

The Impact of State Address Confidentiality Programs on Extending and Servicing Credit

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What Are Address Confidentiality Laws?

Address Confidentiality Programs (“ACP”)—Safe @ Home Programs

- Allows a victim of domestic violence, sexual offenses, stalking, human trafficking or similar crimes to maintain confidential his/her actual physical address. The victim is provided with a substitute or designated address. The ACP is usually administered by:
 - Secretary of State
 - Attorney General
- Under the ACP, the victim’s mail is forwarded to the victim’s actual physical address by the administering agency.
- Service of process is done through the administering agency.

Iowa Address Confidentiality Law

I.C.A. § 9E.5 - Use of designated address

1. When a program participant presents the program participant's designated address to any person, ***that designated address shall be accepted as the address of the program participant.*** The person shall ***not require the program participant to submit any other address that could be used to physically locate the program participant either as a substitute address or in addition to the designated address, or as a condition of receiving a service or benefit, unless the service or benefit would be impossible to provide without knowledge of the program participant's physical location.***

2. A program participant may use the designated address as the program participant's work address.

3. The secretary shall forward all mail sent to the designated address to the program participant.

Iowa Address Confidentiality Law

I.C.A. § 9E.5 - Use of designated address

4. The office of the secretary of state shall act as agent of the program participant for purposes of service of process. The secretary shall forward any service of process received by the office of the secretary of state by certified mail, return receipt requested to the designated address of the program participant within three days of receipt in the office of the secretary of state. A program participant shall either accept or reject service of process and the secretary shall notify the person initiating the service of process, unless such person is not ascertainable from the service of process documents, of the date of the program participant's acceptance or rejection of the service of process. The date of service of the service of process is the date of the participant's acceptance or rejection.

Iowa Address Confidentiality Law

I.C.A. § 9E.5 - Use of designated address

5. If a program participant has notified a person in writing, on a form prescribed by the secretary, that the individual is a program participant and of the requirements of this section, the ***person shall not knowingly disclose the program participant's address, unless any of the following:***

a. The person to whom the address is disclosed also lives, works, or goes to school at the address disclosed.

b. The program participant has provided written consent to disclosure of the program participant's name and address for the purpose for which the disclosure will be made.

6. This section ***does not apply to documents or records relating to real property.*** The secretary shall offer a program participant information relating to the purchase of real property utilizing limited liability companies, trusts, or other legal entities in order to protect the participant's identity for purposes of this program when purchasing real property.

Wisconsin Address Confidentiality Law

Wis. Stat. § 165.68 - Use of Address; confidentiality

(5) Use of assigned address; confidentiality. (a) A program participant may use the assigned address provided to him or her under sub. (4) for all purposes.

(b) No state or local agency or unit of government may refuse to use a program participant's assigned address for any official business, unless a specific statutory duty requires the agency or unit of government to use the participant's actual address. A state or local agency or unit of government may confirm with the department a person's status as a program participant.

(c) No person who has received a notification form from a program participant may refuse to use the assigned address for the program participant, may require a program participant to disclose his or her actual address, or may intentionally disclose to another person the actual address of a program participant.

(7) Criminal penalty. A person who intentionally releases information in violation of this section is guilty of a misdemeanor.

Wisconsin Address Confidentiality Law

Wis. Stat. § 165.68 - Definitions

(1) Definitions.

(b) “Actual address” means the residential street address, school address, or work address, or any portion thereof, of a program participant.

(c) “Assigned address” means an address designated by the department and assigned to a program participant.

(d) “Department” means the department of justice.

(e) “Mail” means first class letters and flats delivered by the United States Postal Service, including priority, express, and certified mail. “Mail” does not include a package, parcel, periodical, or catalogue unless it is clearly identifiable as being sent by a state or local agency or unit of government or is clearly identifiable as containing a pharmaceutical or medical item.

(g) “Program participant” means a person who is certified by the department to participate in the confidentiality program established in this section.

Wisconsin Address Confidentiality Law

Wis. Stat. § 165.68 - Use of Address; release of information

(4) Use of assigned address; release of information. (a) The department shall provide to each person it approves as a program participant an assigned address and shall provide each program participant a notification form for use under sub. (5).

(b) The department shall forward all mail it receives at the assigned address for each program participant to the program participant's actual address.

(c) The department shall provide, at the request of a program participant or at the request of a state or local agency or unit of government, confirmation of the person's status as a program participant.

(d) 1. Except as provided under subd. 2., the department may not disclose a program participant's actual address to any person except pursuant to a court order. If a court order is requested for disclosure, the department shall request the court to keep any record containing the program participant's actual address sealed and confidential.

2. The department may disclose a program participant's actual address to a law enforcement officer for official purposes.

Minnesota Address Confidentiality Law

M.S.A. § 5B.05 - Use of designated address

(a) When a program participant presents the address designated by the secretary of state to any person, that address must be accepted as the address of the program participant. The person may not require the program participant to submit any address that could be used to physically locate the participant either as a substitute or in addition to the designated address, or as a condition of receiving a service or benefit, unless the service or benefit would be impossible to provide without knowledge of the program participant's physical location. Notwithstanding a person's or entity's knowledge of a program participant's physical location, the person or entity must use the program participant's designated address for all mail correspondence with the program participant.

(b) A program participant may use the address designated by the secretary of state as the program participant's work address.

Minnesota Address Confidentiality Law

M.S.A. § 5B.05 - Use of designated address

(c) The Office of the Secretary of State shall forward all mail sent to the designated address to the proper program participants.

(d) If a program participant has notified a person in writing, on a form prescribed by the program, that the individual is a program participant and of the requirements of this section, the person ***must not knowingly disclose the program participant's name, home address, work address, or school address, unless the person to whom the address is disclosed also lives, works, or goes to school at the address disclosed, or the participant has provided written consent to disclosure of the participant's name, home address, work address, or school address for the purpose for which the disclosure will be made.*** This paragraph applies to the actions and reports of guardians ad litem, except that guardians ad litem may disclose the program participant's name. This paragraph does not apply to records of the judicial branch governed by rules adopted by the supreme court or government entities governed by section 13.045.

Minnesota Address Confidentiality Law

Minnesota Rule 8290.0400 - Designated Address

Subpart 1. Address and program status. Every public or private person or entity ***shall accept the designated address as the true address of the program participant.***

Presentation of the Safe at Home card creates a rebuttable presumption that the individual listed on the card is a program participant. A ***program participant is not required to respond to any question a public or private person puts to the program participant about the details or circumstances of the person's inclusion in the program.*** The public or private person or entity may contact the secretary of state for information on the program.

Subp. 2. Request. The program participant, and not the secretary of state, is responsible for requesting the use of the designated address by any public or private person or entity as the address of the program participant.

Subp. 3. Secretary of state as agent. The secretary of state is the agent for receipt of all mail sent by public and private persons and entities to the program participants at the designated address.

Minnesota Address Confidentiality Law

Minnesota Rule 8290.0400 - Designated Address

Subp. 4. Mail to be forwarded. All mail specifically addressed to the program participant at the designated address ***must be forwarded at least every second business day to the participant at the participant's mailing address.*** Envelopes containing the mail being forwarded must be marked "Return Service Requested." The secretary of state is not required to forward mail if the mail is not specifically addressed to a program participant.

Subp. 5. Short-term mail hold. The secretary of state may hold a participant's mail for up to three days upon request of the program participant. The secretary of state may hold a participant's mail for up to a total of three weeks if the participant has sent a signed, written mail hold request to the secretary of state that includes a telephone number at which the participant can be reached. Upon receipt of a written request, the secretary of state must compare the signature of the program participant or applicant on the request with the signature on the original application...

Minnesota Address Confidentiality Law

Minnesota Rule 8290.0400 - Designated Address

Subp. 6. Limited circumstances of use of actual address.

A. In cases in which a public or private person or entity must under federal law obtain a program participant's actual address, the program participant must provide the program participant's actual address, in addition to the designated address.

B. For those services delivered to an actual address or tied to residency in a particular jurisdiction, the public or private person must request only that portion of the actual address required in order to provide those services, in addition to the designated address.

C. A program participant who is subject to criminal justice system management must, upon request, supply the program participant's actual address to the participant's supervising person, in addition to the designated address, if there are specific court-ordered conditions related to the participant's actual address as part of the supervision.

Minnesota Address Confidentiality Law

Minnesota Rule 8290.0400 - Designated Address

Subp. 6. Limited circumstances of use of actual address.

D. In cases in which all or part of the actual address has been disclosed pursuant to item A, B, or C, the designated address must be used as the address of the program participant by the public or private person or entity for all purposes where the actual address is not specifically required.

E. The secretary of state, upon request of the public or private person, shall suggest measures that shall assist in protecting the actual address and the program participant's name against disclosure in any way. Measures may include, but are not limited to, assigning a pseudonym to the program participant; suppressing the program participant's name on records; keeping the actual address in the program participant's paper file, but not entering it into a database; and making the records password protected and limiting access to them to a small pool of staff.

Subp. 7. Availability to law enforcement. The secretary of state shall be available at ...

Maryland Address Confidentiality Law

Maryland Code, Fam. Law § 4-522 - Application form

(b) An application to participate in the Program shall be in the form required by the Secretary of State and shall contain:

.....

(10) a voluntary release and waiver of all future claims against the State for any claim that may arise from participation in the Program except for a claim based on gross negligence.

Maryland Address Confidentiality Law

Maryland Code, Fam. Law § 4-526 - State and local agencies; substitute address

(a)(1) A Program participant may make a request to any person or State or local agency to use the substitute address designated by the Secretary of State as the Program participant's address.

(2) Subject to subsections (b) and (d) of this section, when a Program participant has made a request to a person or State or local agency under this subsection, the person or agency shall use the substitute address designated by the Secretary of State as the Program participant's address.

Acceptance of designated address

(b)(1)(i) When a Program participant presents the address designated by the Secretary of State to any person, that address must be accepted as the address of the Program participant.

(ii) A person may not require a Program participant to submit any address that could be used to physically locate the Program participant either as a substitute or in addition to the designated address, or as a condition of receiving a service or benefit, unless the service or benefit would be impossible to provide without knowledge of the Program participant's physical location.

(2) A bank, a credit union, any other depository institution, or any other financial institution within the meaning of [§ 1-101 of the Financial Institutions Article](#) may require a request made under subsection (a) of this section to be in writing and on a form prescribed by the Secretary of State identifying an individual as a Program participant.

Maryland Address Confidentiality Law

Maryland Regulation, MD ADC 01.02.11.18 - Obligation on Receipt of Notice of Program Participation

A. An agency or person who receives notification of Program participation in accordance with Family Law Article, § 4-529(c)(1), or State Government Article, § 7-311(c)(1), Annotated Code of Maryland, shall adhere to the requirements under Regulation .07 of this chapter.

B. Written notification acceptable as a form to put an agency or a person on notice under Family Law Article, § 4-529(c)(1), or State Government Article, § 7-311(c)(1), Annotated Code of Maryland, includes any one of the following as long as they state the requirements of the Program and that the individual is a participant:

- (1) Notice of ACP Participation;
- (2) Current and valid authorization card;
- (3) A copy of the welcome letter issued to the participant on designation as a participant; or
- (4) Written communication from the Secretary identifying an individual as a participant.

Maryland Address Confidentiality Law

Maryland Code, Fam. Law § 4-526 - State and local agencies; substitute address

Shielding of real property records

(c) A Program participant who acquires an ownership interest in real property while participating in the Program may request the shielding of real property records concerning the property in accordance with Title 3, Subtitle 1, Part II of the Real Property Article.

Waiver

(d)(1) A State or local agency that has a bona fide statutory or administrative requirement for using a Program participant's actual address may apply to the Secretary of State for a waiver from the requirements of the Program.

(2) If the Secretary of State approves the waiver, the State or local agency shall use the Program participant's actual address only for the required statutory or administrative purposes.

Maryland Address Confidentiality Law

Maryland Code, Fam. Law § 4-528 - Disclosure of actual address and telephone number

Disclosure

(b) The Secretary of State may not disclose a Program participant's actual address or telephone number or substitute address, except as provided in subsection (c) of this section and:

(1)(i) on request by a law enforcement agency for law enforcement purposes; and

(ii) as directed by a court order; or

(2) on request by a State or local agency to verify a Program participant's participation in the Program or substitute address for use under § 4-526 of this part.

Notice to court

(c) The Secretary of State shall notify the appropriate court of a Program participant's participation in the Program and of the substitute address designated by the Secretary of State if the Program participant:

(1) is subject to a court order or administrative order;

(2) is involved in a court action or administrative action; or

(3) is a witness or a party in a civil or criminal proceeding.

Maryland Address Confidentiality Law

Maryland Code, Fam. Law § 4-528 - Disclosure of actual address and telephone number

Limited authorization of disclosure, consent to disclosure

(c)(1) If an individual who is a Program participant notifies a person in writing on a form prescribed by the Secretary of State that states the requirements of the Program and that the individual is a Program participant, the person may not knowingly disclose the Program participant's name, home address, work address, or school address unless:

(i) the person to whom the address is disclosed also lives, works, or goes to school at the disclosed address; or

(ii) the Program participant has provided written consent to the disclosure of the Program participant's name, home address, work address, or school address for the purpose for which the disclosure will be made.

(2) The person to whom written consent is provided under paragraph (1)(ii) of this subsection:

(i) may require the consent to be in a particular form acceptable to the person and the Program participant; and

(ii) shall limit any disclosure to only those disclosures that are necessary for the purpose for which the consent is provided.

(3) A person that receives notice as provided under paragraph (1) of this subsection is presumed to have specific knowledge that the disclosed home address, work address, or school address belongs to the Program participant.

Penalty

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$2,500.

Maryland Address Confidentiality Law

Maryland Regulation, Md. Code Regs. 01.02.11.18: Obligation on Receipt of Notice of Program Participation

G. On disclosure under Family Law Article, § 4-529(c), or State Government Article, § 7-311(c), Annotated Code of Maryland, an agency or person on notice shall forward the notification of Program participation to the agency or person to whom the disclosure is made in order to put that agency or person on notice.

H. An agency or person on notice is presumed to have specific knowledge that the address and other identity information belongs to a participant.

I. An agency or person on notice shall use the participant's substitute address for mailed correspondence.

J. Consent of the participant as set forth in Family Law Article, § 4-529(c), and State Government Article, § 7-311(c), Annotated Code of Maryland, is required before an agency or person on notice may use the participant's actual address on internal records or electronic databases that may be sold, transferred, or shared with third parties.

Maryland Address Confidentiality Law

Maryland Code, Fam. Law § 4-530. Service of Process

Service in person or by mail

(c) Service of process shall be made:

- (1) in person on the Program participant; or
- (2) by mail on the Secretary of State.

Service by publication

(d) If service by publication is required, service is valid if:

- (1) the publication omits the name of the Program participant; and
- (2) the Secretary of State has been served in accordance with subsection (c)(2) of this section.

High Stakes

Wells Fargo Case

- Plaintiffs enrolled in MN ACP
- Financed purchase of new home through Wells Fargo
- Alleged disclosure of address to affiliates and non-affiliates
- Lawsuit alleging breach of contract, unjust enrichment, invasion of privacy, negligence—sought a judgment in amount greater than \$50k

Operational & Compliance Challenges

What are Possible Complications?

- Origination Issues
 - Secured Credit Collateral Issues
 - Company's Policy on Requiring a Physical Address
 - ECOA and Disparate Impact Issues
 - Not Being Able to Satisfy Program Requirements which Require Getting Physical Address Information
 - Underwriting Issues
 - FCRA Address Discrepancy Requirements
 - USA Patriot Act Customer Identification Programs
 - Red Flags Rule and Identity Theft Prevention Programs

Operational & Compliance Challenges

What are Possible Complications?

- Servicing Issues
 - GLBA
 - GPS Devices
 - Delay in Consumer's Receipt of Correspondence
 - IT Fraud/Authentication Tools
 - Skip Tracing
 - Delivery of Mandatory State Notices
 - Handling of Address Changes

How Does a Company Respond?

Compliance To-Dos

- Update Policies & Procedures
- Training
- Service Provider Education and Oversight
- Monitor & Audit
- Continually Revisit and Review the Company's Program

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