requests received pursuant to this section. In conducting a review, the Office of Victim Advocate shall consider all information received pursuant to subsections (a) and (b) and any other appropriate information that the Office of Victim Advocate may require.

(d) Criteria for granting a request for waiver.—The Office of Victim Advocate shall grant a State or local government agency's request for waiver and release a program participant's actual address pursuant to this section if:

(1) the agency has a bona fide statutory or administrative need for the actual address;

(2) the actual address will only be used for the purpose stated in the request;

(3) other methods to locate the program participant or the program participant's actual address have been tried and have failed or such methods reasonably appear to be unlikely to succeed; and

(4) the agency has adopted a procedure for protecting the confidentiality of the actual address of the program participant.

(e) Form of waiver.—Upon granting a request for waiver pursuant to this section, the Office of Victim Advocate shall provide the State or local government agency receiving the waiver with a form containing:

(1) the program participant's actual address;

(2) a statement setting forth the permitted use of the actual address and the names or classes of persons permitted to have access to and use of the actual address;

(3) a statement that the agency receiving the waiver is required to limit access to and use of the actual address to the permitted use and persons set forth in the waiver; and

(4) the date on which the waiver expires if the permitted use makes the expiration appropriate, after which the agency may no longer maintain, use or have access to the actual address.

(f) Requirements of a State and local government agency receiving a waiver.—A State or local government agency granted a waiver by the Office of Victim Advocate pursuant to this section shall:

(1) limit the use of the program participant's actual address to the purposes set forth in the waiver;

(2) limit the access to the program participant's actual address to the persons or classes of persons set forth in the waiver;

(3) cease to use and dispose of the program participant's actual address upon the expiration of the waiver; and

(4) except as otherwise set forth in the waiver, maintain the confidentiality of a program participant's actual address.

(g) Denial of request for waiver.—Upon denial of a State or local government agency's request for waiver, the Office of Victim Advocate shall provide prompt written notification to the agency stating that the agency's request has been denied and setting forth the specific reasons for the denial.

(h) Filing of exceptions.—A State or local government agency may file written exceptions with the Office of Victim Advocate no more than 15 days after written notification is provided pursuant to subsection (g). The exceptions shall restate the information contained in the request for waiver, state the grounds upon which the agency asserts that the request for waiver should be granted and specifically respond to the Office of Victim Advocate's specific reasons for denial.

(i) Review of exceptions and determination.—Unless the State or local government agency filing exceptions agrees otherwise, the Office of Victim Advocate shall make a final determination regarding the exceptions within 30 days after the filing of exceptions pursuant to subsection (h). Prior to making a final determination regarding the exceptions, the Office of Victim Advocate may request additional information from the agency or the program participant and conduct a hearing. If the final determination of the Office of Victim Advocate is that the denial of the agency's request for waiver was properly denied, the Office of Victim Advocate shall provide the agency with written notification of this final determination stating that the agency's request has again been denied and setting forth the specific reasons for the denial. If the final determination of the Office of Victim Advocate is that the denial of the agency's request for waiver has been improperly denied, the Office of Victim Advocate shall grant the agency's request for waiver in

accordance with this section. The final determination of the Office of Victim Advocate shall be the final order of the Office of Victim Advocate.

(j) Agency appeal of final determination.—Within 30 days after notification that the Office of Victim Advocate has made a final determination affirming the denial of a State or local government agency's request for waiver, an agency may file a petition for review or any such other document as permitted or required by general court rules. The Office of Victim Advocate shall be given notice of any action commenced in accordance with this subsection or general rule and shall be afforded an opportunity to respond as permitted or required by general court rules.

(k) Record on appeal.—The record before any court hearing an agency appeal pursuant to subsection (j) shall consist of the State or local government agency's request for waiver, the Office of Victim Advocate's written response, the agency's exceptions, the hearing transcript, if any, and the Office of Victim Advocate's final determination.

(l) Use of substitute address during certain periods.—During any period of review, evaluation or appeal, the agency shall, to the extent possible, accept and use the program participant's substitute address.

(m) Waiver.—Nothing in this section shall be construed to prevent the Office of Victim Advocate from granting a waiver to a State or local government agency pursuant to this section upon receipt of a program participant's written consent to do so.

§ 6710. Emergency disclosure.

(a) General rule.—The Office of Victim Advocate shall establish a system to respond to requests for emergency disclosures that will provide for 24-hour access to a program participant's actual address.

(b) Request for emergency disclosure.—A government agency may request that the Office of Victim Advocate disclose a program participant's actual address through the system established pursuant to subsection (a). The Office of Victim Advocate shall disclose a program participant's actual address if the disclosure:

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

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

(c) Requirements for emergency disclosure.—Prior to disclosing a program participant's actual address pursuant to this section, the Office of Victim Advocate shall require:

(1) verification of the requester's identity and the requester's employment with a government agency;

(2) verification of the stated reason for the request to adequately ensure that emergency disclosure is required pursuant to subsection (b);

(3) proof, to the satisfaction of the Office of Victim Advocate, that other methods to locate the program participant or the program participant's actual address have been tried and have failed or that the

methods reasonably appear to be unlikely to succeed given the circumstances of the stated reason for the request;

(4) that the program participant's actual address only be used by the requester or the agency to the extent necessary to respond to the stated reason for the request;

(5) that the requester and the requester's agency maintain the confidentiality of the actual address of the program participant; and

(6) that the requester and the requester's agency agree to dispose of the program participant's actual address as soon as practicable after the circumstances surrounding the stated reason for the request no longer require emergency disclosure pursuant to this section.

§ 6711. Penalties.

(a) False information.—Any person who knowingly provides false information in regard to a material fact contained in any application made pursuant to section 6704 (relating to persons eligible to apply) or 6705 (relating to application and certification process) shall be subject to termination from the program and to criminal penalties under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(b) Access by fraud or misrepresentation.—

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

(2) A first offense under paragraph (1) shall be graded as a felony of the third degree if it is committed by any person who has previously been convicted of a crime of violence involving the program participant under paragraph (1) or the program participant's family or household member as defined in section 6102 (relating to definitions), including:

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

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

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

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

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

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

18 Pa.C.S. § 3121 (relating to rape);

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

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

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

(c) Unauthorized use of disclosed actual address.—A person who lawfully obtains a program participant's actual address pursuant to an exception contained in section 6708 (relating to disclosure of actual address)

and who subsequently discloses or uses the actual address in a manner not authorized by this chapter commits a summary offense.

§ 6712. Rules and regulations.

The Office of Victim Advocate shall have the following duties in order to implement this chapter:

(1) The Office of Victim Advocate shall adopt and use guidelines which shall be published in the Pennsylvania Bulletin. The guidelines shall not be subject to review under section 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, or the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(2) By July 1, 2006, the Office of Victim Advocate shall in accordance with law promulgate regulations to replace the guidelines under paragraph (1).

(3) The guidelines under paragraph (1) shall take effect in 180 days and expire on the earlier of the effective date of regulations promulgated under paragraph (2) or July 1, 2007.

§ 6713. Civil immunity.

Except for gross negligence, recklessness or intentional misconduct, the Office of Victim Advocate, law enforcement agencies and all agents, contractors and employees of the Office of Victim Advocate or a law enforcement agency shall be immune from civil liability in any action arising in connection with this chapter.

Section 3. Sections 1103.1(a), 1132.1(a), 1305(a) and (d) and 1510(a) and (b) of Title 75 are amended to read:

§ 1103.1. Application for certificate of title.

(a) Contents of application.—Application for a certificate of title shall be made upon a form prescribed and furnished by the department and shall contain a full description of the vehicle, the vehicle identification number, odometer reading, date of purchase, the actual or bona fide name and address of the owner, a statement of the title of applicant, together with any other information or documents the department requires to identify the vehicle and to enable the department to determine whether the owner is entitled to a certificate of title, and the description of any security interests in the vehicle. *Program participants in the Address Confidentiality Program under 23 Pa.C.S. Ch. 67 (relating to domestic and sexual violence victim address confidentiality) may use a substitute address designated by the Office of Victim Advocate as their address.*

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§ 1132.1. Perfection of a security interest in a vehicle.

(a) Perfection.—A security interest in a vehicle titled in this Commonwealth is perfected at the time the department receives all of the following:

(1) A completed application specifying the lienholder's name and address. *Program participants in the Address Confidentiality Program*

under 23 Pa.C.S. Ch. 67 (relating to domestic and sexual violence victim address confidentiality) may use a substitute address designated by the Office of Victim Advocate as their address.

(2) An amount equal to or greater than the fee required by section 1953 (relating to security interest).

(3) The manufacturer's statement of origin or the existing certificate of title for the vehicle.

* * *

§ 1305. Application for registration.

(a) General rule.—Application for the registration of a vehicle shall be made to the department upon the appropriate form or forms furnished by the department. The application shall contain the full name and address of the owner or owners; the make, model, year and vehicle identification number of the vehicle; and such other information as the department may require. *Program participants in the Address Confidentiality Program under 23 Pa.C.S. Ch. 67 (relating to domestic and sexual violence victim address confidentiality) may use a substitute address designated by the Office of Victim Advocate as their address.* Applicants for registration of a truck, truck tractor, trailer or bus shall provide the vehicle's Gross Vehicle Weight Rating (GVWR), or the Gross Combination Weight Rating (GCWR), as applicable. If the manufacturer's ratings are not available, the applicant shall provide sufficient information as to the horsepower, braking capacity and such other data as necessary for the department to determine an equivalent measure of the vehicle's hauling and stopping capability. If the applicant wishes to register a vehicle at a registered gross weight less than the gross vehicle weight rating, the application shall include information as to weight, load and any other such information as the department may require. The application shall be accompanied by self-certification of financial responsibility and the applicable fee.

* * *

(d) Self-certification of financial responsibility.—In addition to the other requirements to registration, the applicant shall file a self-certification of financial responsibility which shall include:

(1) The complete name, address and telephone number of the applicant. *Program participants in the Address Confidentiality Program under 23 Pa.C.S. Ch. 67 may use a substitute address designated by the Office of Victim Advocate as their address.*

(2) The name of the insurance company which is insuring the subject vehicle.

(3) The policy number, effective date and expiration date of the policy of insurance insuring the vehicle.

§ 1510. Issuance and content of driver's license.

(a) General rule.—The department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or general class of vehicles the licensee is authorized to drive and any

endorsements or restrictions, which license shall contain a distinguishing number assigned by the department to the licensee, the actual name, date of birth, residence address, a color photograph or photographic facsimile of the licensee, such other information as may be required by the department, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write his usual signature with pen and ink. ***Program participants in the Address Confidentiality Program under 23 Pa.C.S. Ch. 67 (relating to domestic and sexual violence victim address confidentiality) may use a substitute address designated by the Office of Victim Advocate as their address.*** Personal medical data and other information for use in an emergency may be included as a part of the license. Information other than that required to identify the licensee, the distinguishing number and the class of license issued may be included in microdata form. Except as provided in subsection (f), an applicant shall include his Social Security number on his license application, but the Social Security number shall not be included on the license. No driver's license shall be valid until it has been signed by the licensee.

(b) Identification card.—The department shall, upon payment of the required fee, issue an identification card to any person who has made application therefor in such manner as the department shall prescribe or whose driver's license has been surrendered to the department because of a suspension or revocation of an operating privilege under this or any other title. ***Program participants in the Address Confidentiality Program under 23 Pa.C.S. Ch. 67 may use a substitute address designated by the Office of Victim Advocate as their address.*** The identification card shall have substantially the same content as a driver's license but shall clearly indicate that it is not a driver's license. Upon failure of any person to pass any examination required under section 1514 (relating to expiration and renewal of drivers' licenses), the department shall, where appropriate, issue a complimentary identification card as an expression of gratitude for years of safe driving. The card shall only be issued upon receipt of the person's driver's license.

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Section 4. This act shall take effect in 180 days.

APPROVED—The 30th day of November, A.D. 2004.

EDWARD G. RENDELL