

By: Lucio, et al.

S.B. No. 309

A BILL TO BE ENTITLED

AN ACT

relating to the creation of an address confidentiality program to assist victims of family violence, sexual assault, or stalking in maintaining confidential addresses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 56, Code of Criminal Procedure, is amended by adding Subchapter C to read as follows:

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

Art. 56.81. DEFINITIONS. In this subchapter:

(1) "Applicant" means an applicant for participation in the program.

(2) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(3) "Family violence shelter center" has the meaning assigned by Section 51.002, Human Resources Code.

(4) "Mail" means first class mail and any mail sent by a government agency. The term does not include any package, regardless of size or type of mailing.

(5) "Participant" means an applicant who is certified for participation in the program.

(6) "Program" means the address confidentiality program created under this subchapter.

Art. 56.82. ADDRESS CONFIDENTIALITY PROGRAM. (a) The

1 attorney general shall establish an address confidentiality  
2 program, as provided by this subchapter, to assist a victim of  
3 family violence or an offense under Section 22.011, 22.021, 25.02,  
4 or 42.072, Penal Code, in maintaining a confidential address.

5 (b) The attorney general shall:

6 (1) designate a substitute post office box address  
7 that a participant may use in place of the participant's true  
8 residential, business, or school address;

9 (2) act as agent to receive service of process and mail  
10 on behalf of the participant; and

11 (3) forward to the participant mail received by the  
12 office of the attorney general on behalf of the participant.

13 (c) A summons, writ, notice, demand, or process may be  
14 served on the attorney general on behalf of the participant by  
15 delivery of two copies of the document to the office of the attorney  
16 general. The attorney general shall retain a copy of the summons,  
17 writ, notice, demand, or process and forward the original to the  
18 participant not later than the third day after the date of service  
19 on the attorney general.

20 (d) The attorney general shall make and retain a copy of the  
21 envelope in which certified mail is received on behalf of the  
22 participant.

23 Art. 56.83. ELIGIBILITY TO PARTICIPATE IN PROGRAM. (a) To  
24 be eligible to participate in the program, an applicant must:

25 (1) meet with a victim's assistance counselor from a  
26 state or local agency or other entity designated by the attorney  
27 general under Article 56.92 and receive orientation information

1 about the program;

2 (2) file an application for participation with the  
3 attorney general or a state or local agency or other entity  
4 designated by the attorney general under Article 56.92;

5 (3) designate the attorney general as agent to receive  
6 service of process and mail on behalf of the applicant; and

7 (4) live at a residential address, or relocate to a  
8 residential address, that is unknown to the person who committed or  
9 is alleged to have committed the family violence or an offense under  
10 Section 22.011, 22.021, 25.02, or 42.072, Penal Code.

11 (b) An application under Subsection (a)(2) must contain:

12 (1) a signed, sworn statement by the applicant stating  
13 that the applicant fears for the safety of the applicant, the  
14 applicant's child, or another person in the applicant's household  
15 because of a threat of immediate or future harm caused by the person  
16 who committed or is alleged to have committed the family violence or  
17 an offense under Section 22.011, 22.021, 25.02, or 42.072, Penal  
18 Code;

19 (2) the applicant's true residential address and, if  
20 applicable, the applicant's business and school addresses; and

21 (3) a statement by the applicant of whether there is an  
22 existing court order or a pending court case for child support or  
23 child custody or visitation that involves the applicant and, if so,  
24 the name and address of:

25 (A) the legal counsel of record; and

26 (B) each parent involved in the court order or  
27 pending case.

1       (c) An application under Subsection (a)(2) must be  
2 completed by the applicant in person at the state or local agency or  
3 other entity with which the application is filed. An applicant who  
4 knowingly or intentionally makes a false statement in an  
5 application under Subsection (a)(2) is subject to prosecution under  
6 Chapter 37, Penal Code.

7       (d) A state or local agency or other entity with which an  
8 application is filed under Subsection (a)(2) shall forward the  
9 application to the office of the attorney general.

10       (e) The attorney general by rule may establish additional  
11 eligibility requirements for participation in the program that are  
12 consistent with the purpose of the program as stated in Article  
13 56.82(a). The attorney general may establish procedures for  
14 requiring an applicant, in appropriate circumstances, to submit  
15 with the application under Subsection (a)(2) independent  
16 documentary evidence of family violence or an offense under Section  
17 22.011, 22.021, 25.02, or 42.072, Penal Code, in the form of:

18               (1) an active or recently issued protective order;

19               (2) an incident report or other record maintained by a  
20 law enforcement agency or official;

21               (3) a statement of a physician or other health care  
22 provider regarding the applicant's medical condition as a result of  
23 the family violence or offense; or

24               (4) a statement of a mental health professional, a  
25 member of the clergy, an attorney or other legal advocate, a trained  
26 staff member of a family violence center, or another professional  
27 who has assisted the applicant in addressing the effects of the

1 family violence or offense.

2 (f) Any assistance or counseling provided by the attorney  
3 general or an employee or agent of the attorney general to an  
4 applicant does not constitute legal advice.

5 Art. 56.84. CERTIFICATION; EXPIRATION. (a) The attorney  
6 general shall certify for participation in the program an applicant  
7 who satisfies the eligibility requirements under Article 56.83.

8 (b) A certification under this article expires on the third  
9 anniversary of the date of certification.

10 Art. 56.85. RENEWAL. To renew a certification under  
11 Article 56.84, a participant must satisfy the eligibility  
12 requirements under Article 56.83 as if the participant were  
13 originally applying for participation in the program.

14 Art. 56.86. INELIGIBILITY AND CANCELLATION. (a) An  
15 applicant is ineligible for, and a participant may be excluded  
16 from, participation in the program if the applicant or participant  
17 knowingly makes a false statement on an application filed under  
18 Article 56.83(a)(2).

19 (b) A participant may be excluded from participation in the  
20 program if:

21 (1) mail forwarded to the participant by the attorney  
22 general is returned undeliverable on at least four occasions;

23 (2) the participant changes the participant's true  
24 residential address as provided in the application filed under  
25 Article 56.83(a)(2) and does not notify the attorney general of the  
26 change at least 10 days before the date of the change; or

27 (3) the participant changes the participant's name.

1       Art. 56.87. WITHDRAWAL. A participant may withdraw from  
2 the program by notifying the attorney general in writing of the  
3 withdrawal.

4       Art. 56.88. CONFIDENTIALITY; DESTRUCTION OF INFORMATION.

5       (a) Information relating to a participant:

6               (1) is confidential, except as provided by Article  
7 56.90; and

8               (2) may not be disclosed under Chapter 552, Government  
9 Code.

10       (b) Except as provided by Article 56.82(d), the attorney  
11 general may not make a copy of any mail received by the office of the  
12 attorney general on behalf of the participant.

13       (c) The attorney general shall destroy all information  
14 relating to a participant on the third anniversary of the date  
15 participation in the program ends.

16       Art. 56.89. ACCEPTANCE OF SUBSTITUTE ADDRESS; EXEMPTIONS.

17       (a) Except as provided by Subsection (b), a state or local agency  
18 must accept the substitute post office box address designated by  
19 the attorney general if the substitute address is presented to the  
20 agency by a participant in place of the participant's true  
21 residential, business, or school address.

22       (b) The attorney general by rule may permit an agency to  
23 require a participant to provide the participant's true  
24 residential, business, or school address, if necessary for the  
25 agency to perform a duty or function that is imposed by law.

26       Art. 56.90. EXCEPTIONS. The attorney general:

27               (1) shall disclose a participant's true residential,

1 business, or school address if:

2 (A) requested by a law enforcement agency; or

3 (B) required by court order; and

4 (2) may disclose a participant's true residential,  
5 business, or school address if:

6 (A) the participant consents to the disclosure;

7 and

8 (B) the disclosure is necessary to administer the  
9 program.

10 Art. 56.91. LIABILITY. (a) The attorney general or an  
11 agent or employee of the attorney general is immune from liability  
12 for any act or omission by the agent or employee in administering  
13 the program if the agent or employee was acting in good faith and in  
14 the course and scope of assigned responsibilities and duties.

15 (b) An agent or employee of the attorney general who does  
16 not act in good faith and in the course and scope of assigned  
17 responsibilities and duties in disclosing a participant's true  
18 residential, business, or school address is subject to prosecution  
19 under Chapter 39, Penal Code.

20 Art. 56.92. PROGRAM ASSISTANCE. The attorney general shall  
21 identify state and local agencies and other entities, whether  
22 for-profit or nonprofit, that provide counseling and shelter  
23 services to victims of family violence and require the identified  
24 agencies to provide access to the program, including making program  
25 information and application materials available and providing  
26 assistance in completing program applications.

27 Art. 56.93. RULES. The attorney general shall adopt rules

1 to administer the program.

2 SECTION 2. Article 56.54, Code of Criminal Procedure, is  
3 amended by amending Subsection (c) and adding Subsection (l) to  
4 read as follows:

5 (c) Except as provided by Subsections (h), ~~and~~ (i), and  
6 (l), the compensation to victims of crime auxiliary fund may be used  
7 by the attorney general only for the payment of compensation to  
8 claimants or victims under this subchapter.

9 (l) The attorney general may use the compensation to victims  
10 of crime auxiliary fund to cover costs incurred by the attorney  
11 general in administering the address confidentiality program  
12 established under Subchapter C.

13 SECTION 3. Subsection (a), Section 18.005, Election Code,  
14 is amended to read as follows:

15 (a) Each original and supplemental list of registered  
16 voters must:

17 (1) contain the voter's name, residence address or  
18 substitute post office box address, if required by Section 18.0051,  
19 date of birth, and registration number as provided by the statewide  
20 computerized voter registration list;

21 (2) be arranged alphabetically by voter name;

22 (3) contain the notation required by Section 15.111;

23 and

24 (4) until Section 13.122(d) expires, identify each  
25 voter registered by mail for the first time who failed to provide a  
26 copy of a document described by Section 63.0101 establishing the  
27 voter's identity at the time of registration.



1 SECTION 4. Subchapter A, Chapter 18, Election Code, is  
2 amended by adding Section 18.0051 to read as follows:

3 Sec. 18.0051. CONTENTS OF LIST: SUBSTITUTE ADDRESS. An  
4 original or supplemental list of registered voters must contain a  
5 voter's substitute post office box address designated by the  
6 attorney general under Article 56.82(b), Code of Criminal  
7 Procedure, for use by the voter in place of the voter's true  
8 residential, business, or school address if the voter is eligible  
9 for early voting by mail under Section 82.007 and has submitted an  
10 early voting ballot application as required by Section 84.0021.

11 SECTION 5. Chapter 82, Election Code, is amended by adding  
12 Section 82.007 to read as follows:

13 Sec. 82.007. PARTICIPATION IN ADDRESS CONFIDENTIALITY  
14 PROGRAM. A qualified voter is eligible for early voting by mail if,  
15 at the time the voter's early voting ballot application is  
16 submitted, the voter is accepted for participation in the address  
17 confidentiality program administered by the attorney general under  
18 Chapter 56, Code of Criminal Procedure.

19 SECTION 6. Subchapter A, Chapter 84, Election Code, is  
20 amended by adding Section 84.0021 to read as follows:

21 Sec. 84.0021. CONTENTS OF APPLICATION FOR PARTICIPANT IN  
22 ADDRESS CONFIDENTIALITY PROGRAM; CONFIDENTIAL INFORMATION.

23 (a) An early voting ballot application submitted by a qualified  
24 voter who is eligible for early voting by mail under Section 82.007  
25 must include:

26 (1) the applicant's name and address at which the  
27 applicant is registered to vote;

1           (2) the substitute post office box address designated  
2 by the attorney general under Article 56.82(b), Code of Criminal  
3 Procedure, for use by the voter in place of the voter's true  
4 residential, business, or school address; and

5           (3) an indication of each election for which the  
6 applicant is applying for a ballot.

7           (b) The information contained in an application under this  
8 section relating to the address at which the applicant is  
9 registered to vote is confidential, except that the information  
10 must be disclosed if:

11           (1) requested by a law enforcement agency; or

12           (2) required by court order.

13           SECTION 7. Chapter 221, Election Code, is amended by adding  
14 Section 221.018 to read as follows:

15           Sec. 221.018. EXAMINATION OF CERTAIN CONFIDENTIAL  
16 INFORMATION. (a) Notwithstanding Section 84.0021(b), the  
17 tribunal hearing an election contest may examine the information  
18 contained in an application under Section 84.0021 relating to the  
19 address at which the applicant is registered to vote.

20           (b) Information may be examined under this section only for  
21 the purpose of hearing an election contest.

22           SECTION 8. The attorney general shall establish the address  
23 confidentiality program and adopt rules to administer the program  
24 as required by Subchapter C, Chapter 56, Code of Criminal  
25 Procedure, as added by this Act, not later than June 1, 2006.

26           SECTION 9. This Act takes effect immediately if it receives  
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this  
2 Act does not receive the vote necessary for immediate effect, this  
3 Act takes effect September 1, 2005.

COMMITTEE AMENDMENT NO. 1

Amend S.B. No. 309 (Senate Engrossment) as follows:

(1) In SECTION 1 of the bill, in added Subsection (b), Section 56.89, Code of Criminal Procedure, between "law" and the underlined period (page 6, line 25), insert "or administrative requirement".

(2) In SECTION 1 of the bill, in added Subdivision (1), Section 56.90, Code of Criminal Procedure, strike added Paragraph A (page 7, line 2) and substitute the following:

"(A) requested by:

(i) a law enforcement agency; or

(ii) the Department of State Health Services or a local health authority for the purpose of making a notification described by Article 21.31 or by Section 54.033, Family Code, or Section 81.051, Health and Safety Code; or"

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