

By: Representatives Buck (72nd), Buck (5th)

To: Judiciary A

HOUSE BILL NO. 159
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 99-47-1, MISSISSIPPI CODE OF 1972, TO
2 REVISE CERTAIN PROVISIONS OF THE ADDRESS CONFIDENTIALITY PROGRAM
3 IN DOMESTIC VIOLENCE CASES; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** Section 99-47-1, Mississippi Code of 1972, is
6 amended as follows:

7 99-47-1. (1) **Definitions.** As used in this section:

8 (a) "Confidential address" means any residential street
9 address, school address, or work address of an individual, as
10 specified on the individual's application to be a program
11 participant under this section.

12 (b) "Program participant" means a person certified as a
13 program participant under this section.

14 (c) "Domestic violence" means any of the following acts
15 committed against a current or former spouse, a person living as a
16 spouse or who formerly lived as a spouse or a child of persons
17 living as spouses or who formerly lived as spouses, a parent,
18 grandparent, child, grandchild or someone similarly situated to
19 the defendant, a person with whom the defendant has a biological
20 or legally adopted child in common, or a person in a current or
21 former dating relationship:

22 (i) A violation of a domestic violence protection
23 order;

24 (ii) Simple or aggravated domestic violence as
25 defined in Section 97-3-7(3) or 97-3-7(4); or

26 (iii) Threats of such acts.



27 (d) "Sexual assault" means an act as defined in Section
28 45-33-23(g) as a sex offense.

29 (e) "Stalking" means an act as defined in Section
30 97-3-107 or Section 97-45-15.

31 (f) "Substitute address" means an address designated
32 and assigned by the Office of the Attorney General to a program
33 participant as a substitute mailing address under the Address
34 Confidentiality Program.

35 (g) "Victim" means an individual against whom domestic
36 violence, sexual assault, or stalking has been committed.

37 (2) **Address Confidentiality Program.** (a) An adult, a
38 parent or guardian acting on behalf of a minor, or a guardian
39 acting on behalf of an incapacitated person, may apply to the
40 Office of the Attorney General to have an address designated by
41 the Office of the Attorney General serve as the substitute address
42 for the person, the minor or the incapacitated person. The Office
43 of the Attorney General shall approve an application if it is
44 filed in the manner and on the form prescribed by the Office of
45 the Attorney General and if it contains:

46 (i) A sworn statement by the applicant that the
47 applicant has good reason to believe that the applicant, or the
48 minor or incapacitated person on whose behalf the application is
49 made, is a victim of domestic violence, stalking, or sexual
50 assault, and that the applicant fears for his or her safety, or
51 his or her children's safety, or the safety of the minor or
52 incapacitated person on whose behalf the application is made;

53 (ii) A designation of the Office of the Attorney
54 General as agent for purposes of services of process and for the
55 purpose of receipt of mail;

56 (iii) The confidential address where the applicant
57 can be contacted by the Office of the Attorney General, and the
58 telephone number or numbers where the applicant can be contacted
59 by the Office of the Attorney General;



60 (iv) The confidential address or addresses that
61 the applicant requests not be disclosed for the reason that
62 disclosure will increase the risk of domestic violence, stalking,
63 or sexual assault;

64 (v) A statement of any existing or pending court
65 order or court action involving the applicant that is related to
66 divorce proceedings, child support, child custody, or child
67 visitation; the court that issued each order or has jurisdiction
68 over an action shall be noted;

69 (vi) The signature of the applicant and a
70 representative of a domestic violence shelter or rape crisis
71 center as designated under subsection (6) who assisted in the
72 preparation of the application;

73 (vii) The date on which the applicant signed the
74 application; and

75 (viii) Evidence that the applicant is a victim of
76 domestic violence, sexual assault, or stalking. This evidence
77 shall include at least one (1) of the following:

78 1. Law enforcement, court or other local,
79 state or federal agency records or files;

80 2. Documentation from a domestic violence
81 shelter or rape crisis center; or

82 3. Other form of evidence as determined by
83 the Office of the Attorney General.

84 (b) Applications shall be filed with the Office of the
85 Attorney General.

86 (c) Upon approval of an application, the Office of the
87 Attorney General shall certify the applicant as a program
88 participant. Upon certification, the Office of the Attorney
89 General shall issue an Address Confidentiality Program
90 authorization card to the program participant. Applicants shall
91 be certified for four (4) years following the date of



92 certification unless the certification is withdrawn, cancelled or
93 invalidated before that date.

94 (d) A program applicant who falsely attests in an
95 application that disclosure of the applicant's address would
96 endanger the applicant's safety or the safety of the applicant's
97 children or the minor or incapacitated person on whose behalf the
98 application is made, or who knowingly provides false or incorrect
99 information upon making an application or while a program
100 participant, shall be guilty of a misdemeanor, punishable by a
101 fine not to exceed Five Hundred Dollars (\$500.00) or by
102 imprisonment in the county jail for a term not to exceed six (6)
103 months.

104 (e) A fraudulent attempt to gain access to a program
105 participant's confidential address shall constitute a felony,
106 punishable by a fine not to exceed Two Thousand Dollars
107 (\$2,000.00) or by imprisonment in the county jail for a term not
108 to exceed two (2) years.

109 (f) Knowingly entering the Address Confidentiality
110 Program to evade civil liability or criminal prosecution shall
111 constitute a felony, punishable by a fine not to exceed Two
112 Thousand Dollars (\$2,000.00) or by imprisonment in the county jail
113 for a term not to exceed two (2) years.

114 (g) A program participant may terminate the
115 certification by filing a notarized request for withdrawal from
116 the program with the Office of the Attorney General.

117 (3) **Certification cancellation.** (a) If the program
118 participant obtains a name change, the person's program
119 participation is terminated and the person may immediately reapply
120 for certification under the new name.

121 (b) The Office of the Attorney General may cancel a
122 program participant's certification if there is a change in the
123 residential address or telephone number from the address or the
124 telephone number listed for the program participant on the



125 application unless the program participant provides the Office of
126 the Attorney General with a minimum of seven (7) days' notice
127 before the change of address occurs.

128 (c) The Office of the Attorney General may cancel
129 certification of a program participant if mail forwarded by the
130 Office of the Attorney General to the program participant's
131 confidential address is returned as undeliverable or if service of
132 process documents are returned to the Office of the Attorney
133 General as unable to be served.

134 (d) The Office of the Attorney General shall cancel
135 certification of a program participant who applies using false
136 information.

137 (e) The Office of the Attorney General shall send
138 notice of cancellation to the program participant. Notice of
139 cancellation shall set out the reasons for cancellation. That
140 program participant shall have thirty (30) days from receipt of
141 notification of cancellation to appeal the cancellation decisions
142 under procedures adopted by the Office of the Attorney General.

143 (f) An individual who ceases to be a program
144 participant is responsible for notifying persons, who use the
145 substitute address designated by the Office of the Attorney
146 General as the program participant's address, that the designated
147 substitute address is no longer the individual's address.

148 (4) **Agency use of designated address.** (a) Except as
149 otherwise provided in this section, a program participant may
150 request that public bodies use the address designated by the
151 Office of the Attorney General as the participant's substitute
152 address. The program participant, and not the Office of the
153 Attorney General, domestic violence shelter, nor rape crisis
154 center, is responsible for requesting that any public body use the
155 address designated by the Office of the Attorney General as the
156 substitute address of the program participant. If there is any
157 criminal proceeding on behalf of the program participant, the



158 program participant is also responsible for notifying any law
159 enforcement agency and the district attorney's office of the
160 person's participation in the program. There shall be no
161 responsibility on the part of any district attorney's office or
162 any law enforcement agency to request that a public body use the
163 substitute address. Public bodies shall accept the address
164 designated by the Office of the Attorney General as a program
165 participant's substitute address, unless the Office of the
166 Attorney General has determined that:

167 (i) The public body has a bona fide statutory or
168 administrative requirement for the use of the confidential address
169 of the program participant as defined in this section; and

170 (ii) The confidential address will be used only
171 for those statutory and administrative purposes.

172 (b) A program participant may use the substitute
173 address designated by the Office of the Attorney General as his or
174 her work address.

175 (c) The Office of the Attorney General shall forward
176 all first-class, certified or registered mail to the program
177 participant at the confidential address provided by the program
178 participant. The Office of the Attorney General shall not be
179 required to track or otherwise maintain records of any mail
180 received on behalf of a program participant unless the mail is
181 certified or registered.

182 (d) A program participant's name, confidential address,
183 telephone number and any other identifying information within the
184 possession of a public body, as defined by Section 25-61-3, shall
185 not constitute a public record within the meaning of the
186 Mississippi Public Records Act of 1983. The program participant's
187 actual name, address and telephone number shall be confidential
188 and no public body shall disclose the program participant's name,
189 address, telephone number, or any other identifying information.



190 (5) **Disclosure of records prohibited; exceptions.** A program
191 participant's confidential address and telephone number and any
192 other identifying information in the possession of the Office of
193 the Attorney General shall not constitute a public record within
194 the meaning of the Mississippi Public Records Act of 1983, and
195 shall not be disclosed during discovery in any criminal
196 prosecution. The Office of the Attorney General shall not make
197 any records in a program participant's file available for
198 inspection or copying other than the address designated by the
199 Office of the Attorney General, except under the following
200 circumstances:

201 (a) If requested by a law enforcement agency, to the
202 law enforcement agency for official use only, but not to be
203 included in any reports made by the law enforcement agency or
204 required to be produced in discovery in any criminal prosecution;

205 (b) If directed by a court order, to a person
206 identified in the order; or

207 * * *

208 (c) To verify, if requested by a public body, the
209 participation of a specific program participant, in which case the
210 Office of the Attorney General may only confirm participation in
211 the program and confirm information supplied by the requester.

212 (6) **Assistance for program applicants.** The Office of the
213 Attorney General shall refer * * * potential participants to
214 domestic violence shelters or rape crisis centers that provide
215 shelter and counseling services to either victims of domestic
216 violence, stalking, or sexual assault to assist persons applying
217 to be program participants.

218 (7) **Address confidentiality funding.** Expenses of
219 administering the Address Confidentiality Program shall be paid
220 from the Crime Victims' Compensation Fund.

221 (8) **Immunity.** The Office of the Attorney General and/or its
222 agents and/or employees are immune from civil and/or criminal



223 liability for damages for conduct within the scope and arising out
224 of the performance of the duties imposed under this section. Any
225 district attorney and his agents and employees, any law
226 enforcement agency and its agents and employees and any local or
227 state agency and its agents and employees are immune from
228 liability, whether civil or criminal, for damages for conduct
229 within the scope and arising out of the program. Any employee or
230 representative of a domestic violence shelter or rape crisis
231 center who acts in good faith to assist a victim complete an
232 application for participation in the Address Confidentiality
233 Program shall be immune from civil and/or criminal liability. Any
234 assistance * * * rendered pursuant to this section, by the Office
235 of the Attorney General, its agents or employees, shall in no way
236 be construed as legal advice.

237 (9) **Adoption of rules.** The Office of the Attorney General
238 Victim Compensation Division is authorized to adopt rules and
239 regulations as shall be necessary for carrying out the provisions
240 of this section.

241 **SECTION 2.** This act shall take effect and be in force from
242 and after July 1, 2012.

