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Bill Analysis

Version: As Introduced

Primary Sponsor: Reps. LaRe and Abrams

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SUMMARY

- Eliminates a requirement that an applicant for the Address Confidentiality Program (Safe at Home Program) be changing residence in order to be eligible for the program.
- Requires a program participant who requests a government entity to use the program participant's substitute address to provide the person's program authorization card as proof of the person's status.
- Allows program participants who own or purchase real property to maintain address confidentiality with local authorities by submitting a notice to the county recorder.
- Creates a procedure under which a program participant seeking to purchase real property can give notice of confidentiality to any person involved in the acquisition process.
- Enumerates conditions under which the participant's property records are no longer confidential, including by sale of the property or court order.
- Provides a process to allow a person to view confidential real property records for purposes of a title examination.
- Allows a city law director or similar chief legal officer to request access to a participant's confidential real property information for a legitimate governmental purpose.
- Permits a program participant to authorize the Secretary of State to disclose the participant's confidential information to certain persons.
- Gives a program participant who is a party to a child custody or child support proceeding the right to notice and a hearing before the court may disclose the participant's confidential address or telephone number to another party.
- Requires the Secretary to forward to a program participant any periodicals to which the participant subscribes.

DETAILED ANALYSIS

Background on the Address Confidentiality Program

The Address Confidentiality Program, also called Safe at Home, allows victims of domestic violence, stalking, human trafficking, rape, or sexual battery who fear for their safety to keep their addresses confidential and out of the public record. The Secretary of State assigns participants a substitute post office box address that they may use in place of their actual addresses and forwards their mail to their actual addresses. In general, a government entity must accept and use a program participant's substitute address, while private employers, private schools, and other nongovernmental entities may, but are not required to, accept that address. The law also includes methods for program participants to have confidential voter registration records and for the Secretary to receive legal service of process on their behalf.¹

Changes to the Address Confidentiality Program

Change of residence

The bill eliminates a requirement that an applicant for the Address Confidentiality Program be changing residences at the time of applying, allowing applicants to participate in the program without moving. (Presumably, many applicants still will move when entering the program as part of a larger safety plan because their current addresses are known to their abusers.)²

Program authorization card

Under the bill, a program participant who requests a government entity to use the program participant's substitute address must provide the person's program authorization card as proof of the person's status. Current law allows, but does not require, a program participant to do so.³

Real property records

The bill allows a program participant who owns or purchases real property to maintain confidentiality with local offices. Under current law, any government entity must use the participant's substitute address in lieu of the participant's real address if the participant so requests. The bill allows participants with an ownership interest in real property to submit a real property confidentiality notice to the county recorder of the county where the real property is located. The county recorder then must transmit copies of the notice to the Secretary of State, the county auditor, treasurer, and engineer, and to the clerk of the court of common pleas in the county where the real property is located, who are all bound by confidentiality. The program participant's confidential address must not appear in publicly

¹ R.C. 111.42 and 111.43; see also R.C. 111.44, not in the bill.

² R.C. 111.42.

³ R.C. 111.43(A).

available records, such as a county auditor's property tax database or a county recorder's database of property ownership records.

A local official may disclose a participant's confidential information only to the following persons:

- The staff of the office, in order to carry out the duties of the office;
- The program participant;
- A person identified by the program participant in a notarized statement to the Secretary of State, if the Secretary has issued a written authorization to the local authority to disclose that information to the person;
- A person authorized by the Secretary to perform a title examination on the property (see "**Title examinations**," below); or
- Another person, pursuant to a court order.

The bill also allows a program participant seeking to acquire real property to provide a confidentiality notice to any person involved in the acquisition process, which could include realtors, lawyers, sellers, or others. Any person involved with the acquisition process served by a confidentiality notice may not disclose the confidential information in the notice.

The bill specifies that any person who knowingly discloses information that is subject to a real property confidentiality notice in any manner not authorized by law is guilty of a first degree misdemeanor, which is punishable by a maximum penalty of six months in jail and a \$1,000 fine. Continuing law applies the same penalty to any person who wrongfully discloses a program participant's confidential address or telephone number.

The bill requires the Secretary to include information about real property confidentiality notices in the packet provided to each new program participant.

If the participant ceases to own the property, revokes the confidentiality notice, or has the certification canceled, then the information concerning the participant's interest in the property is no longer confidential. If the certification is canceled, the Secretary is required to notify the relevant local officials.⁴

Title examinations

If a person wishes to perform a title examination on the property, such as when the program participant is selling the property, that person must apply to the Secretary of State for authorization. The application must state the purpose for which that person is applying, the applicant's relationship to the participant, and a statement that the applicant will treat the information as confidential, among other requirements. The Secretary must approve the

⁴ R.C. 111.42(C)(5), 111.43(B), 111.431, 111.432, 111.45, 111.99, 149.43, 315.25, 317.13, 319.28, and 2303.12. See also R.C. 2929.24 and 2929.28, not in the bill.

application if it is properly completed and the Secretary determines that the applicant is seeking the information only for the purpose of performing a bona fide title examination.⁵

City law director access

The bill allows a city law director or similar chief legal officer to petition the Franklin County Court of Common Pleas or the court of common pleas of the county in which a parcel of real property is located for access to information that is subject to a real property confidentiality notice. The court must hold a hearing and, if necessary, notify the county recorder, auditor, treasurer, engineer, or clerk of the court of common pleas of the county in which the real property is located. The law director must prove that the law director has a legitimate governmental purpose to receive the information.⁶

Authorized disclosure of confidential information

The bill creates a process by which a participant may submit a notarized form authorizing the Secretary of State to disclose the participant's information to certain persons, including a judge or magistrate, an official or employee of the Bureau of Motor Vehicles, a school administrator, an administrator of a public assistance program, an administrator of a food pantry, an official or employee of the U.S. Postal Service, or any other person identified on the form with a proper purpose. The Secretary must determine whether the authorization is adequate, then disclose the information if appropriate. For example, a program participant may authorize the Secretary to confirm the program participant's residence in a particular school district for enrollment purposes without exposing the family's actual address. The Secretary must include information about the process to authorize such a disclosure in the packet provided to new program participants.⁷

Child custody or child support proceedings

Under the bill, a program participant who is a parent, guardian, or legal custodian and is a party to a child custody or child support proceeding is entitled to notice and an opportunity for a hearing if another party to the proceeding requests access to the participant's confidential address or telephone number. At the hearing, the participant may show cause that the court should not disclose the information – for example, that the other party is the reason the participant fears for his or her safety.⁸

Forwarding periodicals

The bill requires the Secretary of State to forward to a program participant any periodicals to which the participant subscribes, in addition to periodicals that are clearly identifiable as being sent by a governmental entity, as under continuing law. Currently, any

⁵ R.C. 111.431(E).

⁶ R.C. 111.46(B).

⁷ R.C. 111.42(C)(5) and 111.43(E).

⁸ R.C. 111.46(D).

periodicals not sent by a governmental entity require prior authorization for forwarding from the Secretary.⁹

HISTORY

Action	Date
Introduced	11-26-19

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⁹ R.C. 111.43(D).