

STATE OF COLORADO

Department of State

1700 Broadway
Suite 300
Denver, CO 80290



Mike Coffman

Secretary of State

Mike Shea

Director, Licensing & Enforcement Division

NOTICE OF PROPOSED RULEMAKING

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

November 26, 2008

Pursuant to the requirements of §24-4-103(3)(a), C.R.S. (2008), notice of proposed rulemaking is hereby given by the Secretary of State. A rulemaking hearing will be held on **January 2nd, 2009 from 9:30 a.m. until 10:30 a.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 amendments and revisions to the Colorado Secretary of State "Rules Concerning 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 Secretary of State will consider amendments and revisions to the Colorado Secretary of State's "Rules Concerning the Address Confidentiality Program" as may be necessary or appropriate for the uniform and proper administration of the Address Confidentiality Program ("ACP"). The revisions and amendments to be considered include: Repealing Rule 2.1, which provides a definition for the term "other family member" and amending Rule 5.2 by removing the requirement that a criminal justice agency describe how the agency will keep participant information confidential when the agency requests expedited release of participant information.

Authority for Proposed Rulemaking

Amendments and revisions to the Colorado Secretary of State "Rules Concerning 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., "Rule-making procedure," and pursuant to the specific rule-making authority granted to the Secretary of State by the Address Confidentiality Program 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 December 26th, 2008 in accordance with §24-4-103(4)(a), C.R.S. (2008), 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 January 2, 2009 will be held in accordance with §24-4-103, C.R.S., (2008). 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 January 2, 2009 at 9:30 a.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 26th day of November, 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

November 26, 2008

1. Basis and Purpose

This statement pertains to the amendments and revisions to the Colorado Secretary of State "Rules Concerning the Address Confidentiality Program" (8 CCR 1505-13) resulting from review of the current adopted rules by the Office of Legislative Legal Services, in which potential legal issues were raised with the current rules.

The Secretary of State therefore finds that the permanent adoption of the amendments and revisions to the Colorado Secretary of State "Rules Concerning the Address Confidentiality Program" is necessary in order to ensure the uniform and proper administration of the program.

The adoption of specific amendments to the Colorado Secretary of State "Rules Concerning the Address Confidentiality Program" is necessary as follows:

- The repeal of Rule 2.1 defining the term, "other family member." The definition of "other family member" currently provided in Rule 2.1 is unnecessary and may exceed legislative intent.
- The amendment to Rule 5.2, concerning the expedited release of participant information to criminal justice agencies. The amendment will remove the requirement that a criminal justice agency describe how the agency will keep participant information confidential, which requirement may be in excess of statutory requirements.

2. Statutory Authority

Amendments and revisions to the Colorado Secretary of State "Rules Concerning the Address Confidentiality Program" Office of the Secretary of State, Division of Licensing, 8 CCR 1505-13, are adopted pursuant to the following statutory provisions:

1. Rulemaking provisions of the Colorado Administrative Procedure Act, §24-4-103, C.R.S.
2. Section 24-21-213, C.R.S. (2008), which authorizes the Secretary of State to adopt any rules deemed necessary to carry out the provisions of the “Address Confidentiality Program Act”, excluding section 24-21-214.

COLORADO SECRETARY OF STATE
ADDRESS CONFIDENTIALITY PROGRAM RULES

8 CCR 1505-13

PRELIMINARY DRAFT OF PROPOSED RULES

NOVEMBER 26, 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 December 26, 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.

Existing Rule 2.1 would be repealed as follows:

- 2.1 ~~“Other Family Member” as used in § 24-21-205(3)(j), “other family member” means a person who resides with the victim and defines himself or herself as a family member regardless of any blood or marital relationship. [REPEALED]~~

Existing Rule 5.2 would be amended as follows:

- 5.2 In accordance with 24-21-210(12), ~~The~~ THE request must be accompanied by a notarized statement certifying that the information requested is required pursuant to a criminal justice trial, hearing, proceeding, or investigation involving a program participant and ~~describing how~~ THAT the participant's actual address will be protected from the public and personnel who are not involved in the trial, hearing, proceeding or investigation. In lieu of the ~~above~~ statement, a criminal justice agency or official may submit a notarized “Emergency Disclosure of Information” form available on the ACP website, located under “Law Enforcement.”