

950 CMR 130.00: ADMINISTRATION OF ADDRESS CONFIDENTIALITY PROGRAM

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130.01: Scope and Purpose

950 CMR 130.00 describes the practices and procedures of the state secretary relative to M.G.L. c. 9A, the Address Confidentiality Program. The Program, which is under the supervision of the Program Manager, administers the provisions of M.G.L. c. 9A pertaining to the Address Confidentiality Program and related matters. The Program Manager may make, amend and rescind such rules, forms, orders and policies as are contemplated by M.G.L. c. 9A and as are necessary to carry out its purpose.

130.02: Definitions

Authorization Card. Card issued by the Secretary of the Commonwealth to a Program participant upon certification, which includes the Program participant's name, authorization code, a designated substitute mailing address, certification expiration date, and signature.

Authorization Code. A number assigned to a Program participant upon acceptance into the Program.

Application. Standard application form provided by the Program which must be completed by an applicant with an application assistant.

Application Assistant. An employee of a state or local agency, or of a nonprofit program that provides counseling, referral, shelter or other specialized service to victims of domestic abuse, rape, sexual assault, or stalking and who has been designated by the respective agency, and trained, accepted and registered by the Program Manager to assist individuals in the completion of Program participation applications.

Certification. The process by which an applicant is determined eligible to participate in the Program.

Program. The Address Confidentiality Program established by M.G.L. c. 9A to provide designated addresses for victims of domestic violence, rape, sexual assault or stalking for use by state and local agencies. The Program is not a witness protection program.

Program Participant. A person certified by the Secretary of the Commonwealth to participate in the Address Confidentiality Program.

Program Manager. An employee of the Office of the Secretary of the Commonwealth designated by the Secretary to administer the Address Confidentiality Program.

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Rape. As defined in M.G.L. c. 265, §§ 22, 22A, 22B, 22C and 23, 23A, 23B and M.G.L. c. 272, §§ 2, 4 and 17.

Residential Address. Means the street name, street number, city or town, and zip code of the address where the Program participant resides.

Secretary. Means the state secretary a/k/a the Secretary of the Commonwealth.

Sexual Assault. As defined in M.G.L. c. 265, §§ 13B, 13B¹/₂, 13B³/₄, 13F, 13H, 24, 24B and M.G.L. c. 272, §§ 4A, 17, 29A, 29B and 35A.

Stalking. As defined in M.G.L. c. 265, § 43.

Substitute Addresses. The mailing and other addresses designated by the Secretary of the Commonwealth for use by Program participants. The mailing address is listed on the authorization card.

130.03: Application Assistant Certification

- (1) All application assistants must be certified by the Program to participate in this Program.
- (2) Application assistant certification will only be granted when the prospective application assistant:
 - (a) is an employee of a state or local agency, or of a nonprofit program that provides counseling, referral, shelter or other specialized service to victims of domestic abuse, rape, sexual assault or stalking and has been designated by the agency to be an application assistant;
 - (b) successfully completes Program orientation and training sessions provided by the Program;
 - (c) completes an application to be an application assistant which includes the applicant's name, address, service provider or agency, supervisor's name, relevant qualifications;
 - (d) agrees to adhere to the policies, procedures and directions of the Program; and,
 - (e) agrees to adhere to the instructions and terms provided in the Application Assistant Agreement.
- (3) Application assistant certification shall be valid for two years, unless terminated sooner pursuant to 950 CMR 130.03(6).
- (4) The application assistant agrees not to discriminate against any client, or potential Program participant, because of race, creed, color, national origin, gender, sexual orientation, age, or mental, physical or sensory disability.
- (5) An application assistant is not an employee or agent of the Office of the Secretary of the Commonwealth or the Program. The application assistant will not hold herself or himself out as, nor claim to be an officer or employee of the Office of the Secretary of the Commonwealth or the Program simply because she or he is a Program application assistant and will not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the Office of the Secretary of the Commonwealth or the Program.
- (6) An application assistant's Program certification is terminated if the application assistant leaves the employ of the sponsoring state or local agency or nonprofit program and may be terminated by the Program for failing to abide by any requirement in 950 CMR 130.03(2)(d) and (e) or for failing to act in accordance with written policies and procedures of the Program.

130.04: Program Participant Application and Certification Process

- (1) Each Program participant must be certified by the Program Manager to participate in the Program.

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- (2) Program participant certification will be granted only where the prospective Program participant:
- (a) is a current Massachusetts resident;
 - (b) is a victim of domestic violence, sexual assault or stalking as defined in the Massachusetts General Laws;
 - (c) provides specific evidence that the applicant is a victim of domestic violence, sexual assault, rape or stalking, including certified law enforcement, court or other federal or state agency records or files;
 - (d) affirms under penalties of perjury that the disclosure of his or her address will threaten the safety of the applicant or applicant's minor children or the minor or the incapacitated person on whose behalf the application is made;
 - (e) completes, signs, dates and provides all necessary information required under M.G.L. c. 9A, § 2 and the standard application form and the authorization card form provided by the Program;
 - (f) agrees in writing to use the applicable substitute addresses designated by the Program for use by Program participants;
 - (g) agrees in writing to abide by 950 CMR 130.00 and all other written Program rules, policies and procedures;
 - (h) provides the mailing address where the applicant may be contacted by the Program Manager or his or her designee and the telephone number(s) where the applicant may be called by the Program Manager or his or her designee; and
 - (i) provides one or more addresses the applicant requests not be disclosed for the reason that disclosure will jeopardize the applicant's safety or increase the risk of violence to the applicant or members of the applicant's household.
- (3) Prior to certification of the application, the Program Manager may request additional documentation from the Program applicant relevant to a determination of eligibility, including, but not limited to, any relevant judicial proceeding, criminal complaint, or proceeding brought under M.G.L. c. 209A.
- (4) A properly completed application shall be effective on the day that it is certified by the Program Manager.
- (5) An individual who is certified as a Program participant shall be issued a Program participant's authorization card which includes her or his name, authorization code, substitute mailing address, certification expiration date, and applicant's signature.
- (6) The term of a Program participant's certification shall be four years following the effective date of her or his application unless the certification is withdrawn or canceled before that date pursuant to M.G.L. c. 9A, § 3 or 950 CMR 130.09.

130.05: Responsibilities of a Program Participant

A Program participant:

- (1) may not disclose any address other than the applicable designated address to any state or local agency;
- (2) may not disclose his or her residential address to the batterer, stalker or perpetrator of the domestic violence, sexual assault, rape or stalking.
- (3) must notify the Program in writing of a change in the Program participant's contact information at least seven days in advance, or immediately thereafter if such change is necessitated by an emergency or other unforeseen event;
- (4) must return the authorization card to the Program immediately upon withdrawal or cancellation of participation in the Program; and

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(5) must promptly disclose in writing to the Program any civil, criminal or administrative proceeding in which participant is a witness or party and any court order including, but not limited to, divorce proceedings, child support, child custody and visitation orders.

130.06: Responsibilities of State and Local Agencies

(1) A Program participant shall request, at the time of creation of a new record, that a state or local agency use a substitute address designated by the Program as her or his residential or mailing address.

(2) A Program participant shall show her or his original authorization card to the agency official creating a new record and request address confidentiality through use of a substitute address in lieu of her or his actual location. The substitute mailing address shall appear on the Program participant's authorization card.

(3) Agency personnel shall contact the Program manager to verify participant's certification in the Program. They may make a file photocopy of the authorization card and shall immediately return the authorization card to the Program participant.

(4) An agency shall accept the applicable designated substitute address unless the agency has received a written record exemption determination from the Program.

(5) An agency shall not question the Program participant about the details or circumstances of her or his inclusion in the Program. Rather, the agency shall accept the determination made by the Program that she or he is a qualified Program participant.

130.07: Substitute Addresses Designated by the Address Confidentiality Program

(1) The Address Confidentiality Program has designated a substitute mailing address to be used as a participant's legal mailing address.

(2) The Address Confidentiality Program in consultation with the Registry of Motor Vehicles has designated a specific street address solely for use on motor vehicle operator licenses, registrations and for excise tax purposes. Program participants must use the designated street address on all such matters.

130.08: Agency Exemption Request

(1) An agency requesting an exemption under 950 CMR 130.08, must provide in writing to the Program Manager:

- (a) identification of the statute or administrative rule which demonstrates the agency's *bona fide* requirement and authority for the use of the actual address of an individual;
- (b) identification and description of the specific record or record series for which the exemption is requested;
- (c) identification of the individuals who will have access to the record;
- (d) an explanation of why the agency cannot meet its statutory or administrative obligations by a change in its internal procedures.

(2) The Program Manager shall review an agency's request for an exemption.

(3) During the review, evaluation and appeal of an agency's exemption request, the agency shall accept the use of a Program participant's substitute address.

(4) The Program Manager's determination to grant or withhold a requested exemption shall be based on, but not limited to, an evaluation of the information provided under 950 CMR 130.08(1) in conformance with the statutory standard of a *bona fide* statutory or administrative requirement for the use of a Program participant's actual address.

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(5) If the Program Manager determines that an agency has a *bona fide* statutory or administrative requirement for the use of a Program participant's actual address information and that the actual address information will be used only for those statutory and administrative purposes, the Program Manager may issue a written exemption for the agency. When granting an exemption, the Program Manager may include:

- (a) an agency's obligation and ability to maintain the confidentiality of a Program participant's address information;
- (b) limitations on use and access to that address information;
- (c) the term during which the exemption is authorized for use by the agency;
- (d) designation of the record format on which the address information may be maintained;
- (e) designation of an address information disposition date after which the agency may no longer maintain a record of the address information; and
- (f) any other provisions and qualifications determined appropriate by the Program Manager.

(6) When a Program participant requests use of the substitute address in a record and the agency has received an exemption for that record, the agency shall immediately provide a copy of the written exemption to the requesting Program participant. The agency shall notify the address confidentiality Program manager of the occurrence and denial of the Program participant's request.

(7) The Program Manager's denial of an agency exemption request shall be made in writing and include a statement of the specific reasons therefore.

(8) An agency may appeal the denial of its request by resubmitting its written request within 60 days of the issuance of a denial. The request shall be accompanied by additional data, information and an explanation of corrective action taken to alleviate concerns and considerations included in the Program Manager's denial determination.

130.09: Cancellation of Program Certification

(1) Program certification shall be cancelled if the participant:

- (a) no longer resides in Massachusetts;
- (b) changes his or her name;
- (c) discloses his or her residential address to the batterer, stalker or perpetrator of sexual assault or to any state or local agency;
- (d) fails to agree to or use the designated substitute mailing address or, if applicable, the designated street address on motor vehicle operator licenses, registration or excise tax.
- (e) Fails to agree to or abide by any written Program rule, policy or procedure previously communicated to the participant;
- (f) Fails to notify the Program Manager in writing of a change in contact information as provided in 950 CMR 130.05(3);
- (g) Fails to disclose in writing to the Program Manager any civil, criminal or administrative proceeding as provided in 950 CMR 130.05(5);
- (h) Provides false or misleading information in the application or to any state or local agency in connection with the Program; or
- (i) Uses or attempts to use the Program to evade law enforcement or to avoid establishing or following child custody or visitation orders.

(2) The Program will notify the Program participant of the cancellation by mail addressed to the participant's last known address in the Program records.

(3) Upon cancellation of Program certification, the Program participant will immediately return the authorization card to the Program.

(4) Upon Program certification cancellation, the former Program participant shall complete change of address forms with the United States Post Office. Any former Program participant's mail received by the Program after cancellation will be returned to sender.

130.10: Appeal of Denial, Non-renewal or Cancellation of Program Certification

(1) The Secretary of the Commonwealth shall designate a committee of five members to review appeals of denial, cancellation or non-renewal of Program certification. The program committee may include one representative from the Massachusetts Office for Victims Assistance, one representative from Jane Doe, Inc., and three other members chosen by the Secretary of the Commonwealth.

(2) Within 30 days of the date of the denial, cancellation or non-renewal, the Program applicant may request, in writing, that the committee reconsider the Program Manager's decision to deny or cancel Program certification. The committee may determine to allow Program certification to remain in place during the pendency of the appeal if the applicant establishes that the cancellation was due to accident or oversight. The committee shall consider any application for which a request for reconsideration is received. After reconsideration of the application, the committee shall affirm the denial or certify the application.

(3) The committee shall notify the applicant by certified mail, return receipt required, of its decision within 30 days of receipt of the request for reconsideration.

130.11: Program Participation Renewal

(1) A currently qualified Program participant may apply to renew her or his Program participation by completing the application and certification process provided in 950 CMR 130.03. The renewal notice shall be sent to the participant at least 30 days before the expiration of the current authorization.

(2) If the Program Manager determines that the Program participant is eligible to participate in the Program, he or she shall certify the participant for an additional 4-year term and issue a new authorization card. The participant shall destroy his or her expired card and return it to the Program Manager.

130.12: Service of Process

(1) The Secretary of the Commonwealth shall be an agent of the Program participant upon whom any summons, writ, notice, demand, or process may be served.

(2) Service on the Secretary of the Commonwealth of any such summons, writ, demand, notice, or process shall be made by mailing or delivering to the applicable substitute address, or by delivering to the address of the Chief Legal Counsel, Secretary of the Commonwealth at his or her office at One Ashburton Place, Room 1711, Boston, Massachusetts 02108 two copies of the summons, writ, notice, demand, or process. Service of process for all licensing, registration or excise tax matters shall be made using the address designated for such purpose.

(3) If a summons, writ, notice, demand, or process is served on the Secretary of the Commonwealth, the Secretary of the Commonwealth shall forward a copy within 24 hours of receipt to the Program participant at the participant's current mailing address shown on the records of the Program.

(4) The Program Manager shall maintain in the Program participant's file, a record of all summonses, writs, notices, demands, and processes served upon the Secretary of the Commonwealth for that participant under which shall include the date of such service and the Secretary of the Commonwealth's action.

130.13: Correspondence from Courts

All correspondence with a return address of a court shall be forwarded within 24 hours of receipt to the Program participant's current mailing address shown on the records of the Program.

130.14: Disclosure of Program Participant's Address

The Program Manager shall disclose a Program participant's address:

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- (1) upon written request by the chief commanding officer of a law enforcement agency or his or her designee in connection with a law enforcement matter;
- (2) upon receipt of a court order which specifically orders the disclosure of a particular Program participant's address and the reason therefore;
- (3) upon the participant's cancellation or withdrawal from the Program; or
- (4) to law enforcement if the Program Manager has reasonable cause to believe the participant is using the Program to evade law enforcement.

130.15: Written Agreement of Current Program Participants to Abide by 950 CMR 130.00 and Other Written Program Rules, Policies and Procedures

- (1) The Program will send written notice of the adoption of the amended regulations to each program participant.
- (2) Each program participant must sign, date and return the written agreement provided by the program to the participant reflecting their agreement to use the applicable substitute addresses designated for use by program participants and to abide by 950 CMR 130.00 and all other written rules, policies and procedures of the Program communicated to the participant.
- (3) The written agreement must be received by the Program no later than the date and time set forth in the written notice.
- (4) Failure to sign, date and return the agreement timely will result in cancellation of Program certification pursuant to 950 CMR 130.09.

REGULATORY AUTHORITY

950 CMR 130.00: M.G.L. c. 9A.

NON-TEXT PAGE