



# Ohio Legislative Service Commission

## Final Analysis

Emily E. Wendel

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131st General Assembly  
(As Passed by the General Assembly)

- Reps.** Duffey and Gonzales, Bishoff, Anielski, Hall, LaTourette, Perales, Stinziano, Antani, Grossman, Sears, Scherer, Sprague, Patmon, Buchy, Butler, Curtin, Leland, Amstutz, Antonio, Arndt, Ashford, Baker, Boccieri, Boggs, Boose, Boyce, Boyd, Brenner, Brown, Burkley, Celebrezze, Conditt, Craig, Cupp, Derickson, Dever, DeVitis, Dovilla, Driehaus, Fedor, Ginter, Green, Hackett, Hagan, Hambley, Hayes, Henne, Hill, Howse, Huffman, T. Johnson, Koehler, Kuhns, Kunze, Landis, Lepore-Hagan, Maag, Manning, McClain, M. O'Brien, S. O'Brien, Patterson, Pelanda, Phillips, Ramos, Reece, Reineke, Retherford, Rezabek, Roegner, Rogers, Ruhl, Ryan, Schaffer, Schuring, Sheehy, Slaby, Slesnick, K. Smith, Strahorn, Sweeney, Sykes, Terhar, Thompson, Young
- Sens.** Balderson, Beagle, Burke, Coley, Eklund, Faber, Hughes, Jones, Jordan, LaRose, Lehner, Manning, Patton, Peterson, Schiavoni, Tavares, Thomas, Uecker, Williams

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## ACT SUMMARY

### Address confidentiality program participation

- Allows an adult, when changing residence, to apply to the Secretary of State to have the person's address kept confidential if the person fears for the person's or a household member's safety because the person or household member is a victim of domestic violence, stalking, human trafficking, rape, or sexual battery.
- Prohibits a sex offender/child-victim offender from participating in the address confidentiality program.
- Requires the application to be made with the assistance of an application assistant at an agency or organization that serves victims of domestic violence or other specified offenses.
- Prohibits an applicant from knowingly making a false attestation, and specifies that a violation is a first degree misdemeanor.

- Requires the Secretary of State, upon receiving a complete application, to certify the applicant as a program participant and to provide certain information to the participant, including a unique identification number.
- Specifies that certification is valid for four years, describes the renewal process, and allows the Secretary of State to prescribe a grace period during which a participant whose certification has expired may renew it without being considered to have left the program.

### **Secretary of State mailing address**

- Requires the Secretary of State to designate an address for program participants to use to receive mail.
- Generally requires a government entity to use the address designated by the Secretary of State as a program participant's address, and allows a participant to request that the participant's employer, school, or institution of higher education use the address.
- Requires the Secretary of State to forward all first class mail that the Secretary receives for a program participant to the participant, and allows the Secretary to contract with the U.S. Postal Service to establish special postal rates for those mailings.
- Specifies procedures for the Secretary of State to act as a participant's agent for receiving service of process, and requests that the Ohio Supreme Court revise the Rules of Civil Procedure to allow service to be made in that manner.

### **Confidential addresses**

- Specifies that the address of a program participant's residence, school, institution of higher education, business, or place of employment, as specified on the participant's application or on a notice of change of name or address, is confidential and is not a public record.
- Specifies that the confidential name, address, and other personally identifiable information of a program participant, including election documents and records that identify the number of participants who reside within any geographic area smaller than the state, are not public records.
- Prohibits a person who has access to a confidential address or telephone number because of the person's employment or official position from knowingly disclosing



it, except as required by law, and specifies that a violation is a first degree misdemeanor.

- Requires the Ohio Law Enforcement Gateway (OHLEG) to contain the names, confidential addresses, and telephone numbers of program participants and grants access to this information in OHLEG only to chiefs of police, village marshals, county sheriffs, county prosecuting attorneys, and their designees.
- Allows a chief legal officer to petition for access to a confidential address for a legitimate governmental purpose, generally prohibits a person who obtains a confidential address from disclosing it, and specifies that a violation is a first degree misdemeanor.
- Establishes that the state is immune from liability in any civil action or proceeding involving the performance or nonperformance of a public duty under the program, except under specified circumstances.

### **Voting by program participants**

- Allows a program participant who is eligible to vote to submit an application to request the board of elections to keep the participant's voter registration record confidential.
- Requires that the application be treated as the participant's voter registration record and be stored in a secure manner.
- Requires the participant's registration to appear in the Statewide Voter Registration Database and the official registration list, but with the participant's program identification number instead of the participant's residence address and precinct.
- Prohibits information concerning the participant from appearing in any pollbook or version of the Database or the official registration list that is available to the public.
- Permits a program participant who has a confidential voter registration record to vote only absentee, using the participant's program identification number instead of the participant's address.
- Requires the Secretary of State, before each election, to mail a notice to each program participant who has a confidential voter registration record about casting absent voter's ballots.
- Requires the director and the deputy director of the board of elections personally to process absent voter's ballot identification envelopes received from program participants and requires the board to decide any challenge to such a ballot.



- Prohibits observers from witnessing the processing of ballots cast by electors who have confidential voter registration records in a manner that would permit the observers to learn their identities or residence addresses.
- Prohibits a person who challenges the right to vote of a program participant who has a confidential voter registration record from receiving notice of or attending any hearing concerning the challenge.
- Specifies that any records related to the challenge that include the elector's residence address or precinct must not be open to public inspection.
- Clarifies that any elector may file a challenge to a voter registration in person or by mail not later than 20 days before an election and that one set of procedures applies to all challenges.
- Provides a process for a person who has a confidential voter registration record and who ceases being a program participant or who wishes to cease having a confidential voter registration record to have the person's registration treated the same as other registrations or to cancel the registration.

### **Jury service**

- Exempts a program participant from inclusion in a county or municipal jury source list.

### **Exiting the program**

- Requires the Secretary of State to cancel a program participant's certification if the participant's application contained false statements, if the participant applies to exit the program, or if the certification expires.
- Permits the Secretary of State to cancel a program participant's certification if the participant has not updated the participant's address within 30 days after any of the participant's information changes and the participant has been unreachable for 60 days or more.
- Requires the Secretary of State, upon canceling a certification, to notify the director of the board of elections of the county where the former program participant resides.

### **Fines and program funding**

- Permits a court that is sentencing an offender for certain offenses, including domestic violence, rape, and human trafficking, to impose an additional fine of \$70 to \$500.



- Requires the fines to be paid into the Address Confidentiality Program Fund, which the act creates in the state treasury to administer the program.

### **Secretary of State rulemaking**

- Requires the Secretary of State to adopt rules under the Administrative Procedure Act to administer the program.

### **Wireless service account transfer**

- Allows a court that issues a domestic violence protection order or approves a domestic violence consent agreement to order a transfer of wireless service if the petitioner does not hold the account for the petitioner's or the petitioner's minor child's wireless service number.
- Requires a wireless service provider or reseller that is subject to such an order to transfer the rights to and billing responsibility for the numbers to the petitioner.
- Specifies procedural requirements for a wireless service account transfer, including that the petitioner's contact information be kept confidential from the account holder.
- Provides a procedure for the wireless service provider or reseller to notify the petitioner if the provider or reseller cannot follow the order because of operational or technical issues.

### **Federal law enforcement officer residential and familial information**

- Establishes that the residential and familial information of federal law enforcement officers does not constitute a public record.
- Clarifies that a federal law enforcement officer, probation officer, bailiff, or community-based correctional facility employee may request a county auditor to substitute the person's initials for the person's name on any publicly available property records in the same manner as a peace officer or other similar person.

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## **CONTENT AND OPERATION**

The act requires the Secretary of State to administer an address confidentiality program for victims of domestic violence, menacing by stalking, human trafficking, rape, or sexual battery. 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 participant's confidential address.

### **Certification as a participant**

#### **Application**

Under the act, an adult, when changing residence, may apply to the Secretary of State to have the applicant's address kept confidential if the person fears for the person's safety or for the safety of a member of the person's household because the person or household member is a victim of domestic violence, menacing by stalking, human trafficking, rape, or sexual battery. Additionally, a parent or guardian, when changing residence, may apply to have a minor, incompetent, or ward certified as a participant. The act prohibits a Tier I, Tier II, or Tier III sex offender/child-victim offender from participating in the program.



Applicants must apply with the assistance of an application assistant who is an employee or volunteer at an agency or organization that serves victims of domestic violence, menacing by stalking, human trafficking, rape, or sexual battery. Application assistants must receive training and certification from the Secretary of State.

The application must be filed with the Secretary on a form and in the manner prescribed by the Secretary and must include all of the following:

- A notarized statement that the applicant fears for the safety of the applicant, a member of the applicant's household, or the minor, incompetent, or ward on whose behalf the application is made because the applicant, household member, minor, incompetent, or ward is a victim of domestic violence, menacing by stalking, human trafficking, rape, or sexual battery;
- A knowing and voluntary designation of the Secretary as the applicant's agent for the purposes of receiving mail and service of process;
- The mailing address and telephone number or numbers at which the Secretary may contact the applicant;
- Addresses of the applicant's residence, school, institution of higher education, business, or place of employment that the applicant requests not be disclosed for the reason that disclosure will increase the risk of being threatened or physically harmed by another person;
- The applicant's signature, the application assistant's name and signature, and the date they signed the application;
- A voluntary release and waiver of all future claims against the state for any claim that may arise from participating in the program, except for a claim based on the performance or nonperformance of a public duty that was manifestly outside the scope of the officer's or employee's office or employment or in which the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

The act prohibits an applicant from knowingly making a false attestation in the notarized statement. Whoever violates that prohibition is guilty of a first degree misdemeanor, which under continuing law is punishable by a maximum sentence of imprisonment for six months and a fine of \$1,000.<sup>1</sup>

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<sup>1</sup> R.C. 111.41, 111.42(A) and (F), 111.99(A) and (D), 2929.24, not in the act, and 2929.28.



## Processing applications

Upon receiving a properly completed application, the Secretary of State must certify the applicant or the minor, incompetent, or ward on whose behalf the application is filed as a program participant. The Secretary then must designate each eligible address listed in the application as a confidential address and provide all of the following to the participant:<sup>2</sup>

- A unique program participant identification number;
- Information concerning the manner in which the participant may use the Secretary as the participant's agent for receiving mail and service of process (see "**Secretary of State mailing address**," below);
- Information concerning the process to register to vote and to vote as a program participant, if the participant is eligible to vote (see "**Voting by program participants**," below).

## Application information updates

A program participant must update the participant's application information within 30 days after any change has occurred, by submitting a notice of change to the Secretary of State on a form prescribed by the Secretary. If the participant fails to submit the appropriate update and is found to be unreachable for 60 days or more, the Secretary may, with proper notice, cancel the participant from the program.<sup>3</sup> Under other specified circumstances (see "**Exiting the program**," below), the Secretary must cancel a program participant's certification.

## Renewal of certification

A program participant's certification is valid for four years after the application was filed, unless the certification is sooner withdrawn or invalidated (see "**Exiting the program**," below). A participant who continues to be eligible to participate in the program may renew certification by submitting a renewal application to the Secretary of State with the assistance of an application assistant. The renewal application must be on a form prescribed by the Secretary and must contain the same types of information as in the original application. A participant who renews certification must continue to use the same program identification number.

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<sup>2</sup> R.C. 111.42(B).

<sup>3</sup> R.C. 111.42(C).





The Secretary may prescribe by rule a grace period during which a program participant whose certification has expired may renew the certification without being considered to have left the program.<sup>4</sup>

## **Secretary of State mailing address**

### **Use of address**

The Secretary of State must designate an address for program participants to use to receive mail. In general, a governmental entity must use the address designated by the Secretary as the program participant's address upon the participant's request. The act defines "governmental entity" as the state, a political subdivision, or any department, agency, board, commission, or other instrumentality of the state or a political subdivision. However, a board of elections is not required to use that address (see "**Voting by program participants**," below). And, a municipal-owned public utility is not required to use the designated address, although the act specifies that confidential addresses maintained by a municipal-owned public utility are not a public record, and the utility and its employees must not release them.

Upon request of a program participant, the participant's employer, school, or institution of higher education must use the address designated by the Secretary as the participant's address.<sup>5</sup>

### **Mail forwarding**

On each day that the Secretary of State's office is open, the office must place all first class mail it receives for a program participant into an envelope or package and mail it to the participant at the mailing address the participant provided for that purpose. The act permits the Secretary to contract with the U.S. Postal Service to establish special postal rates for these mailings.<sup>6</sup>

### **Service of process**

The act also specifies procedures for the Secretary of State to act as a program participant's agent for receiving service of process. It defines "process" as judicial process and all orders, demands, notices, or other papers required or permitted by law to be served on a program participant. For example, if a person wished to sue a

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<sup>4</sup> R.C. 111.42(D) and (E).

<sup>5</sup> R.C. 111.41(C) and 111.43.

<sup>6</sup> R.C. 111.43(C)(1).



program participant, continuing law would require the person to provide formal notice of the lawsuit to the program participant.

A person who intends to serve process on an individual may request the Secretary to confirm whether the individual is a program participant. The Secretary must confirm whether the individual is a participant, but must not disclose any other information concerning a participant. The Secretary may prescribe by rule the manner in which process may be served on the Secretary as the agent of a program participant. When the office of the Secretary receives service of process on behalf of a program participant, the office must immediately forward the process by certified mail, return receipt requested, to the program participant at the mailing address the participant provided for that purpose. The act states that service of process upon the office of the Secretary on behalf of a program participant constitutes service upon the program participant under the Rules of Civil Procedure.

The act requests that the Ohio Supreme Court revise the Ohio Rules of Civil Procedure to allow service of process to be made upon a program participant by serving the Secretary. The current rules generally do not permit an individual to designate an agent to receive service of process on the individual's behalf.<sup>7</sup>

## **Confidential addresses**

### **Generally**

The act defines a "confidential address" as the address of a program participant's residence, school, institution of higher education, business, or place of employment, as specified on the participant's application or on a notice of change of name or address. Under the act, the confidential name, address, and other personally identifiable information of a program participant, including the contents of any absent voter's ballot or provisional ballot materials completed by a program participant who has a confidential voter registration record, are not public records and must be kept confidential. The act also prohibits the release of any records or portions of records pertaining to that program that identify the number of program participants who reside within a precinct, ward, township, municipal corporation, county, or other geographic area smaller than the state.

The act prohibits any person who has access to a confidential address or telephone number because of the person's employment or official position from

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<sup>7</sup> R.C. 111.41(F) and 111.43(C)(2); Section 3 of the act; and *Ohio Rules of Civil Procedure*, Rule 4.2, available at: [supremecourt.ohio.gov/LegalResources/Rules/civil/CivilProcedure.pdf](http://supremecourt.ohio.gov/LegalResources/Rules/civil/CivilProcedure.pdf).



knowingly disclosing that address or number to any person, except as required by law. Whoever violates one of these prohibitions is guilty of a first degree misdemeanor.<sup>8</sup>

### **Law enforcement and prosecutor access**

The act requires that the Ohio Law Enforcement Gateway (OHLEG) contain the names, confidential addresses, and telephone numbers of program participants. (OHLEG is a statewide electronic database for law enforcement officers operated by the Bureau of Criminal Identification and Investigation.) In order to facilitate inclusion of this information in OHLEG, the act requires the Secretary of State to provide it to the Attorney General. And, the Attorney General must adopt rules under the Administrative Procedure Act that limit access to information in OHLEG regarding a participant to only chiefs of police, village marshals, county sheriffs, county prosecuting attorneys, and a designee of each of these individuals. The act prohibits any person who obtains a confidential address or telephone number from OHLEG from knowingly disclosing that address or telephone number to any person, except as is necessary for a legitimate governmental purpose. A violation of that prohibition is a first degree misdemeanor.

The act also provides a procedure for a city law director or a similar chief legal officer to request access to a program participant's confidential address or telephone number for a legitimate governmental purpose. First, the officer may ask the Secretary to confirm whether the individual whose address or telephone number is sought is a program participant. The Secretary must provide that confirmation, but must not disclose any other information concerning a program participant.

Then, the officer must petition the Franklin County Court of Common Pleas to order the Secretary to make that address or telephone number available to the petitioner. The court must set a date for a hearing, and the clerk of the court must serve a notice of the date, time, place, and purpose of the hearing upon the petitioner and the Secretary. Upon receipt of the notice, the Secretary must immediately send a copy of it to the program participant by certified mail, return receipt requested.

The petitioner must appear at the hearing, and the program participant or the participant's attorney also may appear and be heard. After the hearing and considering the testimony, the court must issue the requested order only if it appears to the court by clear and convincing evidence that the disclosure of the address or telephone number to the petitioner is necessary for a legitimate governmental purpose.<sup>9</sup>

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<sup>8</sup> R.C. 111.41(B), 111.99(B) and (D), and 149.43(A)(1)(dd).

<sup>9</sup> R.C. 109.57, 111.46, and 111.99(C) and (D).



## State immunity

The act establishes that the state is immune from liability in any civil action or proceeding involving the performance or nonperformance of a public duty under the program, except if the performance or nonperformance was manifestly outside the scope of the state officer's or employee's office or employment or the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner.<sup>10</sup>

## Voting by program participants

### Application to keep voter registration record confidential

The act allows a program participant who is eligible to vote to request the county board of elections to keep the participant's voter registration record confidential. The participant must submit an application to the director of the board, on a form prescribed by the Secretary of State that includes all of the following:<sup>11</sup>

- The information required under the Election Law to register to vote, including the applicant's name, address, and birthdate, a form of identification, the current date, and the applicant's signature;
- The applicant's program identification number;
- If the applicant is currently registered to vote in another county or another state, that address and a statement that the applicant authorizes the director to instruct the appropriate authority to cancel the existing voter registration;
- A statement that the applicant understands all of the following:
  - That during the time the applicant chooses to have a confidential voter registration record, the applicant may vote only by absent voter's ballots;
  - That the applicant may provide the applicant's program identification number instead of the applicant's residence address on an application for absent voter's ballots or on an absent voter's ballot identification envelope statement of voter;

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<sup>10</sup> R.C. 111.47(A).

<sup>11</sup> R.C. 111.44(A) and 3503.14, not in the act.



- That casting any ballot in person will reveal the applicant's precinct and residence address to election officials and may reveal that information to the public;
- That if the applicant signs an election petition, the applicant's residence address will be made available to the public.

### **Processing confidential voter registration applications**

Upon receiving a valid application to keep a voter registration record confidential, the director or deputy director of the board of elections must contact the Secretary of State to confirm that the identification number on the application matches the number the Secretary issued to the program participant.

If the program participant is currently registered to vote in the county, the director or deputy must remove the residence address and precinct information from the participant's voter registration record, the Statewide Voter Registration Database, and the official registration list. The director or deputy also must remove the participant's name and registration information from any pollbook, poll list, or signature pollbook in which it appears and from any publicly available registration list.

If the program participant is currently registered to vote in another county, the director or deputy must notify the board of elections of that county to cancel the participant's registration. The participant's existing registration must be considered to have been transferred to the county in which the participant currently resides. If the participant submitted the application less than 30 days before Election Day, the participant is eligible to vote in that election, notwithstanding the provision of the Election Law that requires applicants to be registered by the 30th day before Election Day to be eligible to vote. (Under continuing law, an elector who is registered to vote in Ohio and who has not updated the elector's name or address before that deadline may vote in the election. Depending on the circumstances, the elector may cast a regular ballot or a provisional ballot.)

If the program participant is currently registered to vote in another state, the director or deputy must notify the appropriate authority in that state to cancel the participant's registration.

After processing the application, the director or deputy must promptly send an acknowledgment notice to the program participant on a form prescribed by the Secretary of State.<sup>12</sup>

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<sup>12</sup> R.C. 111.44(B), 3503.01, not in the act, and 3503.16.



## **Treatment of confidential voter registration records**

A program participant's application to have the participant's voter registration record kept confidential must be treated as the participant's voter registration record and must be stored in a secure manner, so only the members of the board of elections, the director, and the deputy director have access to it. The participant's registration must appear in the Statewide Voter Registration Database, but the director or deputy must record the participant's program identification number in the Database and the official registration list instead of the participant's residence address and precinct. No information concerning the participant, including the participant's name, may appear in the Database version that is available to the public. Further, no information about the program participant may appear in any version of any official registration list that is available to the public or in any pollbook, poll list, or signature pollbook.<sup>13</sup>

## **Change of name or address on confidential voter registration record**

A program participant who has a confidential voter registration record and who has a change of name or address may submit another application to have the registration record kept confidential that includes the participant's updated information. The director or the deputy director of the board of elections must treat that application as a notice of change of name or change of address.

If the participant still resides in the same county, the director or deputy must replace the participant's existing registration form with the new form. If the participant has moved to another county, the director or deputy must cancel the participant's existing registration form and transmit the new form to the director of the board of elections of the county where the participant currently resides. The director of the board of elections of the participant's new county must process the form as a new application to have a voter registration record kept confidential.<sup>14</sup>

## **Absent voting**

### **Notice to program participants**

The Secretary of State, not later than the 45th day before Election Day, must mail a notice to each program participant who has a confidential voter registration record. The notice must inform the participant that if the participant wishes to vote in the election, the participant should cast absent voter's ballots by mail and must describe the procedure to do so. It also must state that casting a ballot in person will reveal the

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<sup>13</sup> R.C. 111.44(B) and (C)(1), 3503.13, 3503.23, 3503.26, and 3509.09.

<sup>14</sup> R.C. 111.44(D) and 3503.16(A).



participant's precinct and residence address to election officials and may reveal that information to the public.<sup>15</sup>

### **Casting absent voter's ballots**

Under the act, a program participant who has a confidential voter registration record may vote only by casting absent voter's ballots (see **COMMENT**). In order to do so, a participant must apply to the board of elections in the same manner as other absent voters, except that the participant may provide the participant's program identification number on the application instead of the address at which the participant is registered to vote. The participant also may provide that identification number instead of the participant's residence address on the identification envelope statement of voter when the participant returns the ballots. Each identification envelope statement of voter must include the following field:

If I have a confidential voter registration record, I am providing my program participant identification number instead of my residence address: .....

When the Secretary of State or a board of elections mails an application for absent voter's ballots or an absent voter's ballot identification envelope statement of voter to a program participant who has a confidential voter registration, the participant's address must not be preprinted on the application or statement.<sup>16</sup>

### **Counting absent voter's ballots**

The act prescribes a modified procedure for counting absent voter's ballots cast by electors who have confidential voter registration records. It specifies that the director (1) must not deliver to the voting location manager identification envelopes cast by electors who provided a program identification number instead of a residence address on the identification envelope and (2) must not inform the voting location manager of the names and voting residences of persons who have confidential voter registration records. Rather, the director and deputy must personally process absent voter's ballots that include a program identification number instead of a residence address on the identification envelope. Under continuing law, absent voter's ballots generally are processed by precinct election officials in the voting location for the precinct or at the office of the board of elections. Further, the act specifies that if absent voter's ballots are delivered to the precinct election officials, but the elector's name does not appear in the pollbook or poll list or signature pollbook (as would be the case with a program

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<sup>15</sup> R.C. 111.44(C)(3).

<sup>16</sup> R.C. 111.44(C)(2), 3509.03, 3509.04, 3511.02, and 3511.05.



participant with a confidential voter registration record), the precinct officials must deliver those ballots to the director to be processed along with the program participants' ballots.

In counting those absent voter's ballots, the director and deputy must examine the identification envelope statement of voter to determine whether it is complete and whether the information in it conforms to the information in the Statewide Voter Registration Database and in the voter's confidential voter registration record, similar to the process for verifying other absent voter's ballots. However, an identification envelope statement of voter that does not include the voter's address is not considered incomplete if the voter has a confidential voter registration record and the statement includes the voter's program identification number.

If the director and deputy find that the statement is incomplete or that it does not conform to the Statewide Voter Registration Database or the confidential voter registration record, the director and deputy must mail a written notice to the voter informing the voter of the defect, like is done for other absent voters. The voter must provide the necessary information to the board in writing on a form prescribed by the Secretary of State not later than the seventh day after Election Day for the ballot to be counted.

The director and deputy may challenge the ballot on any of the same grounds that other absent voter's ballots may be challenged. If a challenge is made, the board of elections must decide whether to sustain the challenge. If the ballot is not challenged or if a challenge is made and not sustained, the director and deputy must open the envelope without defacing the statement of voter and without mutilating the ballots. Then, they must remove the ballots and transmit them to the election officials to be counted with other absent voter's ballots from that precinct. The voter's registration card also must be marked to indicate that the person has voted, but the voter's name must not be marked in the pollbook or poll list or signature pollbook, as it would be for other absent voters.

Finally, the act provides that observers, who generally are permitted to witness the examination and opening of identification envelopes and the counting of absent voter's ballots, must not be permitted to witness that process for ballots cast by electors who have confidential voter registration records in a manner that would permit the observers to learn those electors' identities or residence addresses.<sup>17</sup>

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<sup>17</sup> R.C. 3509.05, 3509.06, 3509.07, 3511.11, and 3511.12.





## Former resident's presidential ballots

The act modifies the process by which a U.S. citizen who has moved out of the state may vote for presidential and vice-presidential electors in Ohio. A person who wishes to do so must submit to the board of elections a certificate of intent to vote only for presidential and vice-presidential electors. Under the act, a program participant who has a confidential voter registration record may provide the participant's program identification number on the certificate of intent instead of the participant's residence address or precinct. Further, the participant must not appear on the list of persons who have filed certificates of intent and who appear to be entitled to vote at a particular polling place. The participant may vote for presidential and vice-presidential electors only by casting absent voter's ballots (see **COMMENT**).<sup>18</sup>

## Challenges to voter registration records

If an elector challenges the right to vote of a program participant who has a confidential voter registration record, the person who filed the challenge must not receive notice of the date and time of any hearing concerning the challenge, must not be permitted to attend the hearing, and must not receive notice of the disposition of the challenge. Similarly, if an elector applies to have the precinct registration list corrected for another elector's registration, and that registration is confidential, the person who filed the application must not receive those notices and must not be permitted to attend any hearing. Notwithstanding the Open Meetings Law, such an application or challenge hearing must not be open to the public, and any records created as a result of the application or challenge that include the elector's residence address or precinct must not be open to public inspection.

Continuing law generally requires the director of the board of elections to notify the person who filed the application or challenge of the date and time of the hearing, and the hearing likely would be considered public under the Open Meetings Law.

The act also clarifies that a single set of requirements and procedures applies to all challenges to voter registrations. Previously, one provision specified that any elector of the county may file a challenge on a form prescribed by the Secretary of State, while another provision specified that any elector may file a challenge in person or by mail. The act eliminates this apparent conflict by repealing one provision and amending the other to specify that any qualified elector may file a challenge with the board of elections in person or by mail on the form prescribed by the Secretary of State.<sup>19</sup>

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<sup>18</sup> R.C. 3504.02 and 3504.04.

<sup>19</sup> R.C. 3503.24 and R.C. 3505.19 (repealed).



## Ceasing to have a confidential voter registration record

A person who has a confidential voter registration record and who ceases being a program participant or who wishes to cease having a confidential voter registration record must submit an application to the board of elections on a form prescribed by the Secretary of State. The form must include all of the following:

- The information required under the Election Law to register to vote;
- The person's program identification number;
- A statement that the person has ceased being a program participant or that the person wishes to cease having a confidential voter registration record;
- A statement that the director should treat the person's existing voter registration form like other voter registration forms or that the director should cancel the person's voter registration.

When the Secretary cancels a person's certification as a program participant, the Secretary also must notify the director of the board of elections of the county where the former participant resides (see "**Exiting the program**," below).

Upon receiving an application to have a person's voter registration form be treated like other registration forms, or upon receiving a notice from the Secretary that a person has exited the program, the director or deputy director must store the person's registration form like other voter registration forms and must remove the person's program identification number from the registration form and from the Statewide Voter Registration Database. Further, the director or deputy must ensure that the Database and any poll list, pollbook, or registration list accurately reflect the person's current name and registration information. If the director receives that application or notice less than 30 days before Election Day, the act specifies that the elector is eligible to vote in that election, notwithstanding the provision of the Election Law that requires applicants to be registered by the 30th day before Election Day to be eligible to vote in it.

Upon receiving an application from a person who wishes to have the person's voter registration canceled, the director or deputy must cancel that registration.<sup>20</sup>

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<sup>20</sup> R.C. 111.44(E) and (F), 111.45(B), 3503.01, not in the act, and 3503.21.



## Jury service

The act exempts a program participant from inclusion in a county or municipal jury source list. (It does not affect federal jury service.) Under continuing law, county jury source lists are derived from voter registration records, Bureau of Motor Vehicles (BMV) records, and any other source of names that the county jury commissioners choose to use. The act specifies that the voter list provided by the board of elections must not include any elector who has a confidential voter registration record. Similarly, the BMV list must not include any person who has provided to the BMV an address designated by the Secretary of State for program participants. Finally, any supplemental list must not include any person who appears to the commissioners to be a program participant.

Municipal courts provide by rule the manner in which jurors are chosen; they may use the county jury source list or they may select jurors in another manner. If a municipal court does not use the county jury source list, the act specifies that the court's rules must require any person who appears to be a program participant to be excluded from the list.<sup>21</sup>

## Exiting the program

The Secretary of State must cancel a program participant's certification if any of the following are true:

- The program participant's application contained one or more false statements.
- The participant has filed a written, notarized request with the Secretary, on a form prescribed by the Secretary, asking to cease being a program participant.
- The participant's certification has expired and the participant has not renewed the certification by the deadline (see "**Renewal of certification**," above).

Additionally, if the participant has not updated the participant's application information within 30 days after any change has occurred, and the participant is found to be unreachable for 60 days or more, the Secretary of State may, with proper notice, cancel the participant from the program (see "**Application information updates**," above).

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<sup>21</sup> R.C. 319.28 and 1901.25.



Upon canceling a certification, the Secretary of State must notify the director of the board of elections of the county where the former program participant resides (see "**Voting by program participants**," above).<sup>22</sup>

## **Fines and program funding**

Under the act, a court that is sentencing an offender for any of the following offenses may impose a fine of \$70 to \$500, in addition to any other fine that may be imposed:

- Domestic violence;
- Menacing by stalking;
- Rape or sexual battery;
- Human trafficking;
- Any of the following offenses, if the offender also is convicted of a specification that charges that the offender knowingly committed the offense in furtherance of human trafficking:
  - Kidnapping or abduction;
  - Compelling prostitution or promoting prostitution;
  - Engaging in a pattern of corrupt activity;
  - Certain types of illegal use of a minor in a nudity-oriented material or performance;
  - Certain types of endangering children.

The fine must be submitted to the Treasurer of State to be credited to the Address Confidentiality Program Fund, which the act creates in the state treasury. The Secretary of State must use the fund to administer the program. The fund must consist of money received from the fines described above and any money appropriated to it by the General Assembly or donated.<sup>23</sup>

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<sup>22</sup> R.C. 111.42(C) and 111.45.

<sup>23</sup> R.C. 111.48, 2929.18(B)(10), and 2929.28(D).



## **Secretary of State rulemaking**

The act requires the Secretary of State to adopt rules under the Administrative Procedure Act to facilitate the administration of the program.<sup>24</sup>

## **Wireless service transfer in domestic violence situations**

The act allows a court that grants a domestic violence protection order or approves a domestic violence consent agreement to order a transfer of wireless service if the petitioner does not hold the account for the petitioner's wireless service number or for the number of any minor child in the petitioner's care. The order must include the account holder's name and billing telephone number, the petitioner's name and contact information, and each wireless service number that is to be transferred to the petitioner. The court must ensure that the petitioner's contact information is kept confidential from the account holder.

The order must be served on the wireless service provider or reseller's agent for service of process, as listed with the Secretary of State. The provider or reseller must notify the petitioner within 72 hours of receiving the order. The order is automatically suspended upon making that notification if the provider or reseller cannot operationally or technically effectuate the order due to certain circumstances, including termination of the account, differences in network technology that prevent a device from functioning on the network, geographic or other limitations on network or service availability, and any other operational or technical issue that would prevent or impair the use of the number if the transfer occurs.

Upon transfer of the wireless service number to the petitioner, the petitioner must assume all financial responsibility for any costs associated with the number and any costs for the device associated with it. The provider or reseller may apply to the petitioner any routine and customary requirements for account establishment as part of the transfer, including identification, financial information, and customer preferences.

The act specifies that its provisions concerning wireless service transfer do not affect the ability of the court to apportion the parties' assets or debts or to determine temporary use, possession, and control of the parties' personal property. Additionally, the wireless service provider or reseller and its officers, employees, or agents are immune from any civil liability arising out of any action they take under the act or under the terms of a court order issued under the act.

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<sup>24</sup> R.C. 111.47(B).



As used in the act, "wireless service," "wireless service provider," and "reseller" have the same meanings as in the law governing 9-1-1 systems.<sup>25</sup>

### **Federal law enforcement officer residential and familial information**

The act adds federal law enforcement officers to the list of law enforcement related individuals whose residential and familial information is not a public record. "Federal law enforcement officer" means any United States officer whom federal law authorizes to conduct investigations and make arrests for federal law violations.

The act permits a federal law enforcement officer to request that a public office redact the officer's address from any record made available to the general public on the Internet, as other law enforcement related individuals may do under continuing law. Additionally, the act allows a federal law enforcement officer to request a county auditor to substitute the officer's initials for the officer's name in any publicly available property records in the same way that continuing law allows other law enforcement related individuals to do. The act also clarifies that a probation officer, bailiff, or community-based correctional facility employee may make such a request because, under continuing law, those individuals' information is not a public record.

Continuing law specifies that the residential and familial information of the following individuals is not a public record: a peace officer, a parole officer, a probation officer, a bailiff, a prosecuting attorney, an assistant prosecuting attorney, a correctional employee, a community-based correctional facility employee, a youth services employee, a firefighter, an EMT, or an investigator of the Bureau of Criminal Identification and Investigation. A journalist may make a written request for that information. The request must state that the disclosure of the information sought would be in the public interest.<sup>26</sup>

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### **COMMENT**

The act states that notwithstanding any contrary provision of the Revised Code, a participant in the address confidentiality program who has a confidential voter registration record may vote only by casting absent voter's ballots. As a result, it appears to prohibit a program participant from casting a provisional ballot. However, under the federal Help America Vote Act, any person must be allowed to cast a provisional ballot if the person appears to vote on Election Day and declares that the person is eligible to vote in a federal election, but the election officials assert that the

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<sup>25</sup> R.C. 128.01, not in the act, 3113.31(E)(1)(k), and 3113.45 through 3113.459.

<sup>26</sup> R.C. 9.88, not in the act; 149.43(A)(1)(p), (A)(7), and (B)(9); 149.45; and 319.28.



person is not eligible to vote. If the election officials later determine that the person is eligible to vote, the ballot must be counted. This procedure would apply to a program participant because the participant's name would not appear in the pollbook.<sup>27</sup>

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## HISTORY

ACTION	DATE
Introduced	10-06-15
Reported, H. Gov't Accountability & Oversight	01-13-16
Passed House (98-0)	01-27-16
Reported, S. State & Local Gov't	05-25-16
Passed Senate (33-0)	05-25-16
House concurred in Senate amendments (96-0)	05-25-16

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<sup>27</sup> R.C. 111.44(C)(2) and 3504.04(B). See also 52 U.S.C. 21082(a).

