

# SENATE BILL No. 655

November 9, 2017, Introduced by Senators O'BRIEN, JONES and SCHUITMAKER and referred to the Committee on Judiciary.

A bill to create the address confidentiality program; to provide certain protections for victims of domestic violence, sexual assault, stalking, or human trafficking; to prescribe duties and responsibilities of certain state departments; to require the promulgation of rules; to create a fund; to provide for an assessment; to prohibit the disclosure of certain information and obtaining a certification under this act by fraud; and to prescribe penalties.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the  
2 "address confidentiality program act".

3           Sec. 3. As used in this act:

4           (a) "Application assistant" means an employee or volunteer at  
5 an agency or organization that serves victims of domestic violence,

1 stalking, human trafficking, or sexual assault who has received  
2 training and certification from the department of the attorney  
3 general to help individuals complete applications to become program  
4 participants.

5 (b) "Confidential address" means the address of a program  
6 participant's residence, as specified on an application to be a  
7 program participant or on a notice of change of information as  
8 provided under section 5 that is classified confidential by the  
9 department of the attorney general.

10 (c) "Designated address" means the mailing address at which  
11 the department of technology, management, and budget receives mail  
12 to forward to program participants.

13 (d) "Domestic violence" means a violation of section 81 of the  
14 Michigan penal code, 1931 PA 328, MCL 750.81.

15 (e) "Governmental entity" means this state, a local unit of  
16 government, or any department, agency, board, commission, or other  
17 instrumentality of this state or a local unit of government.

18 (f) "Guardian of a ward" means a person who has qualified as a  
19 guardian of a legally incapacitated individual under a court  
20 appointment.

21 (g) "Human trafficking" means a violation of chapter LXVIIA of  
22 the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h.

23 (h) "Law enforcement agency" means that term as defined in  
24 section 2 of the Michigan commission on law enforcement standards  
25 act, 1965 PA 203, MCL 28.602.

26 (i) "Local unit of government" means a city, village,  
27 township, or county in this state.

1 (j) "Municipally owned utility" means electric, gas, or water  
2 services provided by a municipality.

3 (k) "Program" means the address confidentiality program  
4 created under this act.

5 (l) "Program participant" means an individual who is certified  
6 by the department of the attorney general as a program participant  
7 under section 5.

8 (m) "Sexual assault" means a violation, attempted violation,  
9 or solicitation or conspiracy to commit a violation of section  
10 520b, 520c, 520d, 520e, 520f, or 520g of the Michigan penal code,  
11 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, 750.520f,  
12 and 750.520g.

13 (n) "Stalking" means that term as defined in section 411h or  
14 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and  
15 750.411i.

16 (o) "Victim" means an individual who suffers direct or  
17 threatened physical, financial, or emotional harm as the result of  
18 a commission of a crime.

19 (p) "Ward" means that term as defined in section 1108 of the  
20 estates and protected individuals code, 1998 PA 386, MCL 700.1108.

21 Sec. 5. (1) The address confidentiality program is created in  
22 the department of the attorney general.

23 (2) Except for an individual described in subsection (10), the  
24 following individuals may submit an application, with the  
25 assistance of an application assistant, for certification as a  
26 program participant by the department of the attorney general:

27 (a) An individual 18 years of age or older when changing his

1 or her residence.

2 (b) The parent with legal custody or the guardian of a minor  
3 when changing the residence of that minor.

4 (c) The guardian of a ward if he or she is granted the power  
5 by a court under section 5306 of the estates and protected  
6 individuals code, 1998 PA 386, MCL 700.5306, when the address of  
7 the ward changes.

8 (3) The application under subsection (2) must be filed with  
9 the department of the attorney general in the manner and form  
10 prescribed by the department of the attorney general and must  
11 contain the following:

12 (a) A notarized statement that meets 1 of the following  
13 requirements:

14 (i) If the applicant is an individual 18 years of age or  
15 older, a statement by that individual that disclosure of the  
16 address provided under subdivision (d) will increase the risk that  
17 he or she will be threatened or physically harmed by another person  
18 or that the individual is a victim of domestic violence, stalking,  
19 human trafficking, or sexual assault.

20 (ii) If the applicant is the parent with legal custody or the  
21 guardian of a minor, a statement by that parent or guardian that  
22 disclosure of the address provided under subdivision (d) will  
23 increase the risk that the minor will be threatened or physically  
24 harmed by another person or that the parent or guardian, or the  
25 minor, is a victim of domestic violence, stalking, human  
26 trafficking, or sexual assault.

27 (iii) If the applicant is the guardian of a ward as provided

1 under subsection (2)(c), a statement by that guardian that the  
2 disclosure of the address provided under subdivision (d) will  
3 increase the risk that the ward will be threatened or physically  
4 harmed by another person or that the ward is a victim of domestic  
5 violence, stalking, human trafficking, or sexual assault.

6 (b) A knowing and voluntary designation of the department of  
7 technology, management, and budget as the agent for the purposes of  
8 receiving mail and service of process.

9 (c) The mailing address and telephone number at which the  
10 department of the attorney general, or the department of  
11 technology, management, and budget, may contact the individual,  
12 minor, or ward.

13 (d) The address of residence that the applicant requests not  
14 be disclosed.

15 (e) The signature of the applicant, the name and signature of  
16 any application assistant who assisted the applicant, and the date  
17 the application was signed.

18 (4) The department of the attorney general shall do all of the  
19 following after an individual, the parent or guardian of a minor,  
20 or a guardian of a ward files a completed application:

21 (a) Certify the individual, minor, or ward as a program  
22 participant.

23 (b) Issue the program participant a unique identification  
24 number.

25 (c) Classify each eligible address listed in the application  
26 as a confidential address.

27 (d) Provide the program participant with information

1 concerning the manner in which the program participant may use the  
2 department of technology, management, and budget as the agent of  
3 the program participant for the purposes of receiving mail and  
4 service of process.

5 (e) If the program participant is eligible to vote, provide  
6 the program participant with information concerning the process to  
7 register to vote and to vote as a program participant under the  
8 Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

9 (5) A program participant shall update information provided in  
10 an application within 30 days after a change to that information  
11 has occurred by submitting a notice of change of information to the  
12 department of the attorney general on a form prescribed by the  
13 department of the attorney general.

14 (6) Unless the certification is canceled under section 9, the  
15 certification of a program participant is valid for 4 years from  
16 the date listed on the application under subsection (3).

17 (7) The department of the attorney general may, with proper  
18 notice, cancel the certification of a program participant as  
19 provided under section 9.

20 (8) A program participant who continues to be eligible to  
21 participate in the program may renew the certification of the  
22 program participant. The renewal application must be on a form  
23 prescribed by the department of the attorney general and must meet  
24 the requirements under subsections (2) and (3). A renewal of  
25 certification of the program participant must not alter the unique  
26 identification number issued under subsection (4)(b).

27 (9) A confidential address of a program participant is not a

1 public record and is exempt from disclosure under the freedom of  
2 information act, 1976 PA 442, MCL 15.231 to 15.246.

3 (10) An offender who is required to be registered under the  
4 sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736,  
5 is not eligible to submit an application and must not be certified  
6 as a program participant.

7 Sec. 7. (1) A program participant may request that a  
8 governmental entity use the designated address as the program  
9 participant's address. Except as otherwise provided in subsection  
10 (6) and in the Michigan election law, 1954 PA 116, MCL 168.1 to  
11 168.992, a governmental entity shall use the designated address.  
12 The program participant may provide his or her participation card  
13 issued under section 17 as proof of his or her certification as a  
14 program participant.

15 (2) If a program participant's employer, school, or  
16 institution of higher education is not a governmental entity, the  
17 program participant may request that the employer, school, or  
18 institution of higher education use the designated address as the  
19 program participant's address.

20 (3) The department of technology, management, and budget  
21 shall, on each day the department of technology, management, and  
22 budget is open for business, place all mail of a program  
23 participant that the department of technology, management, and  
24 budget receives into an envelope or package and mail that envelope  
25 or package to the program participant at the mailing address the  
26 program participant provided on the application under section  
27 5(3)(c) for that purpose. The department of technology, management,

1 and budget may contract with the United States Postal Service for  
2 special rates for the mail forwarded under this subsection.

3 (4) Upon receiving service of process on behalf of a program  
4 participant, the department of technology, management, and budget  
5 shall immediately forward the process by certified mail, return  
6 receipt requested, to the program participant at the mailing  
7 address the program participant provided on the application under  
8 section 5(3)(c) for that purpose.

9 (5) If a person intends to serve process on an individual and  
10 makes an inquiry with the department of the attorney general or the  
11 department of technology, management, and budget to determine if  
12 the individual is a program participant, the department of the  
13 attorney general or the department of technology, management, and  
14 budget shall only confirm that the individual is a program  
15 participant and must not disclose further information regarding the  
16 program participant.

17 (6) Subsection (1) does not apply to a municipally owned  
18 utility. The confidential address of a program participant that is  
19 maintained by a municipally owned utility must not be released, and  
20 is not a public record and is exempt from disclosure under the  
21 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

22 Sec. 9. (1) The department of the attorney general may cancel  
23 the certification of a program participant if the program  
24 participant is not reachable at the mailing address and telephone  
25 number provided under section 5(3)(c) for 60 or more days.

26 (2) The department of the attorney general shall cancel the  
27 certification of a program participant in any of the following



1 circumstances:

2 (a) The program participant's application contained 1 or more  
3 false statements.

4 (b) The program participant or the parent or guardian of a  
5 program participant that is a minor or the guardian of a ward that  
6 is a program participant files a notarized request for cancellation  
7 on a form prescribed by the department of the attorney general.

8 (c) The program participant fails to file a renewal  
9 application while the initial certification as a program  
10 participant is valid as provided in section 5(6). The department of  
11 the attorney general may promulgate a rule to provide for a grace  
12 period.

13 Sec. 11. (1) A department of this state, a law enforcement  
14 agency, or a local unit of government may request the department of  
15 the attorney general to provide the confidential address or  
16 telephone number of a program participant if the requesting  
17 department of this state, a law enforcement agency, or a local unit  
18 of government requires access to the confidential address or  
19 telephone number of the program participant for a legitimate  
20 governmental purpose. Upon receiving a request under this  
21 subsection, the department of the attorney general shall confirm  
22 whether an individual, minor, or ward is a program participant but  
23 may not disclose further information except as provided under  
24 subsection (3).

25 (2) Upon the filing of a request under this section, the  
26 department of the attorney general shall provide the program  
27 participant with notice of the request.

1           (3) The department of the attorney general may grant the  
2 request submitted under subsection (1) if the department of the  
3 attorney general determines that disclosure of the confidential  
4 address or telephone number of the program participant to the  
5 requesting department of this state, law enforcement agency, or  
6 local unit of government is necessary for a legitimate governmental  
7 purpose.

8           Sec. 13. (1) The department of the attorney general shall  
9 certify a person applying for certification as an application  
10 assistant under this act if that person has completed the training  
11 program developed and provided by the department of the attorney  
12 general. The department of the attorney general shall make  
13 available on its website the names and contact information of the  
14 application assistants.

15           (2) An application assistant who provides assistance in  
16 accordance with this act does not violate section 916 of the  
17 revised judicature act of 1961, 1961 PA 236, MCL 600.916.

18           Sec. 15. The department of the attorney general must create  
19 and maintain a computerized database that contains the name, unique  
20 identification number, and confidential address of each program  
21 participant. The department of the attorney general, the department  
22 of technology, management, and budget, and the department of state  
23 may have access to the database as provided under this act.

24           Sec. 17. The department of state shall create a participation  
25 card for the program and shall issue each program participant a  
26 participation card. The participation card must contain the name  
27 and unique identification number of the program participant, and

1 the designated address.

2       Sec. 19. The department of the attorney general shall, in  
3 consultation with the Michigan domestic and sexual violence  
4 prevention and treatment board, promulgate rules to implement this  
5 act in compliance with the administrative procedures act of 1969,  
6 1969 PA 306, MCL 24.201 to 24.328.

7       Sec. 21. (1) The confidential address fund is created in the  
8 state treasury. The fund shall be administered by the attorney  
9 general.

10       (2) The state treasurer may receive money and assets from any  
11 source for deposit into the fund. The state treasurer shall direct  
12 the investment of the fund. The state shall credit to the fund  
13 interest and earnings from fund investments.

14       (3) Money in the fund at the close of the fiscal year shall  
15 remain in the fund and shall not lapse to the general fund.

16       (4) The department of the attorney general shall expend money  
17 from the fund, upon appropriation, for the purpose of administering  
18 the program.

19       Sec. 23. (1) The court shall order each individual found  
20 responsible for or convicted of 1 or more of the following crimes  
21 to pay an assessment of \$100.00:

22       (a) Domestic violence.

23       (b) Human trafficking.

24       (c) Sexual assault.

25       (d) A violation of section 411h or 411i of the Michigan penal  
26 code, 1931 PA 328, MCL 750.411h and 750.411i.

27       (2) The assessment required under subsection (1) is in

1 addition to any fine, costs, or other assessments imposed by the  
2 court.

3 (3) An assessment required under subsection (1) must be  
4 ordered upon the record and listed separately in the adjudication  
5 order, judgment of sentence, or order of probation.

6 (4) After reviewing a verified petition by an individual  
7 against whom an assessment is imposed under subsection (1), the  
8 court may suspend payment of all or part of the assessment if it  
9 determines the individual is unable to pay the assessment.

10 (5) The court that imposes the assessment prescribed under  
11 subsection (1) may retain 10% of all assessments or portions of  
12 assessments collected for costs incurred under this section and  
13 shall transmit that money to its funding unit. On the last day of  
14 each month, the clerk of the court shall transmit the assessments  
15 or portions of assessments collected under this section to the  
16 state treasurer for deposit in the confidential address fund  
17 created in section 21.

18 Sec. 25. (1) A person shall not knowingly make a false  
19 statement in an application submitted under section 5.

20 (2) Except as otherwise provided by law, a person who has  
21 access to a confidential address or telephone number of a program  
22 participant because of the person's employment or official position  
23 shall not knowingly disclose that confidential address or telephone  
24 number to any other person.

25 (3) A person that violates this section is guilty of a  
26 misdemeanor punishable by imprisonment for not more than 93 days or  
27 a fine of not more than \$500.00, or both.

1           Enacting section 1. This act takes effect 90 days after the  
2   date it is enacted into law.