

HB0104S01 compared with HB0104

~~deleted text~~ shows text that was in HB0104 but was deleted in HB0104S01.

inserted text shows text that was not in HB0104 but was inserted into HB0104S01.

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Representative Stephanie Pitcher proposes the following substitute bill:

VICTIM ADDRESS CONFIDENTIALITY PROGRAM

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates an address confidentiality program for crime victims.

Highlighted Provisions:

This bill:

- ▶ addresses voter registration for individuals participating in an address confidentiality program;
- ▶ defines terms;
- ▶ creates an address confidentiality program in the State Commission on Criminal and Juvenile Justice;
- ▶ describes eligibility and application requirements for program participants;
- ▶ addresses the administrative responsibilities of the State Commission on Criminal and Juvenile Justice in maintaining the address confidentiality program;

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- ▶ describes the permitted uses for assigned addresses;
- ▶ permits disclosure to state and local government entities in certain circumstances;
- ▶ addresses service of process, disclosure in judicial and administrative proceedings, and orders relating to custody and parent-time;
- ▶ addresses immunity and the retention and destruction of records; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-2-204, as last amended by Laws of Utah 2020, Chapters 31, 95, 255 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 95

ENACTS:

77-38-601, Utah Code Annotated 1953
77-38-602, Utah Code Annotated 1953
77-38-603, Utah Code Annotated 1953
77-38-604, Utah Code Annotated 1953
77-38-605, Utah Code Annotated 1953
77-38-606, Utah Code Annotated 1953
77-38-607, Utah Code Annotated 1953
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77-38-616, Utah Code Annotated 1953

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77-38-617, Utah Code Annotated 1953

77-38-618, Utah Code Annotated 1953

77-38-619, Utah Code Annotated 1953

77-38-620, Utah Code Annotated 1953

77-38-621, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **20A-2-204** is amended to read:

20A-2-204. Registering to vote when applying for or renewing a driver license.

(1) As used in this section, "voter registration form" means, when an individual named on a qualifying form, as defined in Section 20A-2-108, answers "yes" to the question described in Subsection 20A-2-108(2)(a), the information on the qualifying form that can be used for voter registration purposes.

(2) (a) ~~[A]~~ Except as provided in Subsection (2)(b), a citizen who is qualified to vote may register to vote, and a citizen who is qualified to preregister to vote may preregister to vote, by answering "yes" to the question described in Subsection 20A-2-108(2)(a) and completing the voter registration form.

(b) A citizen who is a program participant in the Address Confidentiality Program created in Section 77-38-602 is not eligible to register to vote as described in Subsection (2)(a), but is eligible to register to vote by any other means described in this part.

(3) The Driver License Division shall:

(a) assist an individual in completing the voter registration form unless the individual refuses assistance;

(b) electronically transmit each address change to the lieutenant governor within five days after the day on which the division receives the address change; and

(c) within five days after the day on which the division receives a voter registration form, electronically transmit the form to the Office of the Lieutenant Governor, including the following for the individual named on the form:

(i) the name, date of birth, driver license or state identification card number, last four digits of the social security number, Utah residential address, place of birth, and signature;

(ii) a mailing address, if different from the individual's Utah residential address;

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- (iii) an email address and phone number, if available;
- (iv) the desired political affiliation, if indicated;
- (v) an indication of whether the individual requested that the individual's voter registration record be classified as a private record under Subsection 20A-2-108(2)(b); and
- (vi) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted with the form.

(4) Upon receipt of an individual's voter registration form from the Driver License Division under Subsection (3), the lieutenant governor shall:

- (a) enter the information into the statewide voter registration database; and
- (b) if the individual requests on the individual's voter registration form that the individual's voter registration record be classified as a private record or the individual submits a withholding request form described in Subsections 20A-2-104(7) and (8) and any required verification, classify the individual's voter registration record as a private record.

(5) The county clerk of an individual whose information is entered into the statewide voter registration database under Subsection (4) shall:

- (a) ensure that the individual meets the qualifications to be registered or preregistered to vote; and
- (b) (i) if the individual meets the qualifications to be registered to vote:
 - (A) ensure that the individual is assigned to the proper voting precinct; and
 - (B) send the individual the notice described in Section 20A-2-304; or
- (ii) if the individual meets the qualifications to be preregistered to vote, process the form in accordance with the requirements of Section 20A-2-101.1.

(6) (a) When the county clerk receives a correctly completed voter registration form under this section, the clerk shall:

- (i) comply with the applicable provisions of this Subsection (6); or
 - (ii) if the individual is preregistering to vote, comply with Section 20A-2-101.1.
- (b) If the county clerk receives a correctly completed voter registration form under this section no later than 5 p.m. or, if submitting the form electronically, midnight, 11 calendar days before the date of an election, the county clerk shall:
- (i) accept the voter registration form; and
 - (ii) unless the individual is preregistering to vote:

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(A) enter the individual's name on the list of registered voters for the voting precinct in which the individual resides; and

(B) notify the individual that the individual is registered to vote in the upcoming election; and

(iii) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1.

(c) If the county clerk receives a correctly completed voter registration form under this section after the deadline described in Subsection (6)(b), the county clerk shall, unless the individual named in the form is preregistering to vote:

(i) accept the application for registration of the individual;

(ii) process the voter registration form; and

(iii) unless the individual is preregistering to vote, and except as provided in Subsection 20A-2-207(6), inform the individual that the individual will not be registered to vote in the pending election, unless the individual registers to vote by provisional ballot during the early voting period, if applicable, or on election day, in accordance with Section 20A-2-207.

(7) (a) If the county clerk determines that an individual's voter registration form received from the Driver License Division is incorrect because of an error, because the form is incomplete, or because the individual does not meet the qualifications to be registered to vote, the county clerk shall mail notice to the individual stating that the individual has not been registered or preregistered because of an error, because the registration form is incomplete, or because the individual does not meet the qualifications to be registered to vote.

(b) If a county clerk believes, based upon a review of a voter registration form, that an individual, who knows that the individual is not legally entitled to register or preregister to vote, may be intentionally seeking to register or preregister to vote, the county clerk shall refer the form to the county attorney for investigation and possible prosecution.

Section 2. Section ~~77-38-601~~ is enacted to read:

Part 6. Address Confidentiality Program

77-38-601. Definitions.

As used in this part:

(1) "Abuse" means any of the following:

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(a) "abuse" as that term is defined in Section 76-5-111 or 78A-6-105; or

(b) "child abuse" as that term is defined in Section 76-5-109.

(2) "Actual address" means the residential street address of the program participant that is stated in a program participant's application for enrollment or on a notice of a change of address under Section 77-38-610.

(3) "Assailant" means an individual who commits or threatens to commit abuse, human trafficking, domestic violence, stalking, or a sexual offense against an applicant for the program or a minor or incapacitated individual residing with an applicant for the program.

(4) "Assigned address" means an address designated by the commission and assigned to a program participant.

(5) "Authorization card" means a card issued by the commission that identifies a program participant as enrolled in the program with the program participant's assigned address and the date on which the program participant will no longer be enrolled in the program.

(6) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(7) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(8) "Human trafficking" means a human trafficking offense under Section 76-5-308.

(9) "Incapacitated individual" means an individual who is incapacitated, as defined in Section 75-1-201.

(10) (a) "Mail" means first class letters or flats delivered by the United States Postal Service, including priority, express, and certified mail.

(b) "Mail" does not include a package, parcel, periodical, or catalogue, unless the package, parcel, periodical, or catalogue is clearly identifiable as:

(i) being sent by a federal, state, or local agency or another government entity; or

(ii) a pharmaceutical or medical item.

(11) "Minor" means an individual who is younger than 18 years old.

(12) "Notification form" means a form issued by the commission that a program participant may send to a person demonstrating that the program participant is enrolled in the program.

(13) "Program" means the Address Confidentiality Program created in Section 77-38-602.

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(14) "Program assistant" means an individual designated by the commission under Section 77-38-604 to assist an applicant or program participant.

(15) "Program participant" means an individual who is enrolled under Section 77-38-606 by the commission to participate in the program.

(16) "Record" means the same as that term is defined in Section 63G-2-103.

(17) "Sexual offense" means:

(a) a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses; or

(b) a sexual exploitation offense under Title 76, Chapter 5b, Part 2, Sexual Exploitation.

(18) "Stalking" means the crime of stalking, as defined in Section 76-5-106.5.

(19) "State or local government entity" means a county, municipality, higher education institution, local district, special service district, or any other political subdivision of the state or an administrative subunit of the executive, legislative, or judicial branch of this state, including:

(a) a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission; or

(b) an individual acting or purporting to act for or on behalf of a state or local entity, including an elected or appointed public official.

(20) "Victim" means a victim of abuse, domestic violence, human trafficking, stalking, or sexual assault.

Section 3. Section **77-38-602** is enacted to read:

77-38-602. Creation -- Office responsibilities.

(1) There is created the Address Confidentiality Program within the commission.

(2) Under the program, the commission shall:

(a) designate, train, and manage program assistants;

(b) develop, distribute, and process application forms and related materials for the program;

(c) designate an assigned address for a program participant to be used by the program participant and a state or local government entity;

(d) receive mail sent to a program participant's assigned address, forward the mail to the program participant's actual address at the commission's expense, and track and maintain

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records for all mail received; and

(e) arrange for the program participant at the program participant's expense to receive items other than mail if requested by the program participant and agreed to by the commission.

Section 4. Section **77-38-603** is enacted to read:

77-38-603. Eligibility.

(1) An applicant is eligible to participate in the program if the applicant attests that the applicant:

(a) is a resident of this state;

(b) (i) is a victim;

(ii) is a parent or a guardian of an individual who:

(A) is a victim; and

(B) resides at the same address as the parent or guardian;

(iii) resides at the same address where a victim resides; or

(iv) fears for the applicant's physical safety, or for the physical safety of a minor or incapacitated individual residing at the same address as the applicant, from a threat of abuse, domestic violence, human trafficking, stalking, or sexual assault;

(c) (i) resided at a residential address that was known by an assailant and relocated within the past 90 days to a different residential address that is not known by the assailant;

(ii) resides at a residential address known by the assailant and intends to relocate within 90 days to a different residential address in the state that is not known by the assailant; or

(iii) resides at a residential address that is not known by the assailant;

(d) will not disclose the different residential address to the assailant; and

(e) will benefit from participation in the program.

(2) An applicant may participate in the program regardless of whether:

(a) a criminal charge is filed against an assailant;

(b) the applicant has a restraining order or injunction against an assailant; or

(c) the applicant reported an act or threat by an assailant to a law enforcement agency or officer.

(3) An applicant may participate in the program only upon the recommendation of a program assistant.

(4) To participate in the program:

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(a) an applicant shall sign, date, and verify the information on an application; and

(b) the commission shall verify the applicant's current residential address as provided on the application.

(5) A parent or guardian may act on behalf of a minor or an incapacitated individual in determining whether the minor or the incapacitated individual is eligible for the program.

Section 5. Section **77-38-604** is enacted to read:

77-38-604. Designation of program assistants.

(1) The commission may designate as a program assistant, an individual that:

(a) (i) is an employee of the commission or a state or local government entity; or

(ii) is a volunteer for an organization that provides counseling, assistance, or support services at no charge to victims; and

(b) (i) provides counseling, referrals, or other services to victims; and

(ii) completes any training or registration process required by the commission.

(2) A program assistant shall:

(a) assist an applicant in preparing an application for the program; and

(b) sign, date, and verify an application for the program.

(3) A signature of a program assistant is a recommendation by the program assistant that the applicant is eligible to participate in the program under Section 77-38-603.

Section 6. Section **77-38-605** is enacted to read:

77-38-605. Administration -- Application.

(1) The commission shall provide an application form to an applicant who seeks to participate in the program under this chapter.

(2) The commission may not charge an applicant or program participant for an application or participation fee to apply for, or participate in, the program.

(3) The application shall include:

(a) the applicant's name;

(b) a mailing address, a phone number, and an email address where the applicant may be contacted by the commission;

(c) an indication regarding whether the assailant is employed by a state or local government entity, and if applicable, the name of the state or local government entity;

(d) a statement that the applicant understands and consents to:

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(i) remain enrolled in the program for four years, unless, under Section 77-38-617, the applicant cancels the applicant's participation or is disenrolled;

(ii) while the applicant is enrolled in the program, notify the commission when the applicant changes the applicant's actual address or legal name;

(iii) develop a safety plan with a program assistant;

(iv) authorize the commission to notify a state or local government entity that the applicant is a program participant;

(v) submit written notice to the commission if the applicant chooses to cancel the applicant's participation in the program;

(vi) register to vote in person at the office of the clerk in the county where the applicant's actual address is located; and

(vii) certify that the commission is the applicant's designated agent for service of process for personal service;

(e) evidence that the applicant, or a minor or an incapacitated individual residing with the applicant, is a victim, including:

(i) a law enforcement, court, or other state, local, or federal government agency record;

or

(ii) a document from:

(A) a domestic violence program, facility, or shelter;

(B) a sexual assault program; or

(C) a religious, medical, or other professional from whom the applicant, or the minor or the incapacitated individual residing with the applicant, sought assistance in dealing with alleged abuse, domestic violence, stalking, or a sexual offense;

(f) a statement from the applicant that a disclosure of the applicant's actual address would endanger the applicant, or a minor or an incapacitated individual residing with the applicant;

(g) a statement by the applicant that the applicant:

(i) resides at a residential address that is not known by the assailant;

(ii) has relocated to a different residential address in the past 90 days that is not known by the assailant; or

(iii) will relocate to a different residential address in the state within 90 days that is not

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known by the assailant;

(h) the actual address that;

(i) the applicant requests that the commission not disclose; and

(ii) is at risk of discovery by the assailant or potential assailant;

(i) a statement by the applicant disclosing:

(i) the existence of a court order or action involving the applicant, or a minor or an incapacitated individual residing with the applicant, related to a divorce proceeding, a child support order or judgment, or the allocation of custody or parent-time; and

(ii) the court that issued the order or has jurisdiction over the action;

(j) the name of any other individual who resides with the applicant who needs to be a program participant to ensure the safety of the applicant, or a minor or an incapacitated individual residing with the applicant;

(k) a statement by the applicant that:

(i) the applicant, or a minor or an incapacitated individual residing at the same address as the applicant, will benefit from participation in the program;

(ii) if the applicant intends to vote, the applicant will register to vote at the office of the clerk in the county in which the applicant actually resides; ~~and~~

(iii) the applicant ~~is~~ does not have a current obligation to register as a sex offender ~~as defined in Section 77-41-102~~ or a kidnap offender under Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(iv) the applicant does not have a current obligation to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry;

(l) a statement by the applicant, under penalty of perjury, that the information contained in the application is true; and

(m) a statement that any assistance or counseling provided by a program assistant as part of the program does not constitute legal advice or legal services to the applicant.

Section 7. Section **77-38-606** is enacted to read:

77-38-606. Enrollment of a program participant.

(1) (a) Within five business days after the day on which the commission grants enrollment to a program participant, the commission shall issue the program participant:

(i) an assigned address;

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(ii) an authorization card; and

(iii) a notification form.

(b) An authorization card is valid while the program participant is enrolled in the program.

(2) A program participant is enrolled in the program for four years beginning on the day on which the enrollment is granted, unless the enrollment is withdrawn or cancelled under Section 77-38-617 before the end of the four-year period.

(3) A program participant may withdraw from the program by filing a request for withdrawal with the commission that is acknowledged before a notary public.

(4) (a) A program participant may renew enrollment by filing a renewal application with the commission at least 30 days before the day on which enrollment in the program will expire.

(b) The applicant shall date, sign, and verify the renewal application.

(c) The renewal application shall contain:

(i) all statements or information required by Subsection 77-38-605(3) that have changed from the original application or a prior renewal application;

(ii) a statement by the applicant that the applicant, or a minor or an incapacitated individual residing at the same address as the applicant, will continue to benefit from participation in the program; and

(iii) a statement by the applicant, under penalty of perjury, that the information contained in the renewal application is true.

Section 8. Section **77-38-607** is enacted to read:

77-38-607. Use of assigned address -- Release of information.

(1) The commission shall forward all mail that the office receives at the assigned address for a program participant to the program participant's actual address.

(2) The commission shall provide, at the request of a program participant or a state or local government entity, confirmation of an individual's status as a program participant.

(3) Except as provided in Sections 77-38-611, 77-38-612, and 77-38-613, the office may not disclose a program participant's actual address to any person.

Section 9. Section **77-38-608** is enacted to read:

77-38-608. Use of assigned address -- Confidentiality.

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(1) A program participant may use the assigned address provided to the program participant to receive mail as provided in Subsection 77-38-602(2).

(2) (a) A state or local government entity may not refuse to use a program participant's assigned address for any official business, unless, in accordance with statutory requirements, the state or local government entity is required to use the program participant's actual address.

(b) A state or local government entity may confirm an individual's status as a program participant with the commission.

(3) A state or local government entity, after receiving a copy of the notification form from a program participant or a notification of the program participant's enrollment from the commission, may not:

(a) except as provided in Subsection (2)(a), refuse to use the assigned address for the program participant, or a minor or an incapacitated individual residing with the program participant;

(b) except as provided in Subsection (2)(a), require a program participant to disclose the program participant's actual address; or

(c) intentionally disclose to another person or state or government entity the program participant's actual address.

(4) Notwithstanding Subsections (2) and (3), a county clerk may require a program participant to disclose the program participant's actual address:

(a) for voter registration; and

(b) to enroll a program participant in a program designed to protect the confidentiality of a voter's address.

(5) If a program participant is enrolled in a program designed to protect the confidentiality of a voter's address, a county clerk:

(a) shall classify the program participant's actual address as withheld under Subsection 20A-2-104(7); and

(b) may not disclose the program participant's actual address.

Section 10. Section **77-38-609** is enacted to read:

77-38-609. Disclosure of actual address prohibited.

(1) (a) The commission may not disclose a program participant's actual address, unless:

(i) required by a court order; or

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(ii) the commission grants a request from a state or local government entity under Section 77-38-612.

(b) The commission shall provide a program participant immediate notification of a disclosure of the program participant's actual address if the disclosure is made under Subsection (1)(a)(i) or (ii).

(2) If, at the time of application, an applicant, or a parent or guardian of an applicant, is subject to a court order relating to a divorce proceeding, a child support order or judgment, or an allocation of custody or parent-time, the commission shall provide notice of whether the applicant is enrolled under the program and the assigned address of the applicant to the court that issued the order or has jurisdiction over the action.

(3) A person may not knowingly or intentionally obtain a program participant's actual address from the commission or any state or local government entity if the person is not authorized to obtain the program participant's actual address.

(4) Unless the disclosure is permitted under this chapter or is otherwise permitted by law, an employee of the commission or a state or local government entity may not knowingly or intentionally disclose a program participant's actual address if:

(a) the employee obtains a program participant's actual address during the course of the employee's official duties; and

(b) at the time of disclosure, the employee has specific knowledge that the address is the actual address of the program participant.

(5) A person who intentionally or knowingly obtains or discloses information in violation of this chapter is guilty of a class B misdemeanor.

Section 11. Section **77-38-610** is enacted to read:

77-38-610. Change of name, address, or telephone number.

(1) A program participant shall notify the commission no later than 30 days after the day on which the program participant obtains a legal name change, by providing the commission with a certified copy of a judgment or order establishing the name change, or any other documentation that is sufficient evidence of the name change.

(2) A program participant shall notify the commission no later than 10 business days after the day on which the program participant's actual address or telephone number changes from the actual address or telephone number listed for the program participant.

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(3) If a program participant remains enrolled in the program after a change of address, the program participant may not change the program participant's assigned address with the Driver License Division created under Section 53-3-103.

Section 12. Section **77-38-611** is enacted to read:

77-38-611. Address use by state or local government entities.

(1) A program participant is responsible for requesting that a state or local government entity use the program participant's assigned address as the program participant's residential address.

(2) Except as otherwise provided in this chapter, if a program participant submits a valid authorization card, or a notification form, to a state or local government entity, the state or local government entity shall accept the assigned address listed on the authorization card or notification form as the program participant's address to be used as the program participant's residential address when creating a record.

(3) The program participant's assigned address shall be listed as the last known address if any last known address requirement is needed by the state or local government entity.

(4) The state or local government entity may photocopy a program participant's authorization card for a record for the state or local government entity, but the state or local government entity shall immediately return the authorization card to the program participant.

(5) (a) An election official, as defined in Section 20A-1-102, shall:

(i) use a program participant's actual address for precinct designation and all official election-related purposes;

(ii) ~~classify the program participant's actual address as withheld;~~ and

(~~iii~~iii) keep the program participant's actual address confidential from the public.

(b) A program participant may not use the program participant's assigned address for voter registration.

(c) An election official shall use the assigned address for all correspondence and mail for the program participant placed in the United States mail.

(d) A state or local government entity's access to a program participant's voter registration is subject to the request for disclosure process under Section 77-38-612.

(e) This Subsection (5) applies only to a program participant who submits a valid authorization card or a notification form when registering to vote.

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(6) (a) A state or local government entity may not use a program participant's assigned address for the purposes of listing, or appraising a property, or assessing ~~for collecting~~ ~~for~~ property taxes.

(b) All property assessments and tax notices, property tax collection notices, and all property related correspondence placed in the United States mail for the program participant shall be addressed to the assigned address.

(7) (a) A state or government entity may not use a program participant's assigned address for purposes of assessing any taxes or fees on a motor vehicle or for titling or registering a motor vehicle.

(b) All vehicle assessments and tax notices, vehicle or title registration notices, and all vehicle related correspondence placed in the United States mail for the program participant is required to be addressed to the assigned address.

(8) (a) The Department of Corrections, or any other entity responsible for supervising a program participant who is on probation or parole as a result of a criminal conviction or an adjudication, may not use the program participant's assigned address if the program participant's actual address is necessary for supervising the program participant.

(b) All written communication delivered through the United States mail to the program participant by the Department of Corrections, or the other entity described in Subsection (8)(a), shall be addressed to the program participant's assigned address.

~~(8)9~~ If a program participant is required by law to swear or affirm to the program participant's address, the program participant may use the program participant's assigned address.

~~(9)10~~ (a) A school district shall:

(i) accept the assigned address as the address of record; and

(ii) verify student enrollment eligibility with the commission.

(b) The commission shall help facilitate the transfer of student records as needed.

~~(10)11~~ (a) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a record containing a program participant's address is confidential and, regardless of the record's classification under Title 63G, Chapter 2, Part 3, Classification, may not be disclosed by a state or government entity, unless otherwise provided under this chapter.

(b) A program participant's actual address may not be disclosed to a third party by a

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state or local government entity, except:

(i) in a record created more than 90 days before the date on which the program participant applied for enrollment in the program; or

(ii) if a program participant voluntarily requests, in writing, that the program participant's actual address be disclosed to the third party.

(c) For a record created within 90 days before the date that a program participant applied for enrollment in the program, a state or local government entity shall redact the actual address from the record or change the actual address to the assigned address in the public record if the program participant presents a valid authorization card or a notification form and requests that the state or local government entity use the assigned address instead of the actual address on the record.

Section 13. Section **77-38-612** is enacted to read:

77-38-612. Request for disclosure.

(1) A state or local government entity requesting disclosure of a program participant's actual address in accordance with this section shall make the request:

(a) in writing;

(b) on the state or local government entity's letterhead; and

(c) with the signature of the head or an executive-level official of the state or local government entity.

(2) In accordance with Subsection (1), a state or local government entity requesting disclosure of a program participant's actual address shall provide the commission with the name of the program participant and a statement:

(a) explaining why the state or local government entity is requesting the program participant's actual address;

(b) explaining why the state or local government entity cannot meet the state or local government entity's statutory or administrative obligations without the disclosure of the program participant's actual address;

(c) of facts showing that:

(i) other methods to locate the program participant's actual address have failed;

(ii) other methods will be unlikely to succeed; or

(iii) other means of contacting the program participant have failed or are unavailable;

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and

(d) that the state or local government entity has adopted a procedure to protect the confidentiality of the program participant's actual address.

(3) In response to a request for disclosure under Subsection (2), the commission may request additional information from the state or local government entity to help identify the program participant in the records of the office or to assess whether disclosure to the state or local government entity is permitted under this chapter.

(4) (a) Except as provided in Subsection (4)(b), after receiving a request for disclosure from a state or local government entity under Subsection (1), the commission shall provide a program participant with written notification:

(i) informing the participant of the request, and to the extent possible, of an opportunity to be heard regarding the request; and

(ii) after a decision is made by the commission, whether the request has been granted or denied.

(b) The commission is not required to provide notice of a request for disclosure to a program participant under Subsection (4)(a) when:

(i) the request is made by a state or local law enforcement agency conducting a criminal investigation involving alleged criminal conduct by the program participant; or

(ii) providing notice to the program participant would jeopardize an ongoing criminal investigation or the safety of law enforcement personnel.

(5) The commission shall grant a state or local government entity's request for disclosure and disclose the program participant's actual address if:

(a) the state or local government entity has demonstrated a good faith statutory or administrative need for the actual address;

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

(c) other methods to locate the program participant or the program participant's actual address have failed or are unlikely to succeed;

(d) other means of contacting the program participant have failed or are unavailable;

and

(e) the state or local government entity has adopted a procedure to protect the confidentiality of the program participant's actual address.

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(6) If the commission grants a request for disclosure under this section, the commission shall provide the state or local government entity with a disclosure that contains:

(a) the program participant's actual address;

(b) a statement of the permitted use of the program participant's actual address;

(c) the names or classes of persons permitted to have access to or use of the program participant's actual address;

(d) a statement that the state or local government entity is required to limit access to and use of the program participant's actual address to the permitted use and to the listed persons or classes of persons; and

(e) if expiration of the disclosure is appropriate, the date on which the permitted use of the program participant's actual address expires.

(7) If a request for disclosure is granted by the commission, a state or local government entity shall:

(a) limit use of the program participant's actual address to the purpose stated in the disclosure;

(b) limit access to the program participant's actual address to the persons or classes of persons stated in the disclosure;

(c) cease use of the program participant's actual address upon the expiration of the permitted use;

(d) dispose of the program participant's actual address upon the expiration of the permitted use; and

(e) except as permitted in the request for disclosure, maintain the confidentiality of the program participant's actual address.

(8) Upon denial of a state or local government entity's request for disclosure, the commission shall promptly provide a written notification to the state or local government entity explaining the specific reasons for denying the request for disclosure.

(9) (a) A state or local government entity may file a written appeal with the commission no later than 15 days after the day on which the state or local government entity receives the written notification under Subsection (8).

(b) A state or local government entity filing a written appeal under Subsection (9)(a) shall:

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(i) restate the information contained in the request for disclosure; and

(ii) respond to the commission's reason for denying the request for disclosure.

(c) The commission shall make a final determination on the appeal within 30 days after the day on which the appeal is received by the commission, unless the state or local government entity and the office agree to a different deadline.

(d) Before the commission makes a final determination, the commission may conduct a hearing or request additional information from the state or local government entity or the program participant.

Section 14. Section **77-38-613** is enacted to read:

77-38-613. Request for disclosure by law enforcement.

(1) The commission shall establish a process to expedite a request submitted by a law enforcement officer or agency for the disclosure of information regarding a program participant whom is involved in a criminal proceeding or investigation within 24 hours of the law enforcement officer or agency submitting the request.

(2) If a law enforcement officer or agency seeks the disclosure of a program participant's actual address from the commission under Subsection (1), the law enforcement officer or agency shall certify to the commission, or the commission's designee, that the official or agency has a system in place to protect the program participant's actual address from disclosure to:

(a) the public; and

(b) law enforcement personnel who are not involved in the criminal proceeding or investigation for which the disclosure is requested.

(3) Upon expiration of the use for the program participant's actual address in a criminal proceeding or investigation, a law enforcement officer or agency shall remove the program participant's actual address from any record system maintained by the law enforcement officer or agency.

Section 15. Section **77-38-614** is enacted to read:

77-38-614. Service of process at the assigned address.

(1) In accordance with the Utah Rules of Civil Procedure, Rule 4, the commission is the agent authorized to receive process for a program participant.

(2) In accordance with the Utah Rules of Civil Procedure, Rule 5, the last known

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address for a program participant is the program participant's assigned address, not the program participant's actual address.

Section 16. Section **77-38-615** is enacted to read:

77-38-615. Participation in the program -- Orders in relation to allocation of custody or parent-time.

(1) A court may not consider a parent's participation in the program for the purpose of making an order allocating custody under Section 30-3-10 or parent-time under Section 30-3-32.

(2) A court shall take practical measures to keep a program participant's actual address confidential when making an order allocating custody or parent-time.

(3) Nothing in this chapter affects an order relating to the allocation of custody or parent-time in effect prior to or during a program participant's participation in the program.

Section 17. Section **77-38-616** is enacted to read:

77-38-616. Disclosure of address or identifiable information in a judicial or administrative proceeding.

(1) A program participant may submit the program participant's actual address to the court as a safeguarded record in accordance with the Utah Code of Judicial Administration, Rule 4-202.02.

(2) A person may not compel disclosure of a program participant's actual address or identifying information related to the program participant's residence during a proceeding in a court or administrative proceeding, unless:

(a) the court orders the disclosure of the program participant's address; or

(b) an administrative tribunal finds, based on a preponderance of the evidence, that:

(i) the disclosure is required in the interest of justice;

(ii) public interest in the disclosure substantially outweighs the potential harm to the program participant; or

(iii) no other alternative would satisfy the necessity of the disclosure.

(3) If disclosure of a program participant's actual address is required in a proceeding before a court or administrative tribunal, the court or administrative tribunal may seal the portion of a record that contains the program participant's actual address.

(4) Nothing in this section prevents a state or local government entity from using a

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program participant's actual address in filing a document or record with a court or administrative tribunal if, at the time of the filing, the document or record is filed under seal or not a public record.

Section 18. Section **77-38-617** is enacted to read:

77-38-617. Cancellation of enrollment -- Records.

(1) The commission shall cancel a program participant's enrollment in the program if:

(a) the program participant submits to the commission a written request to withdraw from enrollment in accordance with Section 77-38-606;

(b) the program participant fails to notify the commission of a change in the program participant's name, actual address, or telephone number that is listed on the application;

(c) the program participant, or a parent or guardian of the program participant, knowingly submits false information in the program application; or

(d) mail forwarded to the program participant by the commission is returned as undeliverable.

(2) (a) If the commission determines that there are grounds for cancelling a program participant's enrollment in accordance with Subsection (1), the commission shall send notice of the cancellation with the reason for cancellation to the program participant at the program participant's actual address and email address.

(b) A program participant has 30 days to appeal the cancellation decision in accordance with procedures developed by the commission.

(3) A program participant who receives a notice of cancellation is responsible for notifying a person who uses the program participant's assigned address to communicate with the program participant that the assigned address is no longer valid.

(4) If the commission cancels a program participant's enrollment in the program, the program participant is not eligible to participate in the program for six months after the day on which the commission cancels the program participant's enrollment in the program.

Section 19. Section **77-38-618** is enacted to read:

77-38-618. Retention and destruction of records.

The commission shall establish policies and procedures regarding the maintenance and destruction of applications, records, and other documents received or generated under this chapter.

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Section 20. Section **77-38-619** is enacted to read:

77-38-619. Immunity from suit.

(1) A program assistant or program assistant's employer is immune from liability in a civil action or proceeding involving the performance or nonperformance of a duty under the this chapter, unless the performance or nonperformance of a program ~~{participant}~~assistant was manifestly outside the scope of the program assistant's duties in the program or the program participant acted with malicious purpose, bad faith, or in a wanton or reckless manner.

(2) In addition to the governmental immunity granted in Title 63G, Chapter 7, Governmental Immunity Act of Utah, or any other governmental immunity provided by law, the commission, the state, and the political subdivisions of the state are immune from liability in a civil action or proceeding involving the performance or nonperformance of a duty under the program.

Section 21. Section **77-38-620** is enacted to read:

77-38-620. Address Confidentiality Program Fund.

(1) There is created an expendable special revenue fund known as the Address Confidentiality Program Fund.

(2) The fund shall consist of gifts, grants, donations, and bequests of real property or personal property made to the fund.

(3) A donor to the fund may designate a specific purpose for the use of the donor's donation if the designated purpose is described in Subsection (4).

(4) Subject to Subsection (3), money in the fund shall be used for the following activities:

(a) efforts to designate, train, and manage program assistants;

(b) efforts to develop, distribute, and process application forms and related materials for the program;

(c) efforts to assist applicants and program participants in enrolling in the program; and

(d) efforts to ensure program participants receive mail forwarded from the program to the program participant's actual address.

(5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest and other earnings derived from the fund shall be deposited into the fund.

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(6) Money in the fund may not be used for expenses of the commission that are normally provided for by legislative appropriation.

(7) No later than December 31 of each year, the commission shall provide to the Executive Offices and Criminal Justice Appropriations Subcommittee a written report regarding the status of the fund, including the contributions received and expenditures made by the commission.

Section 22. Section **77-38-621** is enacted to read:

77-38-621. Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to:

(1) establish a process to expedite requests from law enforcement officers and agencies in accordance with Section 77-38-613;

(2) establish procedures for an appeal process regarding cancellation of enrollment under Section 77-38-617; and

(3) establish the procedures for the retention and destruction of records and other documents in accordance with Section 77-38-618.