

AN ACT

relating to the confidentiality of certain information regarding victims of family violence, sexual assault, or stalking, including the creation of an address confidentiality program; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 56, Code of Criminal Procedure, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. ADDRESS CONFIDENTIALITY PROGRAM FOR VICTIMS OF
FAMILY VIOLENCE, SEXUAL ASSAULT, OR STALKING

Art. 56.81. DEFINITIONS. In this subchapter:

(1) "Applicant" means a person who applies to participate in the program.

(2) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(3) "Family violence shelter center" has the meaning assigned by Section 51.002, Human Resources Code.

(4) "Mail" means first class mail and any mail sent by a government agency. The term does not include a package, regardless of size or type of mailing.

(5) "Participant" means an applicant who is certified for participation in the program.

(6) "Program" means the address confidentiality program created under this subchapter.

1 Art. 56.82. ADDRESS CONFIDENTIALITY PROGRAM. (a) The
2 attorney general shall establish an address confidentiality
3 program, as provided by this subchapter, to assist a victim of
4 family violence or an offense under Section 22.011, 22.021, 25.02,
5 or 42.072, Penal Code, in maintaining a confidential address.

6 (b) The attorney general shall:

7 (1) designate a substitute post office box address
8 that a participant may use in place of the participant's true
9 residential, business, or school address;

10 (2) act as agent to receive service of process and mail
11 on behalf of the participant; and

12 (3) forward to the participant mail received by the
13 office of the attorney general on behalf of the participant.

14 (c) A summons, writ, notice, demand, or process may be
15 served on the attorney general on behalf of the participant by
16 delivery of two copies of the document to the office of the attorney
17 general. The attorney general shall retain a copy of the summons,
18 writ, notice, demand, or process and forward the original to the
19 participant not later than the third day after the date of service
20 on the attorney general.

21 (d) The attorney general shall make and retain a copy of the
22 envelope in which certified mail is received on behalf of the
23 participant.

24 Art. 56.83. ELIGIBILITY TO PARTICIPATE IN PROGRAM. (a) To
25 be eligible to participate in the program, an applicant must:

26 (1) meet with a victim's assistance counselor from a
27 state or local agency or other entity, whether for-profit or

1 nonprofit that is identified by the attorney general as an entity
2 that provides counseling and shelter services to victims of family
3 violence;

4 (2) file an application for participation with the
5 attorney general or a state or local agency or other entity
6 identified by the attorney general under Subdivision (1);

7 (3) designate the attorney general as agent to receive
8 service of process and mail on behalf of the applicant; and

9 (4) live at a residential address, or relocate to a
10 residential address, that is unknown to the person who committed or
11 is alleged to have committed the family violence or an offense under
12 Section 22.011, 22.021, 25.02, or 42.072, Penal Code.

13 (b) An application under Subsection (a)(2) must contain:

14 (1) a signed, sworn statement by the applicant stating
15 that the applicant fears for the safety of the applicant, the
16 applicant's child, or another person in the applicant's household
17 because of a threat of immediate or future harm caused by the person
18 who committed or is alleged to have committed the family violence or
19 an offense under Section 22.011, 22.021, 25.02, or 42.072, Penal
20 Code;

21 (2) the applicant's true residential address and, if
22 applicable, the applicant's business and school addresses; and

23 (3) a statement by the applicant of whether there is an
24 existing court order or a pending court case for child support or
25 child custody or visitation that involves the applicant and, if so,
26 the name and address of:

27 (A) the legal counsel of record; and

1 (B) each parent involved in the court order or
2 pending case.

3 (c) An application under Subsection (a)(2) must be
4 completed by the applicant in person at the state or local agency or
5 other entity with which the application is filed. An applicant who
6 knowingly or intentionally makes a false statement in an
7 application under Subsection (a)(2) is subject to prosecution under
8 Chapter 37, Penal Code.

9 (d) A state or local agency or other entity with which an
10 application is filed under Subsection (a)(2) shall forward the
11 application to the office of the attorney general.

12 (e) The attorney general by rule may establish additional
13 eligibility requirements for participation in the program that are
14 consistent with the purpose of the program as stated in Article
15 56.82(a). The attorney general may establish procedures for
16 requiring an applicant, in appropriate circumstances, to submit
17 with the application under Subsection (a)(2) independent
18 documentary evidence of family violence or an offense under Section
19 22.011, 22.021, 25.02, or 42.072, Penal Code, in the form of:

20 (1) an active or recently issued protective order;
21 (2) an incident report or other record maintained by a
22 law enforcement agency or official;

23 (3) a statement of a physician or other health care
24 provider regarding the applicant's medical condition as a result of
25 the family violence or offense; or

26 (4) a statement of a mental health professional, a
27 member of the clergy, an attorney or other legal advocate, a trained

1 staff member of a family violence center, or another professional
2 who has assisted the applicant in addressing the effects of the
3 family violence or offense.

4 (f) Any assistance or counseling provided by the attorney
5 general or an employee or agent of the attorney general to an
6 applicant does not constitute legal advice.

7 Art. 56.84. CERTIFICATION; EXPIRATION. (a) The attorney
8 general shall certify for participation in the program an applicant
9 who satisfies the eligibility requirements under Article 56.83.

10 (b) A certification under this article expires on the third
11 anniversary of the date of certification.

12 Art. 56.85. RENEWAL. To renew a certification under
13 Article 56.84, a participant must satisfy the eligibility
14 requirements under Article 56.83 as if the participant were
15 originally applying for participation in the program.

16 Art. 56.86. INELIGIBILITY AND CANCELLATION. (a) An
17 applicant is ineligible for, and a participant may be excluded
18 from, participation in the program if the applicant or participant
19 knowingly makes a false statement on an application filed under
20 Article 56.83(a)(2).

21 (b) A participant may be excluded from participation in the
22 program if:

23 (1) mail forwarded to the participant by the attorney
24 general is returned undeliverable on at least four occasions;

25 (2) the participant changes the participant's true
26 residential address as provided in the application filed under
27 Article 56.83(a)(2) and does not notify the attorney general of the

1 change at least 10 days before the date of the change; or

2 (3) the participant changes the participant's name.

3 Art. 56.87. WITHDRAWAL. A participant may withdraw from
4 the program by notifying the attorney general in writing of the
5 withdrawal.

6 Art. 56.88. CONFIDENTIALITY; DESTRUCTION OF INFORMATION.

7 (a) Information relating to a participant:

8 (1) is confidential, except as provided by Article
9 56.90; and

10 (2) may not be disclosed under Chapter 552, Government
11 Code.

12 (b) Except as provided by Article 56.82(d), the attorney
13 general may not make a copy of any mail received by the office of the
14 attorney general on behalf of the participant.

15 (c) The attorney general shall destroy all information
16 relating to a participant on the third anniversary of the date
17 participation in the program ends.

18 Art. 56.89. ACCEPTANCE OF SUBSTITUTE ADDRESS; EXEMPTIONS.

19 (a) Except as provided by Subsection (b), a state or local agency
20 must accept the substitute post office box address designated by
21 the attorney general if the substitute address is presented to the
22 agency by a participant in place of the participant's true
23 residential, business, or school address.

24 (b) The attorney general by rule may permit an agency to
25 require a participant to provide the participant's true
26 residential, business, or school address, if necessary for the
27 agency to perform a duty or function that is imposed by law or

1 administrative requirement.

2 Art. 56.90. EXCEPTIONS. (a) The attorney general:

3 (1) shall disclose a participant's true residential,
4 business, or school address if:

5 (A) requested by:

6 (i) a law enforcement agency;

7 (ii) the Department of Family and
8 Protective Services for the purpose of conducting a child
9 protective services investigation under Chapter 261, Family Code;
10 or

11 (iii) the Department of State Health
12 Services or a local health authority for the purpose of making a
13 notification described by Article 21.31, Section 54.033, Family
14 Code, or Section 81.051, Health and Safety Code; or

15 (B) required by court order; and

16 (2) may disclose a participant's true residential,
17 business, or school address if:

18 (A) the participant consents to the disclosure;

19 and

20 (B) the disclosure is necessary to administer the
21 program.

22 (b) A person to whom a participant's true residential,
23 business, or school address is disclosed under this section shall
24 maintain the requested information in a manner that protects the
25 confidentiality of the participant's true residential, business,
26 or school address.

27 Art. 56.91. LIABILITY. (a) The attorney general or an

1 agent or employee of the attorney general is immune from liability
2 for any act or omission by the agent or employee in administering
3 the program if the agent or employee was acting in good faith and in
4 the course and scope of assigned responsibilities and duties.

5 (b) An agent or employee of the attorney general who does
6 not act in good faith and in the course and scope of assigned
7 responsibilities and duties in disclosing a participant's true
8 residential, business, or school address is subject to prosecution
9 under Chapter 39, Penal Code.

10 Art. 56.92. PROGRAM INFORMATION AND APPLICATION MATERIALS.
11 The attorney general shall make program information and application
12 materials available online.

13 Art. 56.93. RULES. The attorney general shall adopt rules
14 to administer the program.

15 SECTION 2. Article 56.54, Code of Criminal Procedure, is
16 amended by amending Subsection (c) and adding Subsection (l) to
17 read as follows:

18 (c) Except as provided by Subsections (h), ~~and~~ (i), and
19 (l), the compensation to victims of crime auxiliary fund may be used
20 by the attorney general only for the payment of compensation to
21 claimants or victims under this subchapter.

22 (l) The attorney general may use the compensation to victims
23 of crime auxiliary fund to cover costs incurred by the attorney
24 general in administering the address confidentiality program
25 established under Subchapter C.

26 SECTION 3. Title 1, Code of Criminal Procedure, is amended
27 by adding Chapter 57B to read as follows:

CHAPTER 57B. CONFIDENTIALITY OF IDENTIFYING INFORMATION OF FAMILY
VIOLENCE VICTIMS

Art. 57B.01. DEFINITIONS. In this chapter:

(1) "Name" means the legal name of a person.

(2) "Pseudonym" means a set of initials or a fictitious name chosen by a victim to designate the victim in all public files and records concerning the offense, including police summary reports, press releases, and records of judicial proceedings.

(3) "Public servant" has the meaning assigned by Subsection (a), Section 1.07, Penal Code.

(4) "Victim" means a person who is the subject of:

(A) an offense that allegedly constitutes family violence, as defined by Section 71.004, Family Code; or

(B) an offense that is part of the same criminal episode, as defined by Section 3.01, Penal Code, as an offense described by Paragraph (A).

Art. 57B.02. CONFIDENTIALITY OF FILES AND RECORDS.

(a) The office of the attorney general shall develop and distribute to all law enforcement agencies of the state a pseudonym form to record the name, address, telephone number, and pseudonym of a victim.

(b) A victim may choose a pseudonym to be used instead of the victim's name to designate the victim in all public files and records concerning the offense, including police summary reports, press releases, and records of judicial proceedings. A victim who elects to use a pseudonym as provided by this article must complete

1 a pseudonym form developed under this article and return the form to
2 the law enforcement agency investigating the offense.

3 (c) A victim who completes and returns a pseudonym form to
4 the law enforcement agency investigating the offense may not be
5 required to disclose the victim's name, address, and telephone
6 number in connection with the investigation or prosecution of the
7 offense.

8 (d) A completed and returned pseudonym form is confidential
9 and may not be disclosed to any person other than a defendant in the
10 case or the defendant's attorney, except on an order of a court of
11 competent jurisdiction. The court finding required by Subsection
12 (g) is not required to disclose the confidential pseudonym form to
13 the defendant in the case or to the defendant's attorney.

14 (e) If a victim completes and returns a pseudonym form to a
15 law enforcement agency under this article, the law enforcement
16 agency receiving the form shall:

17 (1) remove the victim's name and substitute the
18 pseudonym for the name on all reports, files, and records in the
19 agency's possession;

20 (2) notify the attorney for the state of the pseudonym
21 and that the victim has elected to be designated by the pseudonym;
22 and

23 (3) maintain the form in a manner that protects the
24 confidentiality of the information contained on the form.

25 (f) An attorney for the state who receives notice that a
26 victim has elected to be designated by a pseudonym shall ensure that
27 the victim is designated by the pseudonym in all legal proceedings

1 concerning the offense.

2 (g) A court of competent jurisdiction may order the
3 disclosure of a victim's name, address, and telephone number only
4 if the court finds that the information is essential in the trial of
5 the defendant for the offense or the identity of the victim is in
6 issue.

7 (h) Except as required or permitted by other law or by court
8 order, a public servant or other person who has access to or obtains
9 the name, address, telephone number, or other identifying
10 information of a victim younger than 17 years of age may not release
11 or disclose the identifying information to any person who is not
12 assisting in the investigation, prosecution, or defense of the
13 case. This subsection does not apply to the release or disclosure
14 of a victim's identifying information by:

15 (1) the victim; or

16 (2) the victim's parent, conservator, or guardian,
17 unless the victim's parent, conservator, or guardian allegedly
18 committed the offense described by Article 57B.01(4).

19 Art. 57B.03. OFFENSE. (a) A public servant with access to
20 the name, address, or telephone number of a victim 17 years of age
21 or older who has chosen a pseudonym under this chapter commits an
22 offense if the public servant knowingly discloses the name,
23 address, or telephone number of the victim to any person who is not
24 assisting in the investigation or prosecution of the offense or to
25 any person other than the defendant, the defendant's attorney, or
26 the person specified in the order of a court of competent
27 jurisdiction.

1 (b) Unless the disclosure is required or permitted by other
2 law, a public servant or other person commits an offense if the
3 person:

4 (1) has access to or obtains the name, address, or
5 telephone number of a victim younger than 17 years of age; and

6 (2) knowingly discloses the name, address, or
7 telephone number of the victim to any person who is not assisting in
8 the investigation or prosecution of the offense or to any person
9 other than the defendant, the defendant's attorney, or a person
10 specified in an order of a court of competent jurisdiction.

11 (c) It is an affirmative defense to prosecution under
12 Subsection (b) that the actor is:

13 (1) the victim; or

14 (2) the victim's parent, conservator, or guardian,
15 unless the victim's parent, conservator, or guardian allegedly
16 committed the offense described by Article 57B.01(4).

17 (d) An offense under this article is a Class C misdemeanor.

18 Art. 57B.04. APPLICABILITY OF CHAPTER TO DEPARTMENT OF
19 FAMILY AND PROTECTIVE SERVICES. Nothing in this chapter requires
20 the Department of Family and Protective Services to use a pseudonym
21 in a department report, file, or record relating to the abuse,
22 neglect, or exploitation of a child or adult who may also be the
23 subject of an offense described by Article 57B.01(4). To the extent
24 permitted by law, the Department of Family and Protective Services
25 and a department employee, as necessary in performing department
26 duties, may disclose the name of a victim who elects to use a
27 pseudonym under this chapter.

1 Art. 57B.05. APPLICABILITY OF CHAPTER TO POLITICAL
2 SUBDIVISIONS. Nothing in this chapter requires a political
3 subdivision to use a pseudonym in a report, file, or record that is
4 not:

5 (1) intended for distribution to the public; or
6 (2) the subject of an open records request under
7 Chapter 552, Government Code.

8 SECTION 4. Section 13.002, Election Code, is amended by
9 amending Subsection (a) and adding Subsection (e) to read as
10 follows:

11 (a) A person desiring to register to vote must submit an
12 application to the registrar of the county in which the person
13 resides. Except as provided by Subsection (e), an [An] application
14 must be submitted by personal delivery or by mail.

15 (e) A person who is certified for participation in the
16 address confidentiality program administered by the attorney
17 general under Subchapter C, Chapter 56, Code of Criminal Procedure,
18 is not eligible for early voting by mail under Section 82.007 unless
19 the person submits an application under this section by personal
20 delivery. The secretary of state may adopt rules to implement this
21 subsection.

22 SECTION 5. Subsection (a), Section 18.005, Election Code,
23 is amended to read as follows:

24 (a) Each original and supplemental list of registered
25 voters must:

26 (1) contain the voter's name, residence address or
27 substitute post office box address, if required by Section 18.0051,

1 date of birth, and registration number as provided by the statewide
2 computerized voter registration list;

3 (2) be arranged alphabetically by voter name; and

4 (3) contain the notation required by Section 15.111[+
5 ~~and~~

6 ~~[(4) until Section 13.122(d) expires, identify each~~
7 ~~voter registered by mail for the first time who failed to provide a~~
8 ~~copy of a document described by Section 63.0101 establishing the~~
9 ~~voter's identity at the time of registration].~~

10 SECTION 6. Subchapter A, Chapter 18, Election Code, is
11 amended by adding Section 18.0051 to read as follows:

12 Sec. 18.0051. CONTENTS OF LIST: SUBSTITUTE ADDRESS. An
13 original or supplemental list of registered voters must contain a
14 voter's substitute post office box address designated by the
15 attorney general under Article 56.82(b), Code of Criminal
16 Procedure, for use by the voter in place of the voter's true
17 residential, business, or school address if the voter is eligible
18 for early voting by mail under Section 82.007 and has submitted an
19 early voting ballot application as required by Section 84.0021.

20 SECTION 7. Chapter 82, Election Code, is amended by adding
21 Section 82.007 to read as follows:

22 Sec. 82.007. PARTICIPATION IN ADDRESS CONFIDENTIALITY
23 PROGRAM. A qualified voter is eligible for early voting by mail if:

24 (1) the voter submitted a registration application by
25 personal delivery as required by Section 13.002(e); and

26 (2) at the time the voter's early voting ballot
27 application is submitted, the voter is certified for participation

1 in the address confidentiality program administered by the attorney
2 general under Subchapter C, Chapter 56, Code of Criminal Procedure.

3 SECTION 8. Subchapter A, Chapter 84, Election Code, is
4 amended by adding Section 84.0021 to read as follows:

5 Sec. 84.0021. CONTENTS OF APPLICATION FOR PARTICIPANT IN
6 ADDRESS CONFIDENTIALITY PROGRAM; CONFIDENTIAL INFORMATION.

7 (a) An early voting ballot application submitted by a qualified
8 voter who is eligible for early voting by mail under Section 82.007
9 must include:

10 (1) the applicant's name and address at which the
11 applicant is registered to vote;

12 (2) the substitute post office box address designated
13 by the attorney general under Article 56.82(b), Code of Criminal
14 Procedure, for use by the voter in place of the voter's true
15 residential, business, or school address; and

16 (3) an indication of each election for which the
17 applicant is applying for a ballot.

18 (b) The information contained in an application under this
19 section relating to the address at which the applicant is
20 registered to vote is confidential, except that the information
21 must be disclosed if:

22 (1) requested by a law enforcement agency; or

23 (2) required by court order.

24 SECTION 9. Chapter 221, Election Code, is amended by adding
25 Section 221.018 to read as follows:

26 Sec. 221.018. EXAMINATION OF CERTAIN CONFIDENTIAL
27 INFORMATION. (a) Notwithstanding Section 84.0021(b), the

1 tribunal hearing an election contest may examine the information
2 contained in an application under Section 84.0021 relating to the
3 address at which the applicant is registered to vote.

4 (b) Information may be examined under this section only for
5 the purpose of hearing an election contest.

6 SECTION 10. The attorney general shall establish the
7 address confidentiality program and adopt rules to administer the
8 program as required by Subchapter C, Chapter 56, Code of Criminal
9 Procedure, as added by this Act, not later than June 1, 2008.

10 SECTION 11. Not later than October 1, 2007, the office of
11 the attorney general shall develop and distribute to all law
12 enforcement agencies of the state a pseudonym form to record the
13 name, address, telephone number, and pseudonym of a victim as
14 required by Article 57B.02, Code of Criminal Procedure, as added by
15 this Act.

16 SECTION 12. This Act takes effect immediately if it
17 receives a vote of two-thirds of all the members elected to each
18 house, as provided by Section 39, Article III, Texas Constitution.
19 If this Act does not receive the vote necessary for immediate
20 effect, this Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 74 passed the Senate on April 12, 2007, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 25, 2007, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 74 passed the House, with amendment, on May 23, 2007, by the following vote: Yeas 144, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor