



# Ohio Legislative Service Commission

*Terry Steele and other LSC staff*

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 359 of the 131st G.A.

**Date:** May 25, 2016

**Status:** As Enacted

**Sponsor:** Reps. Duffey and Gonzales

**Local Impact Statement Procedure Required:** No

**Contents:** Creates an address confidentiality program for victims of domestic violence, menacing by stalking, human trafficking, rape, sexual battery, and other crimes

### State and Local Fiscal Highlights

- The bill establishes an address confidentiality program for victims of domestic violence, stalking, human trafficking, and other crimes. This program will be administered by the Secretary of State.
- The costs of the program will depend on the number of participants, but given participation rates from a similar program in the state of Maryland, costs could reach approximately \$40,000.
- The bill establishes a fine of not less than \$70 and not more than \$500 for all individuals convicted of certain offenses specified under the bill. This fine revenue is to be collected by county courts and remitted to the Treasurer of State.
- The bill creates the Address Confidentiality Program Fund, to be used by the Secretary of State to administer the program. The fund consists of fine revenue collected under the bill, any other transfers or appropriations made by the General Assembly, and permissible donations.
- The bill creates a prohibition for falsification of information in an address confidentiality application. Anyone that falsifies such information is guilty of a first degree misdemeanor.

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## Detailed Fiscal Analysis

### Overview

The bill creates an address confidentiality program for victims of domestic violence, human trafficking, rape, and other crimes. A program participant's address must be kept confidential, and the Secretary of State must receive mail on the participant's behalf and forward it to the confidential mailing address. The bill also establishes a fee to fund this program. The provisions with fiscal effects are described below. For greater detail on all the provisions of the bill, please see the LSC Bill Analysis.

### Address confidentiality program applications

The bill permits an individual to apply to the Secretary of State to have the applicant's mailing address kept confidential because the applicant fears for his or her safety or for the safety of a member of the applicant's household because the applicant or household member is a victim of domestic violence, menacing by stalking, human trafficking, rape, sexual battery, or other crimes. Those wishing to participate must apply with the assistance of an application assistant, who is an employee or volunteer at an agency or organization that serves victims of such crimes. Application assistants must receive training and certification from the Secretary of State. Falsifying particular information is a first degree misdemeanor under the bill. It would appear to be unlikely that there would be many such instances where such a violation would occur. However, if such violations were to occur, county municipal courts would bear the costs of these cases. The bill also stipulates that the state is immune from civil liability in the performance or nonperformance of a public duty under the address confidentiality program.

Additionally, the bill allows a court that issues a domestic violence protection order or approves a domestic violence consent agreement to order a wireless service transfer to protect the petitioner or their minor child where there is a shared wireless service account and specifies what steps must be taken to do so.

### Program application processing

The bill specifies that, once certified, a participant may remain in the program for four years and may reapply for certification after that time. As well as designating a confidential address, the Secretary of State must also provide individuals with information on voter registration and absent voting, specifically that casting a ballot in person or signing an election petition will reveal the participant's precinct and address to election officials. The bill also specifies that a program participant who has a confidential voter registration record may only vote by absent voter ballot.

## Program costs

The costs of implementing and administering this program would largely depend on the number of individuals applying to the program, the number of pieces of mail that must be sent to participants, the postage rates for that mail, and post office box rental expenses. The estimated costs of administering this program are detailed in the table below. They are based on the state of Maryland's address confidentiality program participation and costs. As the table shows, program enrollment and related mailing costs will increase over time with those costs approaching \$40,000 in the fourth year of its operation.

Address Confidentiality Program Costs					
Year	Estimated Participants	Pieces of Mail*	Mailing Costs**	P.O. Box Rental	Total Cost
Year 1	50	7,800	\$3,050	\$278	\$3,328
Year 2	300	46,800	\$18,299	\$278	\$18,577
Year 3	400	62,400	\$24,398	\$278	\$24,676
Year 4	600	93,600	\$36,598	\$278	\$36,876

\*Assumes each participant will be forwarded mail three days per week.

\*\*Uses current presort first class rate of \$0.391 to calculate costs.

These estimated program costs do not include staffing costs associated with operating an address confidentiality program. If a sizeable number of participants are enrolled in the program, additional staff may be needed to handle the workload. Based on the limited information available on conviction rates for domestic violence and stalking cases, it is difficult to predict the number of people that would enroll in the address confidentiality program.

The bill also specifies that the information pertaining to participants in this program be contained in the Ohio Law Enforcement Gateway (OLEG) operated by the Attorney General. The Attorney General is required to establish rules pertaining to granting access to state and local authorities for accessing any information pertaining to participants in the Address Confidentiality Program. The cost of adding these individuals to OLEG is likely to be minimal. The bill does require that a city director of law or similar chief legal officer that needs access to this information to petition the Franklin County Court of Common Pleas for access. The clerk is required to issue notice of the hearing to the Secretary of State, petitioner, and program participant. A hearing must then be held. The costs for such proceedings are likely to be minimal in nature, and the number of such hearings is likely to be small.

## Program funding

The bill contains a funding mechanism for the address confidentiality program. Under the bill, a court that is sentencing an offender for any of the crimes listed under the bill may impose a fine of not less than \$70 but not more than \$500 in addition to any other fines the court may impose. This fine revenue must be submitted to the Treasurer

of State to the credit of the Address Confidentiality Program Fund, which is created in the bill. This fund consists of fine revenue collected as a result of the bill, any money transferred or appropriated to it by the General Assembly, and any permitted donations.

It is difficult to estimate how much revenue would be collected through the fine mechanism created in the bill. However, the following assumptions can be made with respect to the collection of fine revenue.

- The amount of revenue that could be needed annually to cover the program's mailing costs in the first years of operation, excluding any necessary personnel, will be up to around \$40,000. If the actual number of participants in any given year exceeds 600, those costs will increase and, presumably, additional revenue will be needed.
- There is no single database that tracks, for Ohio in any given year, the number of individuals arrested and charged for the offense of domestic violence, stalking, or human trafficking statewide. That said, data available from the state's Office of Criminal Justice Services and the Ohio Attorney General's Office suggests that number totals up to 40,000 or more per year.
- Conviction rates for the offenses noted in the preceding dot point are not systematically tracked either. However, a 2011 study of domestic violence cases in the Toledo Municipal Court showed a conviction rate of 13%.<sup>1</sup> Consequently, we have assumed a 13% statewide conviction rate for all three offenses. This suggests that the number of offenders required to pay the fee annually will be around 5,200 (40,000 arrested and charged x 13%).

The fee collection rate is not likely to be anywhere close to 100%. It is likely to be at most 50%, and perhaps closer to 25% or less. One of the primary reasons for lower compliance is that many offenders, in particular those convicted of or pleading guilty to offenses of violence, are generally determined by the sentencing court to be indigent and thus cannot pay the court costs, fees, and fines assessed under current law. Other offenders simply will not pay and a court generally has limited authority to enforce compliance. There is also likely to be some elasticity effect, meaning as the total amount of the court costs, fees, and fines imposed on offenders increase certain offenders who might otherwise have paid them will view them as too costly or unaffordable and not pay.

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<sup>1</sup>Article viewed July 2015 at <http://www.toledoblade.com/Police-Fire/2011/06/21/Advocates-say-only-13-percent-domestic-violence-cases-net-convictions-in-Toledo.html>.