

BILL ANALYSIS

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C.S.S.B. 74
By: Lucio et al.
State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, there is no address confidentiality program for victims of family violence in Texas. According to the Texas Council of Family Violence, 143 women died in 2005 as a result of domestic violence, some of which might have been avoided if the addresses of family violence victims had been kept confidential. Without the existence of such a program, many victims of family violence do not obtain a driver's license or register to vote, for fear of making their address open to the public. There is an increasing need for address confidentiality for victims of family violence due to the public's increased accessibility to personal information.

C.S.S.B. 74 establishes an address confidentiality program administered through the Office of the Attorney General. The purpose of address confidentiality programs is to protect the identity of victims of family violence, sexual assault, and stalking through the establishment of a confidential mailing address. Such programs protect these victims by allowing them to conceal their whereabouts so their assailants cannot locate them.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the attorney general in SECTION 1 (Articles 56.89 and 56.93, Code of Criminal Procedure) of this bill.

Rulemaking authority is expressly granted to the secretary of state in SECTION 3 (Section 13.002, Election Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 56, Code of Criminal Procedure, by adding Subchapter C, as follows:

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

Art. 56.81. DEFINITIONS. Defines "applicant," "family violence," "family violence shelter center," "mail," "participant," and "program."

Art. 56.82. ADDRESS CONFIDENTIALITY PROGRAM. (a) Requires the attorney general to establish an address confidentiality program (program) to assist victims of family violence, sexual assault, or stalking in maintaining a confidential address (participant).

(b) Requires the attorney general to designate a substitute post office box address for a participant to use in place of the participant's true residential, business or school address. Requires the attorney general to act as an agent to receive service of process and mail, and the forwarding thereof, on behalf of a participant.

(c) Authorizes a summons, writ, notice, demand, or process to be served on the attorney general on behalf of a participant. Sets forth procedural requirements relating to the receipt of certified mail and the aforementioned summons, writ, notice, demand, or process.

(d) Requires the attorney general to make and retain a copy of the certified mail envelope.

Art. 56.83. ELIGIBILITY TO PARTICIPATE IN PROGRAM. (a) Sets forth specific requirements relating to the eligibility of a person to participate in an address confidentiality program.

(b)-(c) Provides specific procedural criteria for filing an application to participate in the program, as well as information that is to be contained therein.

(d) Requires a state or local agency or other entity with which an application is filed to forward the application to the attorney general's office.

(e) Authorizes the attorney general by rule to establish additional eligibility requirements for participation in the program. Authorizes the attorney general to establish additional procedural requirements for an applicant to submit independent documentary evidence of family violence or an offense under Section 22.011(Sexual Assault), 22.021(Aggravated Sexual Assault), 22.02(Prohibited Sexual Conduct), or 42.072(Stalking), Penal Code. Specifies the acceptable forms of the aforementioned documentary evidence.

(f) Specifies that assistance or counseling by the attorney general or an employee or agent thereof to an applicant does not constitute legal advice.

Art. 56.84. CERTIFICATION; EXPIRATION. Requires the attorney general to certify for participation in the program an applicant who satisfies the aforementioned eligibility requirements. Specifies that the certification under this article expires three years from the date of certification.

Art. 56.85. RENEWAL. Requires a renewal applicant to satisfy the eligibility requirements as if the participant were originally applying for participation in the program.

Art. 56.86. INELIGIBILITY AND CANCELLATION. Provides specific conditions for which an applicant may be ineligible for, or a participant may be excluded from, participation in the program.

Art. 56.87. WITHDRAWAL. Authorizes a participant to withdraw from the program by notifying the attorney general in writing.

Art. 56.88. CONFIDENTIALITY; DESTRUCTION OF INFORMATION. Specifies that information relating to a participant is confidential, as provided by Article 56.90. Prohibits information relating to a participant to be disclosed under Chapter 552, Government Code. Prohibits the attorney general from making a copy of any mail received by the office of the attorney general, except as provided by Article 56.82(d). Requires the attorney general to destroy all of a participant's information three years after the date that participation in the program ends.

Art. 56.89. ACCEPTANCE OF SUBSTITUTE ADDRESS; EXEMPTIONS. (a) Requires a state or local agency to accept a substitute post office box address that is designated by the attorney general if it is presented by the participant as a substitute, except as provided by Subsection (b).

(b) Authorizes the attorney general by rule to permit an agency to require a participant's true residential, business, or school address, under specific circumstances.

Art. 56.90. EXCEPTIONS. Requires the attorney general to disclose a participant's true residential, business, or school address if requested by certain state agencies and departments or required by court order. Authorizes the attorney general to disclose a

participant's true residential, business, or school address if the participant consents to the disclosure and the disclosure is necessary to administer the program.

Art. 56.91. LIABILITY. Provides that the attorney general, or an agent or employee thereof, is immune from liability for any act or omission in administering the program if the person acted in good faith and in the scope of the assigned responsibilities and duties. Provides that the attorney general, or an agent or employee thereof, is subject to prosecution under Chapter 39 (Abuse of Office), Penal Code, if the person failed to act in the aforementioned manner.

Art. 56.92. PROGRAM INFORMATION AND APPLICATION MATERIALS. Requires the attorney general to make program information and application materials available online.

Art. 56.93. RULES. Requires the attorney general to adopt rules to administer the program.

SECTION 2. Amends Article 56.54, Code of Criminal Procedure, by amending Subsection (c) and adding Subsection (1), as follows:

(c) Makes a conforming change.

(1) Authorizes the attorney general to use the compensation to victims of crime auxiliary fund to cover costs incurred in administering the address confidentiality program.

SECTION 3. Amends Section 13.002, Election Code, by amending Subsection (a) and adding Subsection (e), as follows:

(a) Makes a conforming change.

(e) Provides that a person who is certified for participation in the program is not eligible for early voting by mail unless the person submits an application under this section by personal delivery. Authorizes the secretary of state to adopt rules to implement this subsection.

SECTION 4. Amends Section 18.005(a), Election Code, as follows:

(a) Adds a requirement that a substitute post office box address be included in each original and supplemental list of registered voters. Deletes existing text relating to the identification of voters who registered by mail for the first time without presenting documentation establishing the voter's identity.

SECTION 5. Amends Subchapter A, Chapter 18, Election Code, by adding Section 18.0051, as follows:

Sec. 18.0051. CONTENTS OF LIST: SUBSTITUTE ADDRESS. Requires an original or supplemental list of registered voters to include a participant's substitute address designated by the attorney general that is to be used in place of the person's true residential, business, or school address if the voter is eligible for early voting by mail and has submitted an early voting ballot.

SECTION 6. Amends Chapter 82, Election Code, by adding Section 82.007, as follows:

Sec. 82.007. PARTICIPATION IN ADDRESS CONFIDENTIALITY PROGRAM. Specifies that a qualified voter is eligible for early voting by mail if the person was certified to participate in the program at the time the application for early voting was submitted.

SECTION 7. Amends Subchapter A, Chapter 84, Election Code, by adding Section 84.0021, as follows:

Sec. 84.0021. CONTENTS OF APPLICATION FOR PARTICIPATION IN ADDRESS CONFIDENTIALITY PROGRAM; CONFIDENTIAL INFORMATION. Sets forth the content requirements for an application for early voting submitted by a qualified voter, and specifies the confidentiality of the information contained therein. Provides an exception for requests by a law enforcement agency or court order.

SECTION 8. Amends Chapter 221, Election Code, by adding Section 221.018, as follows:

Sec. 221.018. EXAMINATION OF CERTAIN CONFIDENTIAL INFORMATION. Authorizes the tribunal hearing an election contest to examine the information contained in an application under Section 84.0021, notwithstanding Section 84.002(b), relating to the address at which the applicant is registered to vote. Authorizes such information to be examined only for the purpose of hearing an election contest.

SECTION 9. Requires the attorney general to establish the address confidentiality program and adopt rules for the administration thereof by June 1, 2008.

SECTION 10. Effective date: upon passage or September 1, 2007.