

State of Wisconsin



2015 Senate Bill 488

Date of enactment: **April 11, 2016**
Date of publication*: **April 12, 2016**

2015 WISCONSIN ACT 356

AN ACT *to renumber and amend* 6.47 (4); *to amend* 6.47 (2); and *to create* 6.47 (1) (am) 5., 6.47 (4) (b), 19.35 (1) (am) 2m., 66.0504 and 165.68 of the statutes; **relating to:** creating a program to protect the confidentiality of addresses for victims of domestic abuse, sexual assault, or stalking; providing an exemption from emergency rule procedures; and requiring the exercise of rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 6.47 (1) (am) 5. of the statutes is created to read:

6.47 (1) (am) 5. An individual who is a participant in the program established in s. 165.68.

SECTION 2. 6.47 (2) of the statutes is amended to read:

6.47 (2) Except as authorized in sub. (8), the board, each municipal clerk, each agent designated under s. 6.33 (5) (b), and each election official shall withhold from public inspection under s. 19.35 (1) the name and address of any eligible individual whose name appears on a poll list or registration list if the individual provides the municipal clerk with a valid written request to protect the individual's confidentiality. To be valid, a request under this subsection must be accompanied by a copy of a protective order that is in effect, an affidavit under sub. (1) (am) 2. that is dated within 30 days of the date of the request, confirmation from the department of justice that the person is a program participant, as provided under s. 165.68 (4) (c). a statement signed by the operator or an authorized agent of the operator of a shelter that is dated within 30 days of the date of the request and that indicates that the operator operates the shelter and that the individ-

ual making the request resides in the shelter, or a statement signed by an authorized representative of a domestic abuse victim service provider or a sexual assault victim service provider under sub. (1) (am) 4. that is dated within 30 days of the date of the request. A physically disabled individual who appears personally at the office of the municipal clerk accompanied by another elector of this state may designate that elector to make a request under this subsection on his or her behalf.

SECTION 3. 6.47 (4) of the statutes is renumbered 6.47 (4) (a) and amended to read:

6.47 (4) (a) Except as provided in par. (b) and sub. (5), a confidential listing under sub. (2) expires on the date that a protective order expires, the date that the protected individual ceases to reside in a shelter, the date that updated information is received from a sheriff, the chief of a police department, or a district attorney or the authorized representative of a sheriff, chief, or district attorney, or at the end of the 24-month period that follows creation or renewal of the listing under sub. (2), whichever is earlier.

SECTION 4. 6.47 (4) (b) of the statutes is created to read:

6.47 (4) (b) A confidential listing under sub. (2) that is issued to a program participant expires on the date the individual's participation in the program expires pur-

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

suant to s. 165.68 (3) (b) 4. a. or on the date the individual cancels his or her participation in the program pursuant to s. 165.68 (3) (b) 4. e. or is disenrolled from the program pursuant to s. 165.68 (3) (b) 4. b.

SECTION 5. 19.35 (1) (am) 2m. of the statutes is created to read:

19.35 (1) (am) 2m. The actual address, as defined in s. 165.68 (1) (b), of a participant in the program established in s. 165.68.

SECTION 6. 66.0504 of the statutes is created to read:

66.0504 Address confidentiality program. (1)

DEFINITIONS. In this section:

(a) "Actual address" has the meaning given in s. 165.68 (1) (b).

(b) "Local clerk" means an individual, and an individual's deputy or assistant, who serves as one of the following:

1. A county clerk under s. 59.23.
2. A clerk of court under s. 59.40.
3. A municipal clerk as defined in s. 5.02 (10).
4. A register of deeds under s. 59.43.

(c) "Program participant" has the meaning given in s. 165.68 (1) (g).

(2) IDENTITY PROTECTION. (a) If a program participant submits a written request to a local clerk that he or she keep the program participant's actual address private, the local clerk may not disclose any record in his or her possession which would reveal the program participant's actual address, except pursuant to a court order.

(b) The provisions of s. 165.68 (3) (b) 4. a., to the extent that they apply under s. 165.68, apply to a program participant's written request under par. (a).

SECTION 7. 165.68 of the statutes is created to read:

165.68 Address confidentiality program. (1) DEF-

INITIONS. In this section:

(a) "Abuse" means an act or threat of any of the following:

1. Child abuse under ss. 813.122 (1) (a) or 948.02 or 948.11.
2. Domestic abuse, as defined in s. 813.12 (1) (am).
3. Sexual abuse, as defined in s. 103.10 (1m) (b) 6.
4. Stalking under s. 940.32.
5. Trafficking under s. 940.302.

(b) "Actual address" means the residential street address, school address, or work address of a program participant.

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

(d) "Department" means the department of justice.

(e) "Mail" means first class letters and flats delivered by the United States Postal Service, including priority, express, and certified mail. "Mail" does not include a package, parcel, periodical, or catalogue unless it is clearly identifiable as being sent by a state or local agency or unit of government or is clearly identifiable as containing a pharmaceutical or medical item.

(f) "Program assistant" means an individual designated by the department to assist a program participant. The department may designate as a program assistant an employee of the department or of a state or local agency that provides counseling, assistance, or support services to victims, or an employee of or a volunteer for an organization that provides counseling, assistance, or support services free of charge to victims.

(g) "Program participant" means a person who is certified by the department to participate in the confidentiality program established in this section.

(2) ELIGIBILITY. (a) A person is eligible for participation in the confidentiality program established in this section if he or she attests all of the following:

1. That he or she is a resident of this state.
2. That at least one of the following applies:

a. He or she is a victim of abuse, a parent or guardian of a person who is a victim of abuse, or a resident of a household in which a victim of abuse also resides.

b. He or she fears for his or her physical safety or for the physical safety of his or her child or ward.

3. That he or she resides or will reside at a location in this state that is not known by the person who committed the abuse against, or who threatens, the applicant or his or her child or ward.

4. That he or she will not disclose his or her actual address to the person who committed the abuse against, or who threatens, the applicant or his or her child or ward.

(b) A person is eligible under par. (a) regardless of whether any criminal charges have been brought relating to any act or threat against the person, whether the person has sought any restraining order or injunction relating to any act or threat against the person, or whether the person has reported any act or threat against him or her to a law enforcement officer or agency.

(3) ADMINISTRATION; APPLICATION. (a) The department shall provide an application form for participation in the the confidentiality program established in this section. The department may not charge a fee for applying to, or participating in, the program.

(b) The application form shall include all of the following:

1. The applicant's name.
2. The applicant's actual address.

3. A place for the applicant to identify any state or local government agency that employs a person who committed an act of abuse against the applicant.

4. A statement certifying that the applicant understands and consents to all of the following program requirements:

a. A program participant remains enrolled in the program for 5 years, unless he or she cancels his or her participation under subd. 4. f. or is disenrolled under subd. 4. b.

b. A program participant is required to notify the department when he or she changes his or her actual

address or legal name, and failure to update the information may result in the department disenrolling the applicant as a program participant.

c. A program participant is required to develop a safety plan with a program assistant.

d. A program participant authorizes the department to notify state or local agencies and units of government that the applicant is a program participant.

e. The department will notify a program participant if his or her participation will expire or if the department will disenroll the participant under subd. 4. b. A program participant who receives a notification under this subd. 4. e. may update his or her information or may reenroll in the program within 6 months from the date the department issues the notification.

f. A program participant may cancel his or her participation in the program at any time by submitting a written notice to the department.

g. A program participant certifies the department to be the program participant's designated agent for service of process.

(4) USE OF ASSIGNED ADDRESS; RELEASE OF INFORMATION. (a) The department shall provide to each person it approves as a program participant an assigned address and shall provide each program participant a notification form for use under sub. (5).

(b) The department shall forward all mail it receives at the assigned address for each program participant to the program participant's actual address.

(c) The department shall provide, at the request of a program participant or at the request of a state or local agency or unit of government, confirmation of the person's status as a program participant.

(d) 1. Except as provided under subd. 2., the department may not disclose a program participant's actual address to any person except pursuant to a court order. If a court order is requested for disclosure, the department shall request the court to keep any record containing the program participant's actual address sealed and confidential.

2. The department may disclose a program participant's actual address to a law enforcement officer for official purposes.

(5) USE OF ASSIGNED ADDRESS; CONFIDENTIALITY. (a) A program participant may use the assigned address provided to him or her under sub. (4) for all purposes.

(b) No state or local agency or unit of government may refuse to use a program participant's assigned address for any official business, unless a specific statutory duty requires the agency or unit of government to use the participant's actual address. A state or local agency or unit of government may confirm with the department a person's status as a program participant.

(c) No person who has received a notification form from a program participant may refuse to use the assigned address for the program participant, may require a program participant to disclose his or her actual address, or may intentionally disclose to another person the actual address of a program participant.

(d) Notwithstanding pars. (a), (b), and (c), a municipal clerk may require a program participant to provide his or her actual address for voter registration and voter verification purposes. A municipal clerk shall also require a program participant to disclose his or her actual address to enroll a program participant in the confidential voter program provided under s. 6.47. If a voter is enrolled in the confidential voter program under s. 6.47 the municipal clerk shall keep the program participant's actual address confidential as provided under s. 6.47.

(6) RULES. The department shall promulgate rules regarding administration of the program established under this section and regarding the retention and destruction of applications, records, and other documents received or generated under this section. The department may use the emergency rule procedures under s. 227.24 to promulgate the rules required under this subsection. Notwithstanding s. 227.24 (1) (a) and (3), the department may promulgate those rules as emergency rules without providing evidence that promulgating those rules as emergency rules is necessary to preserve the public peace, health, safety, or welfare and without a finding of emergency. Notwithstanding s. 227.24 (1) (e) 1d. and 1g., the department is not required to prepare a statement of the scope of those rules or to submit those rules in final draft form to the governor for approval.

SECTION 8. Effective date.

(1) This act takes effect on the first day of the 12th month beginning after publication.