

CHAPTER 28
FORMERLY
SENATE BILL NO. 28

AN ACT TO AMEND TITLES 11 AND 15 OF THE DELAWARE CODE RELATING TO ADDRESS
CONFIDENTIALITY FOR CERTAIN PERSONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 96 of Title 11 of the Delaware Code by designating the existing sections thereof as “Subchapter I”, and by adding to said Chapter a new Subchapter II, to read as follows:

“Subchapter II.

Address Confidentiality Act.

§ 9611. Definitions.

When used in this Subchapter, the following words and phrases shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

- (1) ‘Actual address’ shall mean a residential address, school address or work address of an individual.
- (2) ‘Law enforcement agency’ means the police department of any political subdivision of this State, the

Delaware State Police, the Capital Police, and the Delaware Department of Justice.

- (3) ‘Program’ means the Address Confidentiality Program of the Department of Justice.

(4) ‘Program participant’ means any person certified by the Department of Justice as eligible to participate in the address confidentiality program established by this Subchapter.

- (5) ‘Substitute address’ means the official address or confidential address designated by the Attorney

General.

- (6) ‘Victim of domestic violence’ means a person who is a victim of domestic violence as that term is defined by Section 1041 of Title 10 of this Code, or any equivalent provision in the laws of any other State, the United States, or any territory, District or subdivision thereof or any other foreign jurisdiction.

- (7) ‘Victim of sexual assault’ means a victim of an offense set forth in §§768 through 780, and §787 of

this Title, or any equivalent provision in the laws of any other State, the United States, or any territory, District or subdivision thereof or any other foreign jurisdiction.

- (8) ‘Victim of stalking’ means a victim of an offense set forth in §§ 1312 and 1312A of this Title, or any

equivalent provision in the laws of any other State, the United States, or any territory, District or subdivision thereof or any other foreign jurisdiction.

(9) ‘Protected witnesses’ means any person to whom the Department of Justice is providing witness protection services pursuant to Chapter 96 of this Title.

§ 9612. Address Confidentiality Program.

(a) The Department of Justice shall establish a program to be known as the Address Confidentiality Program. Upon application and certification, persons eligible pursuant to this Subchapter shall be provided a substitute address by the Program.

(b) The Program shall forward all correspondence sent by first class, express, registered and certified mail at no expense to a program participant and may arrange to receive and forward other classes or kinds of mail at the program participant's expense.

(c) Upon a person's certification for participation in the Program, the Department of Justice will provide notice of that fact and the program participant's substitute address to the appropriate officials and parties involved in an ongoing civil or criminal case in which a program participant is a victim, witness, or party.

(d) All records relating to applicants and program participants are the property of the Department of Justice. These records, including but not limited to program applications, a participants' actual addresses and waiver proceedings, shall be deemed to be confidential, and shall also not be subject to the provisions of Chapter 100 of Title 29 of this Code.

§ 9613 Persons eligible to apply.

The following persons shall be eligible to apply to become program participants:

(1) A victim of domestic violence, sexual assault, or stalking who has filed for a protection from abuse order or who is or was named as a victim in any criminal or delinquency proceeding brought for the purpose of determining liability for the commission of any crime or offense as those terms are defined in § 233 of this title, and who further states that he or she fears future violent acts by the perpetrator of the abuse; or

(2) A person who has a valid agreement with the Department of Justice as set out in §9601(f) of this Title; or

(3) A person who is a member of the same household as a program participant. A parent or guardian may apply to the program on behalf of a minor; or in the case of an adult individual who is incapacitated, application may be made by the person holding Power of Attorney;

(4) A person who has obtained or is seeking relief from a domestic violence program or service, as certified by the Director of that program or their designee.

§ 9614. Application, certification and termination process.

A person shall file an application with the Program in a manner prescribed by the Program. The Department of Justice shall have the authority to promulgate appropriate policies and procedures regarding certification and termination. Certification shall be valid for a period of three years following the date of certification unless the certification is withdrawn or canceled before the expiration of that period, or a person's participation in the program is otherwise terminated.

§ 9615. Agency use of designated address.

Federal, State and local government agencies shall accept the substitute address designated on a valid program participation card issued to the program participant by the Program as the program participant's address except as follows:

(1) when the Federal, State or local government agency has been granted a waiver pursuant to §9617 of this Subchapter; or

(2) when the program participant is any of the following:

(i) a released offender complying with pre-trial supervision, probation or parole or similar requirements imposed by any other jurisdiction; or

(ii) a convicted sexual offender who has fulfilled the offender's sentence but must register the offender's community residence as required under §§ 4120-4121 of this Title or any similar registration requirement imposed by any other jurisdiction.

§ 9616. Disclosure of actual address.

The Department of Justice shall not disclose the actual address of a program participant except when:

(1) A Federal, State or local government agency has been granted a waiver by the Program and the disclosure is made pursuant to §9617 of this Subchapter; or

(2) The Program determines that disclosure is required due to an emergency and the disclosure is made pursuant to §9618 of this Subchapter; or

(3) A court of competent jurisdiction orders the Program to disclose the program participant's actual address and disclosure is made pursuant to the court order.

§ 9617. Waiver process.

(a) A Federal, State or local government agency may request disclosure of a program participant's actual address pursuant to this section. The Department of Justice shall have the authority to promulgate appropriate policies and procedures regarding the waiver process

(b) The Department of Justice shall promptly conduct a review of all requests received pursuant to this section. In conducting a review, the Program shall notify the program participant of the request and consider all information received and any other appropriate information that the Program may require to make a determination.

(c) Any government agency granted a waiver by the Program pursuant to this section shall be permitted to use the actual address in the manner authorized by the Department of Justice.

(d) Upon denial of a Federal, State or local government agency's request for waiver, the Program shall provide prompt written notification to the agency stating that the agency's request has been denied and setting forth the specific reasons for the denial.

(e) Within 15 days after notification that the Program has denied the Federal, state or local government agency's request for waiver, the agency may file a request for review of the decision by the Attorney General.

(f) Nothing in this section shall be construed to prevent the Program from granting a waiver to a Federal, State or local government agency pursuant to this section upon receipt of a program participant's written consent to do so.

§ 9618. Emergency disclosure.

The Program shall establish a system to promptly respond to requests for emergency disclosures if the disclosure: (1) will prevent physical harm or significant economic loss to a program participant or to a program participant's family member; or

(2) is made to a law enforcement agency for law enforcement purposes and the circumstances warrant immediate disclosure.

§ 9619. Penalties.

(a) Any person who knowingly provides false information in regard to a material fact contained in any application made pursuant to this Subchapter shall be subject to termination from the program and to criminal penalties under §1233 of this Title, or any other applicable provision of this Code.

(b) Any person who intentionally, knowingly or recklessly attempts to gain access to or gains access to a program participant's actual address by fraud or misrepresentation may be subject to criminal penalties under §§ 873, 876, and 932 of this Title, or any other applicable provision of this Code.

(c) A person who lawfully obtains a program participant's actual address and who subsequently discloses or uses the actual address in a manner not authorized by this subchapter may be subject to criminal penalties under §§§ 873, 876, and 932 of this Title, or any other applicable provision of this Code.”

Section 2. Amend Section 1303(a) of Title 15 of the Delaware Code by inserting immediately after the first sentence of that subsection the following:

“A person’s participation in Department of Justice’s Address Confidentiality Program shall constitute a legitimate need and lawful purpose for the purposes of this section.”

Section 3. This Act shall take effect on October 3, 2011.

Approved May 19, 2011