

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

SECOND REGULAR SESSION-2002

Legislative Document

No. 2019

H.P. 1515

House of Representatives, December 26, 2001

An Act to Protect Victims of Domestic Violence, Sexual Assault and Stalking.

Submitted by the Secretary of State pursuant to Joint Rule 204.

Received by the Clerk of the House on December 19, 2001. Referred to the Committee on State and Local Government pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Speaker SAXL of Portland.

Cosponsored by Senator RAND of Cumberland and

Representatives: BUNKER of Kossuth Township, DORR of Camden, JACOBS of Turner, MADORE of Augusta, MITCHELL of Vassalboro, SHERMAN of Hodgdon, SIMPSON of Auburn, Senator: FERGUSON of Oxford.

Be it enacted by the People of the State of Maine as follows:

2
4 **Sec. 1. 5 MRSA §90-B** is enacted to read:

6 **§90-B. Address Confidentiality Program**

8 **1. Definitions.** As used in this section, unless the
10 context otherwise indicates, the following terms have the
12 following meanings.

14 A. "Address" means a residential street, school or work
16 address of an individual, as specified on the individual's
18 application to be a program participant under this chapter.

20 B. "Application assistant" means an employee of a state or
22 local agency, or of a nonprofit program that provides
24 counseling, referral, shelter or other specialized service
26 to victims of domestic abuse, rape, sexual assault or
28 stalking and who has been designated by the respective
30 agency, and trained, accepted and registered by the
32 secretary to assist individuals in the completion of program
34 participation applications.

36 C. "Designated address" means the address assigned to a
38 program participant by the secretary pursuant to this
40 section.

42 D. "Mailing address" means an address that is recognized
44 for delivery by the United States Postal Service.

46 E. "Program" means the Address Confidentiality Program
48 established in this section.

50 F. "Program participant" means a person certified by the
Secretary of State to participate in the program.

G. "Secretary" means the Secretary of State.

2. Program established. The Address Confidentiality
Program is established to protect victims of domestic violence,
stalking or sexual assault by authorizing the use of designated
addresses for such victims. The program is administered by the
secretary under the following application and certification
procedures.

A. Upon recommendation of an application assistant, an
adult person, a parent or guardian acting on behalf of a
minor or a guardian acting on behalf of an incapacitated
person may apply to the secretary to have a designated
address assigned by the secretary to serve as the person's
address or the address of the minor or incapacitated person.

2 B. The secretary may approve an application only if it is
4 filed with the office of the secretary in the manner
6 established by rule and on a form prescribed by the
8 secretary. A completed application must contain:

10 (1) The application preparation date, the applicant's
12 signature and the signature and registration number of
14 the application assistant who assisted the applicant in
16 applying to be a program participant;

18 (2) A designation of the secretary as agent for
20 purposes of service of process and for receipt of
22 first-class mail;

24 (3) The mailing address where the applicant may be
26 contacted by the secretary or a designee and the
28 telephone number or numbers where the applicant may be
30 called by the secretary or the secretary's designee; and

32 (4) One or more addresses that the applicant requests
34 not be disclosed for the reason that disclosure will
36 jeopardize the applicant's safety or increase the risk
38 of violence to the applicant or members of the
40 applicant's household.

42 C. Upon receipt of a properly completed application, the
44 secretary may certify the applicant as a program
46 participant. A program participant is certified for 4 years
48 following the date of initial certification unless the
50 certification is withdrawn or invalidated before that date.
The secretary shall send notification of lapsing
certification and a reapplication form to a program
participant at least 4 weeks prior to the expiration of the
program participant's certification.

D. The secretary shall forward first-class mail to the
appropriate program participants.

E. A person who knowingly provides false or incorrect
information in an application or who knowingly falsely
attests that disclosure of the applicant's address or
mailing address threatens the safety of the applicant or the
applicant's children or the minor or incapacitated person on
whose behalf the application is made may be punished by a
fine of not more than \$500 or by imprisonment for not more
than 6 months and by cancellation of program certification.

3. Cancellation. Certification for the program may be
canceled if one or more of the following conditions apply:

2 A. If the program participant obtains a name change, unless
4 the program participant provides the secretary with
 documentation of a legal name change within 10 business days
6 of the name change;

8 B. If there is a change in the residential street address
 from the one listed on the application, unless the program
10 participant provides the secretary with notice of the change
 in such manner as the secretary provides by rule; or

12 C. A program participant knowingly provides false
14 information pursuant to subsection 2, paragraph E.

16 4. Use of designated address. Upon demonstration of a
 program participant's certification in the program, state and
18 local agencies and the courts shall accept the designated address
 as a program participant's address when creating a new public
20 record unless the secretary has determined that:

22 A. The agency has a bona fide statutory or administrative
 requirement for the use of the program participant's address
24 or mailing address, such that it is unable to fulfill its
 statutory duties and obligations without the residential
26 address; and

28 B. The program participant's address or mailing address
 will be used only for those statutory and administrative
30 purposes.

32 5. Disclosure to law enforcement and state agencies. If
 the secretary determines appropriate, the secretary may make a
34 program participant's address or mailing address available for
 inspection or copying, under the following circumstances:

36 A. If requested of the secretary by a law enforcement
 agency in the manner provided for by rule; or

38 B. Upon request to the secretary by a commissioner of a
40 state agency or the commissioner's designee in the manner
42 provided for by rule and upon a showing of a bona fide
 statutory or administrative requirement for the use of the
44 program participant's address or mailing address, such that
 the commissioner or the commissioner's designee is unable to
46 fulfill statutory duties and obligations without the address
 or mailing address.

48 6. Disclosure pursuant to court order or cancelled
 certification. If the secretary determines appropriate, the
50 secretary shall make a program participant's address and mailing
 address available for inspection or copying under the following
52 circumstances:

2 A. To a person identified in a court order, upon the
4 secretary's receipt of that court order that specifically
6 orders the disclosure of a particular program participant's
 address and mailing address and the reasons stated for the
 disclosure; or

8 B. If certification has been canceled due to the provision
10 of false or incorrect information in an application or
12 knowingly falsely attesting that disclosure of the
14 applicant's address or mailing address threatens the safety
 of the applicant or the applicant's children or the minor or
 incapacitated person on whose behalf the application is
 made, as provided for in subsection 2, paragraph E.

16 7. Confidentiality. The program participant's application
18 and supporting materials are not a public record and must be kept
 confidential by the secretary.

20 8. Rules. The secretary shall adopt rules to carry out
22 this section. These rules are minor technical rules as defined
 in Title 5, chapter 375, subchapter II-A.

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SUMMARY

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28 This bill establishes the Address Confidentiality Program to
30 be administered by the Secretary of State. The program provides
32 state and local agencies with the ability to respond to requests
34 for public records without disclosing the location of a victim of
36 domestic violence, stalking or sexual assault. The program
38 enables interagency cooperation with the Secretary of State in
 providing address confidentiality for victims of domestic
 violence, stalking or sexual assault and enables state and local
 agencies to accept a program participant's use of an address
 designated by the Secretary of State as a substitute mailing
 address.