

CHAPTER 96

VICTIMS OF DOMESTIC ABUSE, DOMESTIC ABUSE ASSAULT, SEXUAL ABUSE, STALKING, AND HUMAN TRAFFICKING — ADDRESS CONFIDENTIALITY PROGRAM

H.F. 585

AN ACT establishing an address confidentiality program in the office of the secretary of state for a victim of domestic abuse, domestic abuse assault, sexual abuse, stalking, and human trafficking and providing for a fee and including effective date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. **9.8 Address confidentiality program revolving fund.**

1. An address confidentiality program revolving fund is created in the state treasury. The fund shall consist of moneys collected by the clerk of the district court and transferred to the office of the secretary of state pursuant to section 602.8108, subsection 6A. The moneys in the fund are subject to appropriation by the general assembly. The office of the secretary of state shall administer the fund. The office of the secretary of state shall provide an annual report to the department of management and the legislative services agency on expenditures from the fund in a format as determined by the department of management in consultation with the legislative services agency.¹

2. To meet cash flow needs for the address confidentiality program established in chapter 9E, the office of secretary of state may temporarily use funds from the general fund of the state to pay expenses in excess of moneys available in the revolving fund for purposes of the program if those additional expenditures can be fully reimbursed with moneys collected pursuant to section 602.8108, subsection 6A, and the office of the secretary of state reimburses the general fund of the state and ensures that all moneys are repaid in full by the close of the fiscal year. Because any general fund moneys used shall be fully reimbursed, such temporary use of funds from the general fund of the state shall not constitute an appropriation for purposes of calculating the state general fund expenditure limitation pursuant to section 8.54.

3. Section 8.33 does not apply to any moneys² appropriated to the revolving fund.

Sec. 2. NEW SECTION. **9E.1 Purpose.**

The general assembly finds that individuals attempting to escape from actual or threatened domestic abuse, domestic abuse assault, sexual abuse, stalking, or human trafficking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for data without disclosing the location of a victim of domestic abuse, domestic abuse assault, sexual abuse, stalking, or human trafficking; to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic abuse, domestic abuse assault, sexual abuse, stalking, or human trafficking; and to enable program participants to use an address designated by the secretary of state as a substitute mailing address for the purposes specified in this chapter. In addition, the purpose of this chapter is to prevent such victims from being physically located through a public records search.

Sec. 3. NEW SECTION. **9E.2 Definitions.**

As used in this chapter, unless the context otherwise requires:

1. “Address” means a residential street address, school address, or work address of an individual, as specified on the individual’s application to be a program participant under this chapter.

2. “Applicant” means an adult, a parent or guardian acting on behalf of an eligible minor, or a guardian acting on behalf of an incapacitated person as defined in section 633.701.

¹ See chapter 141, §34 herein

² See chapter 141, §35 herein

3. “*Designated address*” means the mailing address assigned to a program participant by the secretary.

4. “*Domestic abuse*” means the same as defined in section 236.2.

5. “*Domestic abuse assault*” means the same as defined in section 708.2A.

6. a. “*Eligible person*” means a person who is all of the following:

(1) A resident of this state.

(2) An adult, a minor, or an incapacitated person as defined in section 633.701.

(3) A victim of domestic abuse, domestic abuse assault, sexual abuse, stalking, or human trafficking as evidenced by the filing of a petition pursuant to section 236.3 or a criminal complaint or information pursuant to section 708.2A, 708.11, or 710A.2, or any violation contained in chapter 709.

b. For purposes of this subsection, a person determined to be a sexually violent predator pursuant to section 229A.7 or a similar law of another state is not an eligible person.

7. “*Human trafficking*” means a crime described in section 710A.2.

8. “*Mail*” means first-class letters and flats delivered via the United States postal service, including priority, express, and certified mail, and excluding packages, parcels, periodicals, and catalogues, unless they are clearly identifiable as pharmaceuticals or clearly indicate that they are sent by a state or county government agency.

9. “*Program*” means the address confidentiality program established in this chapter.

10. “*Program participant*” means an individual certified by the secretary as a program participant under section 9E.3.

11. “*Secretary*” means the secretary of state.

12. “*Sexual abuse*” means a violation of any provision of chapter 709.

13. “*Stalking*” means the same as defined in section 708.11.

Sec. 4. **NEW SECTION. 9E.3 Address confidentiality program.**

1. *Application.* The secretary shall certify an eligible person as a program participant if the secretary receives an application containing all of the following information:

a. The full legal name of the eligible person.

b. A statement by the applicant that the applicant has good reason to believe any of the following:

(1) Either of the following:

(a) The eligible person listed on the application is a victim of domestic abuse, domestic abuse assault, sexual abuse, stalking, or human trafficking.

(b) The eligible person fears for the person’s safety, the safety of another person who resides in the same household as the eligible person, or the safety of persons on whose behalf the application is made.

(2) The eligible person is not applying for certification as a program participant in order to avoid prosecution.

c. A designation of the secretary as the agent for service of process and for the purpose of receipt of mail.

d. The telephone number or telephone numbers where the secretary can contact the applicant or eligible person.

e. The residential address of the eligible person, disclosure of which could lead to an increased risk of domestic abuse, domestic abuse assault, sexual abuse, stalking, or human trafficking.

f. If mail cannot be delivered to the residential address of the eligible person, the address to which mail can be sent to the eligible person.

g. A statement whether the eligible person would like information on becoming an absentee ballot recipient pursuant to section 9E.6.

h. A statement from the eligible person that gives the secretary consent to confirm the eligible person’s participation in the program to a third party.

i. The signature of the applicant indicating the applicant’s authority to act on behalf of the eligible person, if appropriate.

j. The date the application was signed.

k. Any other information as required by the secretary pursuant to rule.

2. *Filing.* Applications shall be filed with the secretary.

3. *Certification.* Upon filing a complete application, the secretary shall certify the eligible person as a program participant. A program participant shall be certified for four years following the date the application is certified by the secretary unless the certification is canceled, withdrawn, or invalidated. The secretary shall establish by rule a renewal procedure for recertification.

4. *Changes in information.* A program participant or an applicant shall inform the secretary of any changes in the program participant's information submitted on the application.

5. *Designated address.* The secretary shall assign a designated address to which all mail for a program participant shall be sent.

6. *Attaining age of majority.* An individual who was a minor when the person was certified as a program participant is responsible for changes in information and renewal after the individual reaches the age of eighteen.

7. *Liability.* A governmental body, as defined in section 21.2, or an entity created pursuant to chapter 28E, shall not be liable for acts or omissions relating to this chapter.

Sec. 5. NEW SECTION. 9E.4 Certification cancellation.

1. The secretary may cancel a program participant's certification under any of the following circumstances:

a. The program participant's legal name or contact information changes, unless the program participant provides the secretary with prior written notice of the name change or contact information.

b. Mail forwarded by the secretary to the program participant's address is returned as undeliverable by the United States postal service.

c. The program participant is no longer eligible for the program.

d. The program participant does not accept service of process or is unavailable for delivery of service of process as described in section 9E.5, subsection 4.

2. The secretary shall cancel a program participant's certification if the program participant's application contains false information.

Sec. 6. NEW SECTION. 9E.5 Use of designated address.

1. When a program participant presents the program participant's designated address to any person, that designated address shall be accepted as the address of the program participant. The person shall not require the program participant to submit any other address that could be used to physically locate the program participant either as a substitute address or in addition to the designated address, or as a condition of receiving a service or benefit, unless the service or benefit would be impossible to provide without knowledge of the program participant's physical location.

2. A program participant may use the designated address as the program participant's work address.

3. The secretary shall forward all mail sent to the designated address to the program participant.

4. The office of the secretary of state shall act as agent of the program participant for purposes of service of process. The secretary of state shall forward any service of process received by the office of the secretary of state by certified mail, return receipt requested to the designated address of the program participant within three days of receipt in the office of the secretary of state. A program participant shall either accept or reject service of process and the secretary of state shall notify the person initiating the service of process, unless such person is not ascertainable from the service of process documents, of the date of the program participant's acceptance or rejection of the service of process. The date of service of the service of process is the date of the participant's acceptance or rejection.

5. If a program participant has notified a person in writing, on a form prescribed by the secretary, that the individual is a program participant and of the requirements of this section, the person shall not knowingly disclose the program participant's address, unless any of the following:

a. The person to whom the address is disclosed also lives, works, or goes to school at the address disclosed.

b. The program participant has provided written consent to disclosure of the program participant's name and address for the purpose for which the disclosure will be made.

6. This section does not apply to documents or records relating to real property. The secretary shall offer a program participant information relating to the purchase of real property utilizing limited liability companies, trusts, or other legal entities in order to protect the participant's identity for purposes of this program when purchasing real property.

Sec. 7. NEW SECTION. 9E.6 Voting by program participant — absentee ballot.

1. A program participant who is an eligible elector may register to vote with the state commissioner of elections, pursuant to section 48A.8, subsection 1. The name, address, and telephone number of a program participant shall not be listed in the statewide voter registration system.

2. a. A program participant who is otherwise eligible to vote may annually register with the state commissioner of elections as an absentee voter. As soon as practicable before each election, the state commissioner of elections shall determine the precinct in which the residential address of the program participant is located and shall request and receive from the county commissioner of elections the ballot for that precinct and shall forward the absentee ballot to the program participant with the other materials for absentee balloting as required of the county commissioner of elections by section 53.8.

b. The program participant shall complete the ballot and return it to the state commissioner of elections, who shall review the ballot in the manner provided by sections 53.18 and 53.19. If the materials comply with the requirements of section 53.18, the materials shall be certified by the state commissioner of elections as the ballot of a program participant, and shall be forwarded to the appropriate county commissioner of elections for tabulation by the special voters precinct election board appointed pursuant to section 53.23.

c. The state commissioner of elections, to the extent practicable, shall administer this section in accordance with the provisions of chapters 48A and 53 applicable to county commissioners of elections.

Sec. 8. NEW SECTION. 9E.7 Confidentiality of information.

1. a. Except as otherwise provided in subsection 2, information collected, created, or maintained by the secretary related to applicants, eligible persons, and program participants is confidential unless otherwise ordered by a court or released by the lawful custodian of the records pursuant to state or federal law.

b. A program participant's name and address maintained by a local governmental body that is part of an ongoing investigation or inspection of an alleged health code, building code, fire code, or city ordinance violation allegedly committed by the program participant is confidential information.

2. Upon request from the department of public safety, the secretary may share confidential information with the department of public safety. Such confidential information received by the department of public safety may be released to a law enforcement agency upon verification that the release will aid the law enforcement agency in responding to an emergency situation, a criminal complaint, or an ongoing investigation.

3. This section shall not be construed to prohibit the dissemination of information relating to the program to any agency or organization if necessary for carrying out the official duties of the agency or organization, or to a person if disseminated for an official purpose, or to any other person if necessary to protect a person or property from a threat of imminent serious harm.

4. If a program participant has notified the program participant's landlord in writing that the individual is a program participant pursuant to this chapter, a local ordinance or the landlord shall not allow the display of the program participant's name at an address otherwise protected under this chapter.

5. This section shall not be construed to prohibit the enforcement of a lease agreement between a program participant and a program participant's landlord.

Sec. 9. Section 48A.8, subsection 1, Code 2015, is amended to read as follows:

1. An eligible elector may request that a voter registration form be mailed to the elector. The completed form may be mailed or delivered by the registrant or the registrant's designee to the commissioner in the county where the person resides or to the state commissioner of elections for a program participant, as provided in section 9E.6. A separate voter registration form shall be signed by each individual registrant.

Sec. 10. Section 53.2, Code 2015, is amended by adding the following new subsection:

NEW SUBSECTION. 9. A registered voter who is a program participant under section 9E.6 may register to vote as an absentee voter with the state commissioner of elections pursuant to section 9E.6, subsection 2.

Sec. 11. Section 252B.9, subsection 3, paragraph i, Code 2015, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (07) The unit receives notification that an individual is a certified program participant as provided in chapter 9E.

Sec. 12. Section 252B.9, subsection 3, paragraph i, subparagraph (7), Code 2015, is amended to read as follows:

(7) The unit receives notification, as the result of a request under section 252B.9A, of the existence of any finding, order, safety plan, certification, or founded allegation referred to in subparagraphs (1) through ~~(6)~~ (07) of this paragraph.

Sec. 13. Section 602.8102, subsection 135A, Code 2015, is amended to read as follows:

135A. Assess the surcharges provided by sections 911.1, 911.2, 911.2A, 911.2B, 911.2C, 911.3, and 911.4.

Sec. 14. Section 602.8108, Code 2015, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. The clerk of the district court shall remit all moneys collected from the assessment of the surcharges provided in sections 911.2B and 911.2C to the state court administrator for deposit in the address confidentiality program revolving fund created in section 9.8.

Sec. 15. NEW SECTION. **911.2B Domestic abuse assault, sexual abuse, stalking, and human trafficking victim surcharge.**

1. In addition to any other surcharge, the court or clerk of the district court shall assess a domestic abuse assault, sexual abuse, stalking, and human trafficking victim surcharge of one hundred dollars if an adjudication of guilt or a deferred judgment has been entered for a violation of section 708.2A, 708.11, or 710A.2, or chapter 709.

2. In the event of multiple offenses, the surcharge shall be imposed for each applicable offense.

3. The surcharge shall be remitted by the clerk of court as provided in section 602.8108, subsection 6A.

Sec. 16. NEW SECTION. **911.2C Domestic abuse protective order contempt surcharge.**

1. In addition to any other surcharge, the court or clerk of the district court shall assess a domestic abuse protective order contempt surcharge of fifty dollars against a defendant who is held in contempt of court for violating a domestic abuse protective order issued pursuant to chapter 236.

2. In the event of multiple violations, the surcharge shall be imposed for each applicable violation.

3. The surcharge shall be remitted by the clerk of court as provided in section 602.8108, subsection 6A.

Sec. 17. EFFECTIVE DATE. Except for the sections of this Act amending sections 602.8102 and 602.8108 and enacting sections 9.8, 911.2B and 911.2C, imposing a domestic abuse assault, sexual abuse, stalking, and human trafficking victim surcharge and a domestic abuse protective order contempt surcharge, this Act takes effect January 1, 2016.

Approved May 7, 2015