

1-1 By: Lucio, et al. S.B. No. 309  
1-2 (In the Senate - Filed January 31, 2005; February 7, 2005,  
1-3 read first time and referred to Committee on State Affairs;  
1-4 May 3, 2005, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 7, Nays 0; May 3, 2005,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 309 By: Lucio

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the creation of an address confidentiality program to  
1-11 assist victims of family violence, sexual assault, or stalking in  
1-12 maintaining confidential addresses.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Chapter 56, Code of Criminal Procedure, is  
1-15 amended by adding Subchapter C to read as follows:

1-16 SUBCHAPTER C. ADDRESS CONFIDENTIALITY PROGRAM FOR VICTIMS OF  
1-17 FAMILY VIOLENCE, SEXUAL ASSAULT, OR STALKING

1-18 Art. 56.81. DEFINITIONS. In this subchapter:

1-19 (1) "Applicant" means an applicant for participation  
1-20 in the program.

1-21 (2) "Family violence" has the meaning assigned by  
1-22 Section 71.004, Family Code.

1-23 (3) "Family violence shelter center" has the meaning  
1-24 assigned by Section 51.002, Human Resources Code.

1-25 (4) "Mail" means first class mail and any mail sent by  
1-26 a government agency. The term does not include any package,  
1-27 regardless of size or type of mailing.

1-28 (5) "Participant" means an applicant who is certified  
1-29 for participation in the program.

1-30 (6) "Program" means the address confidentiality  
1-31 program created under this subchapter.

1-32 Art. 56.82. ADDRESS CONFIDENTIALITY PROGRAM. (a) The  
1-33 attorney general shall establish an address confidentiality  
1-34 program, as provided by this subchapter, to assist a victim of  
1-35 family violence or an offense under Section 22.011, 22.021, 25.02,  
1-36 or 42.072, Penal Code, in maintaining a confidential address.

1-37 (b) The attorney general shall:

1-38 (1) designate a substitute post office box address  
1-39 that a participant may use in place of the participant's true  
1-40 residential, business, or school address;

1-41 (2) act as agent to receive service of process and mail  
1-42 on behalf of the participant; and

1-43 (3) forward to the participant mail received by the  
1-44 office of the attorney general on behalf of the participant.

1-45 (c) A summons, writ, notice, demand, or process may be  
1-46 served on the attorney general on behalf of the participant by  
1-47 delivery of two copies of the document to the office of the attorney  
1-48 general. The attorney general shall retain a copy of the summons,  
1-49 writ, notice, demand, or process and forward the original to the  
1-50 participant not later than the third day after the date of service  
1-51 on the attorney general.

1-52 (d) The attorney general shall make and retain a copy of the  
1-53 envelope in which certified mail is received on behalf of the  
1-54 participant.

1-55 Art. 56.83. ELIGIBILITY TO PARTICIPATE IN PROGRAM. (a) To  
1-56 be eligible to participate in the program, an applicant must:

1-57 (1) meet with a victim's assistance counselor from a  
1-58 state or local agency or other entity designated by the attorney  
1-59 general under Article 56.92 and receive orientation information  
1-60 about the program;

1-61 (2) file an application for participation with the  
1-62 attorney general or a state or local agency or other entity  
1-63 designated by the attorney general under Article 56.92;

2-1 (3) designate the attorney general as agent to receive  
 2-2 service of process and mail on behalf of the applicant; and

2-3 (4) live at a residential address, or relocate to a  
 2-4 residential address, that is unknown to the person who committed or  
 2-5 is alleged to have committed the family violence or an offense under  
 2-6 Section 22.011, 22.021, 25.02, or 42.072, Penal Code.

2-7 (b) An application under Subsection (a)(2) must contain:

2-8 (1) a signed, sworn statement by the applicant stating  
 2-9 that the applicant fears for the safety of the applicant, the  
 2-10 applicant's child, or another person in the applicant's household  
 2-11 because of a threat of immediate or future harm caused by the person  
 2-12 who committed or is alleged to have committed the family violence or  
 2-13 an offense under Section 22.011, 22.021, 25.02, or 42.072, Penal  
 2-14 Code;

2-15 (2) the applicant's true residential address and, if  
 2-16 applicable, the applicant's business and school addresses; and

2-17 (3) a statement by the applicant of whether there is an  
 2-18 existing court order or a pending court case for child support or  
 2-19 child custody or visitation that involves the applicant and, if so,  
 2-20 the name and address of:

2-21 (A) the legal counsel of record; and

2-22 (B) each parent involved in the court order or  
 2-23 pending case.

2-24 (c) An application under Subsection (a)(2) must be  
 2-25 completed by the applicant in person at the state or local agency or  
 2-26 other entity with which the application is filed. An applicant who  
 2-27 knowingly or intentionally makes a false statement in an  
 2-28 application under Subsection (a)(2) is subject to prosecution under  
 2-29 Chapter 37, Penal Code.

2-30 (d) A state or local agency or other entity with which an  
 2-31 application is filed under Subsection (a)(2) shall forward the  
 2-32 application to the office of the attorney general.

2-33 (e) The attorney general by rule may establish additional  
 2-34 eligibility requirements for participation in the program that are  
 2-35 consistent with the purpose of the program as stated in Article  
 2-36 56.82(a). The attorney general may establish procedures for  
 2-37 requiring an applicant, in appropriate circumstances, to submit  
 2-38 with the application under Subsection (a)(2) independent  
 2-39 documentary evidence of family violence or an offense under Section  
 2-40 22.011, 22.021, 25.02, or 42.072, Penal Code, in the form of:

2-41 (1) an active or recently issued protective order;

2-42 (2) an incident report or other record maintained by a  
 2-43 law enforcement agency or official;

2-44 (3) a statement of a physician or other health care  
 2-45 provider regarding the applicant's medical condition as a result of  
 2-46 the family violence or offense; or

2-47 (4) a statement of a mental health professional, a  
 2-48 member of the clergy, an attorney or other legal advocate, a trained  
 2-49 staff member of a family violence center, or another professional  
 2-50 who has assisted the applicant in addressing the effects of the  
 2-51 family violence or offense.

2-52 (f) Any assistance or counseling provided by the attorney  
 2-53 general or an employee or agent of the attorney general to an  
 2-54 applicant does not constitute legal advice.

2-55 Art. 56.84. CERTIFICATION; EXPIRATION. (a) The attorney  
 2-56 general shall certify for participation in the program an applicant  
 2-57 who satisfies the eligibility requirements under Article 56.83.

2-58 (b) A certification under this article expires on the third  
 2-59 anniversary of the date of certification.

2-60 Art. 56.85. RENEWAL. To renew a certification under  
 2-61 Article 56.84, a participant must satisfy the eligibility  
 2-62 requirements under Article 56.83 as if the participant were  
 2-63 originally applying for participation in the program.

2-64 Art. 56.86. INELIGIBILITY AND CANCELLATION. (a) An  
 2-65 applicant is ineligible for, and a participant may be excluded  
 2-66 from, participation in the program if the applicant or participant  
 2-67 knowingly makes a false statement on an application filed under  
 2-68 Article 56.83(a)(2).

2-69 (b) A participant may be excluded from participation in the

3-1 program if:

3-2 (1) mail forwarded to the participant by the attorney  
 3-3 general is returned undeliverable on at least four occasions;

3-4 (2) the participant changes the participant's true  
 3-5 residential address as provided in the application filed under  
 3-6 Article 56.83(a)(2) and does not notify the attorney general of the  
 3-7 change at least 10 days before the date of the change; or

3-8 (3) the participant changes the participant's name.

3-9 Art. 56.87. WITHDRAWAL. A participant may withdraw from  
 3-10 the program by notifying the attorney general in writing of the  
 3-11 withdrawal.

3-12 Art. 56.88. CONFIDENTIALITY; DESTRUCTION OF INFORMATION.

3-13 (a) Information relating to a participant:

3-14 (1) is confidential, except as provided by Article  
 3-15 56.90; and

3-16 (2) may not be disclosed under Chapter 552, Government  
 3-17 Code.

3-18 (b) Except as provided by Article 56.82(d), the attorney  
 3-19 general may not make a copy of any mail received by the office of the  
 3-20 attorney general on behalf of the participant.

3-21 (c) The attorney general shall destroy all information  
 3-22 relating to a participant on the third anniversary of the date  
 3-23 participation in the program ends.

3-24 Art. 56.89. ACCEPTANCE OF SUBSTITUTE ADDRESS; EXEMPTIONS.

3-25 (a) Except as provided by Subsection (b), a state or local agency  
 3-26 must accept the substitute post office box address designated by  
 3-27 the attorney general if the substitute address is presented to the  
 3-28 agency by a participant in place of the participant's true  
 3-29 residential, business, or school address.

3-30 (b) The attorney general by rule may permit an agency to  
 3-31 require a participant to provide the participant's true  
 3-32 residential, business, or school address, if necessary for the  
 3-33 agency to perform a duty or function that is imposed by law.

3-34 Art. 56.90. EXCEPTIONS. The attorney general:

3-35 (1) shall disclose a participant's true residential,  
 3-36 business, or school address if:

3-37 (A) requested by a law enforcement agency; or

3-38 (B) required by court order; and

3-39 (2) may disclose a participant's true residential,  
 3-40 business, or school address if:

3-41 (A) the participant consents to the disclosure;

3-42 and

3-43 (B) the disclosure is necessary to administer the  
 3-44 program.

3-45 Art. 56.91. LIABILITY. (a) The attorney general or an  
 3-46 agent or employee of the attorney general is immune from liability  
 3-47 for any act or omission by the agent or employee in administering  
 3-48 the program if the agent or employee was acting in good faith and in  
 3-49 the course and scope of assigned responsibilities and duties.

3-50 (b) An agent or employee of the attorney general who does  
 3-51 not act in good faith and in the course and scope of assigned  
 3-52 responsibilities and duties in disclosing a participant's true  
 3-53 residential, business, or school address is subject to prosecution  
 3-54 under Chapter 39, Penal Code.

3-55 Art. 56.92. PROGRAM ASSISTANCE. The attorney general shall  
 3-56 identify state and local agencies and other entities, whether  
 3-57 for-profit or nonprofit, that provide counseling and shelter  
 3-58 services to victims of family violence and require the identified  
 3-59 agencies to provide access to the program, including making program  
 3-60 information and application materials available and providing  
 3-61 assistance in completing program applications.

3-62 Art. 56.93. RULES. The attorney general shall adopt rules  
 3-63 to administer the program.

3-64 SECTION 2. Article 56.54, Code of Criminal Procedure, is  
 3-65 amended by amending Subsection (c) and adding Subsection (l) to  
 3-66 read as follows:

3-67 (c) Except as provided by Subsections (h), ~~and~~ (i), and  
 3-68 (l), the compensation to victims of crime auxiliary fund may be used  
 3-69 by the attorney general only for the payment of compensation to

4-1 claimants or victims under this subchapter.

4-2 (1) The attorney general may use the compensation to victims  
 4-3 of crime auxiliary fund to cover costs incurred by the attorney  
 4-4 general in administering the address confidentiality program  
 4-5 established under Subchapter C.

4-6 SECTION 3. Subsection (a), Section 18.005, Election Code,  
 4-7 is amended to read as follows:

4-8 (a) Each original and supplemental list of registered  
 4-9 voters must:

4-10 (1) contain the voter's name, residence address or  
 4-11 substitute post office box address, if required by Section 18.0051,  
 4-12 date of birth, and registration number as provided by the statewide  
 4-13 computerized voter registration list;

4-14 (2) be arranged alphabetically by voter name;

4-15 (3) contain the notation required by Section 15.111;  
 4-16 and

4-17 (4) until Section 13.122(d) expires, identify each  
 4-18 voter registered by mail for the first time who failed to provide a  
 4-19 copy of a document described by Section 63.0101 establishing the  
 4-20 voter's identity at the time of registration.

4-21 SECTION 4. Subchapter A, Chapter 18, Election Code, is  
 4-22 amended by adding Section 18.0051 to read as follows:

4-23 Sec. 18.0051. CONTENTS OF LIST: SUBSTITUTE ADDRESS. An  
 4-24 original or supplemental list of registered voters must contain a  
 4-25 voter's substitute post office box address designated by the  
 4-26 attorney general under Article 56.82(b), Code of Criminal  
 4-27 Procedure, for use by the voter in place of the voter's true  
 4-28 residential, business, or school address if the voter is eligible  
 4-29 for early voting by mail under Section 82.007 and has submitted an  
 4-30 early voting ballot application as required by Section 84.0021.

4-31 SECTION 5. Chapter 82, Election Code, is amended by adding  
 4-32 Section 82.007 to read as follows:

4-33 Sec. 82.007. PARTICIPATION IN ADDRESS CONFIDENTIALITY  
 4-34 PROGRAM. A qualified voter is eligible for early voting by mail if,  
 4-35 at the time the voter's early voting ballot application is  
 4-36 submitted, the voter is accepted for participation in the address  
 4-37 confidentiality program administered by the attorney general under  
 4-38 Chapter 56, Code of Criminal Procedure.

4-39 SECTION 6. Subchapter A, Chapter 84, Election Code, is  
 4-40 amended by adding Section 84.0021 to read as follows:

4-41 Sec. 84.0021. CONTENTS OF APPLICATION FOR PARTICIPANT IN  
 4-42 ADDRESS CONFIDENTIALITY PROGRAM; CONFIDENTIAL INFORMATION.

4-43 (a) An early voting ballot application submitted by a qualified  
 4-44 voter who is eligible for early voting by mail under Section 82.007  
 4-45 must include:

4-46 (1) the applicant's name and address at which the  
 4-47 applicant is registered to vote;

4-48 (2) the substitute post office box address designated  
 4-49 by the attorney general under Article 56.82(b), Code of Criminal  
 4-50 Procedure, for use by the voter in place of the voter's true  
 4-51 residential, business, or school address; and

4-52 (3) an indication of each election for which the  
 4-53 applicant is applying for a ballot.

4-54 (b) The information contained in an application under this  
 4-55 section relating to the address at which the applicant is  
 4-56 registered to vote is confidential, except that the information  
 4-57 must be disclosed if:

4-58 (1) requested by a law enforcement agency; or

4-59 (2) required by court order.

4-60 SECTION 7. Chapter 221, Election Code, is amended by adding  
 4-61 Section 221.018 to read as follows:

4-62 Sec. 221.018. EXAMINATION OF CERTAIN CONFIDENTIAL  
 4-63 INFORMATION. (a) Notwithstanding Section 84.0021(b), the  
 4-64 tribunal hearing an election contest may examine the information  
 4-65 contained in an application under Section 84.0021 relating to the  
 4-66 address at which the applicant is registered to vote.

4-67 (b) Information may be examined under this section only for  
 4-68 the purpose of hearing an election contest.

4-69 SECTION 8. The attorney general shall establish the address

5-1 confidentiality program and adopt rules to administer the program  
5-2 as required by Subchapter C, Chapter 56, Code of Criminal  
5-3 Procedure, as added by this Act, not later than June 1, 2006.

5-4 SECTION 9. This Act takes effect immediately if it receives  
5-5 a vote of two-thirds of all the members elected to each house, as  
5-6 provided by Section 39, Article III, Texas Constitution. If this  
5-7 Act does not receive the vote necessary for immediate effect, this  
5-8 Act takes effect September 1, 2005.

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