



NOTICE OF PROPOSED RULEMAKING

Office of the Secretary of State
Rules Concerning the Address Confidentiality Program
8 CCR 1505-13

July 30, 2008

Pursuant to the requirements of §24-4-103(3)(a), C.R.S. (2007), notice of proposed rule-making is hereby given by the Secretary of State. A rule-making hearing will be held on **September 8, 2008 from 1:00 p.m. until 4:00 p.m.** in the Blue Spruce Conference Room on the second floor of the Office of the Secretary of State at 1700 Broadway, Denver, Colorado 80290. All interested persons will be afforded an opportunity to be heard on the subject of the proposed new rules regarding the Address Confidentiality Program, administered by the Office of the Secretary of State, Division of Licensing, 8 CCR 1505-13.

Subject of the Proposed Rulemaking

The subject of the rule-making hearing is the proposed rules as may be necessary or appropriate for the administration and implementation of the Address Confidentiality Program (“ACP”). The proposed rules to be considered concern: clarification of the term “other family member”, clarifying the training and registration process for Application Assistants, clarifying the process for participants to notify the ACP of address and telephone number changes, implementation of a process by which the ACP can disclose participant information to criminal justice officials or agencies, and implementation of a process by which the ACP can verify school eligibility and facilitate the transfer of student records.

Authority for Proposed Rulemaking

The new rules regarding the Address Confidentiality Program, Office of the Secretary of State, Division of Licensing, 8 CCR 1505-13, are proposed pursuant to the Colorado Administrative Procedure Act, §24-4-103, C.R.S., “Rulemaking procedure,” and pursuant to the specific rule-making authority granted to the Secretary of State by the Address Confidentiality Act at §24-21-213, C.R.S.

Copies of the initial draft of the proposed rules may be obtained from the office of the Secretary of State at 1700 Broadway, Suite 300, Denver, Colorado, 80290, or by calling (303) 894-2200

extension 6423. The proposed rules are also posted on the Secretary of State website at www.sos.state.co.us and on the ACP website at www.acp.colorado.gov.

A final copy of the proposed rules for consideration at the public rule-making hearing will be posted on the Secretary of State website and made available to the public no later than September 3, 2008 in accordance with §24-4-103(4)(a), C.R.S. (2006), which states that “[a]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing.”

The rule-making hearing on September 8, 2008 will be held in accordance with §24-4-103, C.R.S., (2007). Written and oral data, comments, and arguments will be received from all interested parties. Written submissions must be filed at or before the commencement of the hearing on September 8, 2008, at 1:00 p.m. in order to be considered. Oral testimony may be limited in order to allow the proceedings to go forward with reasonable promptness and efficiency. The hearing will be audio recorded and broadcast over the Internet. The broadcast may be accessed through the Secretary of State website at www.sos.state.co.us on the “Information Center” page under “Broadcast and Recorded Meetings.” For additional information, please contact Jacqueline Sanders, Address Confidentiality Program, Licensing Division at jacqueline.sanders@sos.state.co.us or (303) 894-2200 extension 6423.

Dated this 30th Day of July, 2008

William A. Hobbs
Deputy Secretary of State

For

Mike Coffman
Colorado Secretary of State



Proposed Statement of Basis, Purpose and Specific Statutory Authority

Office of the Secretary of State Rules Concerning the Address Confidentiality Program 8 CCR 1505-13

July 30, 2008

1. Basis and Purpose

This statement pertains to the proposed new rules regarding the administration of the Address Confidentiality Program (also referenced as “ACP” or “the program”).

The proposed rules are necessary for the administration and implementation of the Address Confidentiality Program Act as set forth in §24-21-201 et. seq., C.R.S. The proposed rules are also necessary for clarifying some provisions of HB08-1274, which amended the Act. Specific authorization for rule-making is provided by §24-21-213, C.R.S.

The specific purposes for the adoption of the individual rules are as follows:

- New Rule 1.0 provides an introduction to the proposed rules, which contains the basis of authority, scope and purpose of the rules.
- New Rule 2.1 provides a definition for the term, “Other family member.” HB08-1274 amended §24-21-205(3)(j), C.R.S., by expanding the scope of who may enroll in the Address Confidentiality Program by adding the term “other family member” to the existing terms of “parent, spouse and child.” An administrative definition will avoid disparate program participation based on subjective definitions and individual perceptions.
- New Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, and 3.7 provide clarification of, and a process for, the training and registration of Application Assistants as required by the recent amendments to §24-21-203(5) and §24-21-204(5) and (5)(b), C.R.S.
- New Rule 4.1 clarifies that the notice requirement provided in §24-21-206 (2) be in writing and accompanied by a signature. This rule is intended to prevent abusers from fraudulently changing participant contact information for the purpose of locating participants or intercepting participant mail.
- New Rules 5.1, 5.2, and 5.3 provide compliance with the requirement of §24-21-210 (12), C.R.S., which states in part, “...the secretary of state shall establish an expedited process for disclosure to be used by a criminal justice official or agency for situations

where disclosure is requested pursuant to a criminal justice trial, hearing proceeding, or investigation involving a program participant...”

- New Rules 6.1, 6.2, and 6.3 provide clarification and a process for complying with the new provisions of §24-21-208(9), C.R.S., which require the Address Confidentiality Program to verify a participant/student’s public school enrollment eligibility and facilitate the transfer of student records.

Specific Statutory Authority

These rules are promulgated in accordance with the Colorado Administrative Procedure Act, §24-4-103, C.R.S., “Rule-making procedure,” and pursuant to the specific rule-making authority granted to the secretary of state by the Address Confidentiality Act at §24-21-213, C.R.S.

COLORADO SECRETARY OF STATE

8 CCR 1505-13

RULES CONCERNING THE ADDRESS CONFIDENTIALITY PROGRAM

PRELIMINARY DRAFT OF PROPOSED RULES

JULY 30, 2008

Disclaimer: This draft is not yet final. The proposed changes to be considered at the public rulemaking hearing may be different than the proposed changes in this draft. This draft is submitted to the Department of Regulatory Agencies for the purpose of complying with section 24-4-103(2.5), C.R.S., which requires that a draft be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

A final copy of the proposed rule changes will be available to the public no later than September 3, 2008 and a copy will be posted on the Department of State’s web site, in compliance with the requirement of section 24-4-103(4)(a), C.R.S., that “[a]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing . . . shall be made available to any person at least five days prior to said hearing.”

Proposed additions to the current rules are reflected in SMALL CAPS or underlined. Proposed deletions from current rules are shown in ~~stricken type~~. Annotations may be included.

1 **1.0 INTRODUCTION**

2

3 **1.1 AUTHORITY**

4 THESE REGULATIONS ARE ADOPTED PURSUANT TO THE AUTHORITY IN §24-21-201, ET SEQ.,
5 C.R.S. (THE “ADDRESS CONFIDENTIALITY PROGRAM ACT”) AND ARE INTENDED TO BE
6 CONSISTENT WITH THE REQUIREMENTS OF THE STATE ADMINISTRATIVE PROCEDURE ACT,
7 §24-4-101, ET SEQ. (THE “APA”).

8

9 **1.2 SCOPE AND PURPOSE**

10 THESE RULES ARE INTENDED TO CLARIFY AND CARRY OUT THE PROVISIONS OF THE
11 ADDRESS CONFIDENTIALITY PROGRAM ACT [§24-21-201, ET SEQ.].

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13 **1.3 SPECIFIC AUTHORITY**

14 SPECIFIC AUTHORITY FOR RULE-MAKING IS PROVIDED BY §24-21-213, C.R.S.

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16 **2.0 DEFINITIONS**

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18 **2.1 “OTHER FAMILY MEMBER”** AS USED IN § 24-21-205(3)(J), “OTHER FAMILY MEMBER”
19 MEANS A PERSON WHO RESIDES WITH THE VICTIM AND DEFINES HIMSELF OR HERSELF AS A
20 FAMILY MEMBER REGARDLESS OF ANY BLOOD OR MARITAL RELATIONSHIP.

21

22 **3.0 APPLICATION ASSISTANT DESIGNATION**

- 1
2 3.1 THE APPLICATION ASSISTANT TRAINING AND REGISTRATION PROCESS CONSISTS OF:
3
4 A) ATTENDING AN IN-PERSON TRAINING CONDUCTED BY OR ON BEHALF OF THE
5 ADDRESS CONFIDENTIALITY PROGRAM OR BY COMPLETING THE ONLINE TRAINING
6 PROVIDED ON THE ADDRESS CONFIDENTIALITY PROGRAM WEBSITE AND;
7
8 B) SUBMITTING A SIGNED AND COMPLETED APPLICATION ASSISTANT AGREEMENT.
9
10 3.2 THE APPLICATION ASSISTANT DESIGNATION IS VALID FOR A TWO-YEAR PERIOD, AND MAY
11 BE RENEWED BY SUBMITTING A NEW APPLICATION ASSISTANT AGREEMENT PRIOR TO THE
12 END OF THE TWO-YEAR TERM.
13
14 3.3 APPLICATION ASSISTANTS MUST PROVIDE THE ADDRESS CONFIDENTIALITY PROGRAM
15 WITH CURRENT EMPLOYER AND CONTACT INFORMATION.
16
17 3.4 APPLICATION ASSISTANTS WHO CHANGE EMPLOYMENT MAY RETAIN THEIR DESIGNATION
18 AS LONG AS THEY CONTINUE TO MEET THE STATUTORY CRITERIA FOR AN APPLICATION
19 ASSISTANT.
20
21 3.5 THE ADDRESS CONFIDENTIALITY PROGRAM WILL NOTIFY APPLICATION ASSISTANTS IN
22 WRITING PRIOR TO THE EXPIRATION OF THEIR DESIGNATION USING THE EMPLOYMENT
23 CONTACT INFORMATION ON RECORD WITH THE PROGRAM.
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25 3.6 AN APPLICATION ASSISTANT DESIGNATION WILL EXPIRE IF THE NOTICE TO RENEW THE
26 DESIGNATION IS RETURNED AS UNDELIVERABLE.
27
28 3.7 AN APPLICATION ASSISTANT MAY CANCEL HIS OR HER DESIGNATION AT ANY TIME.

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30 **4.0. PARTICIPANT TELEPHONE NUMBER AND ADDRESS CHANGES**
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- 32 4.1 PARTICIPANTS MUST NOTIFY THE ADDRESS CONFIDENTIALITY PROGRAM OF ANY CHANGES
33 IN ADDRESS OR TELEPHONE NUMBER IN WRITING. PARTICIPANTS MAY USE THE “CHANGE
34 OF INFORMATION FORM” PROVIDED BY THE PROGRAM OR ANY OTHER WRITTEN FORMAT, SO
35 LONG AS THE NOTIFICATION CONTAINS THE SIGNATURE OF THE PARTICIPANT (OR THE
36 PARENT OR GUARDIAN OF THE PARTICIPANT) REQUESTING THE CHANGE.
37

38 **5.0 EMERGENCY DISCLOSURE OF PARTICIPANT INFORMATION TO CRIMINAL JUSTICE**
39 **OFFICIALS OR AGENCIES**
40

- 41 5.1 RELEASE OF PARTICIPANT INFORMATION SHALL BE GRANTED AS DIRECTED BY ANY
42 CRIMINAL, CIVIL, OR ADMINISTRATIVE SUBPOENA, SEARCH WARRANT, OR COURT ORDER IN
43 PROPER FORM THAT HAS BEEN ENTERED BY A MAGISTRATE OR COURT OF COMPETENT
44 JURISDICTION SHOWING GOOD CAUSE BY THE LAW ENFORCEMENT AGENCY SEEKING SUCH
45 RECORDS.
46
47 5.2 THE REQUEST MUST BE ACCOMPANIED BY A NOTARIZED STATEMENT CERTIFYING THAT THE
48 INFORMATION REQUESTED IS REQUIRED PURSUANT TO A CRIMINAL JUSTICE TRIAL,
49 HEARING, PROCEEDING, OR INVESTIGATION INVOLVING A PROGRAM PARTICIPANT, AND

1 DESCRIBING HOW THE PARTICIPANT’S ACTUAL ADDRESS WILL BE PROTECTED FROM THE
2 PUBLIC AND PERSONNEL WHO ARE NOT INVOLVED IN THE TRIAL, HEARING, PROCEEDING OR
3 INVESTIGATION. IN LIEU OF THE ABOVE STATEMENT, A CRIMINAL JUSTICE AGENCY OR
4 OFFICIAL MAY SUBMIT A NOTARIZED “EMERGENCY DISCLOSURE OF INFORMATION” FORM
5 AVAILABLE ON THE ACP WEBSITE, LOCATED UNDER “LAW ENFORCEMENT.”
6

7 5.3 UPON ACP RECEIPT OF SUCH A DOCUMENT, THE INFORMATION REQUESTED SHALL BE
8 RELEASED AS EXPEDITIOUSLY AS POSSIBLE.
9

10 **6.0 PUBLIC SCHOOL ENROLLMENT AND RECORD TRANSFERS**

11
12 6.1 AT THE REQUEST OF AN ENROLLING SCHOOL, THE ADDRESS CONFIDENTIALITY PROGRAM
13 WILL DETERMINE THE STUDENT/PARTICIPANT’S SCHOOL DISTRICT AND ELIGIBLE SCHOOLS
14 BASED ON THE RESIDENTIAL ADDRESS ON RECORD WITH THE PROGRAM.
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16 6.2 THE ADDRESS CONFIDENTIALITY PROGRAM WILL NOTIFY THE SCHOOL OF ITS FINDINGS IN
17 WRITING.
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19 6.3 THE ADDRESS CONFIDENTIALITY PROGRAM WILL REQUEST A STUDENT’S RECORDS FOR THE
20 PURPOSE OF TRANSFERRING SUCH RECORDS FROM ONE SCHOOL TO ANOTHER UPON
21 RECEIVING THE WRITTEN REQUEST AND AUTHORIZATION FROM THE STUDENT’S PARENT OR
22 LEGAL GUARDIAN.