

**CHAPTER 802. THE DOMESTIC AND SEXUAL VIOLENCE
ADDRESS CONFIDENTIALITY PROGRAM**

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Authority

The provisions of this Chapter 802 issued under 23 Pa.C.S. Chapter 67, unless otherwise noted.

Source

The provisions of this Chapter 802 adopted June 1, 2007, effective June 2, 2007, 37 Pa.B. 2511, unless otherwise noted.

Cross References

This section cited in 55 Pa. Code § 108.15 (relating to alternate address).

GENERAL PROVISIONS

§ 802.1. Scope.

This chapter sets forth standards and procedures relating to participation in the ACP on or after June 1, 2005, as well as waiver requests from entities that have an interest in obtaining an ACP participant's actual address.

§ 802.2. Definitions.

(a) The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

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ACP—The Domestic and Sexual Violence Victim Address Confidentiality Program (see 23 Pa.C.S. § 6703 (relating to Address Confidentiality Program)).

ACP authorization card—A card issued by the OVA under § 802.12 (relating to certification).

ACP code—An identifying number unique to each ACP participant.

Act—The Domestic and Sexual Violence Victim Address Confidentiality Act (23 Pa.C.S. §§ 6701—6713).

Agent for service of process—Third party agent for the formal delivery of a writ, summons or other legal process.

Cohabitant—A person who is a member of the same household as an ACP participant who is certified by the OVA to participate in ACP.

OVA—The Office of the Victim Advocate.

Victim service provider—A State or local agency that provides services to victims of domestic violence, sexual assault or other crimes.

(b) The definitions in section 6702 of the act (23 Pa.C.S. § 6702) (relating to definitions) are incorporated by reference.

§ 802.3. Persons eligible for participation.

(a) Except as otherwise provided in the act, the following persons are eligible for participation:

(1) Victims of domestic violence.

(2) Victims of sexual assault.

(3) Victims of stalking.

(4) A minor child who is a member of the same household as an ACP participant.

(5) An adult who is a cohabitant of an ACP participant.

(6) An ACP participant who notifies OVA of the ACP participant's intent to continue participation prior to expiration of the 3-year ACP certification period.

(b) An adult who is a cohabitant of an ACP participant shall apply separately for participation.

(c) Minor children who are enrolled with an adult ACP participant are required to apply separately upon reaching 18 years of age.

(d) Commonwealth residency is not a requirement for ACP participation. ACP applicants who do not provide a Commonwealth residential address will be enrolled as a "Non-PA Resident." This designation will appear on the ACP participant's ACP authorization card.

PROGRAM

§ 802.11. Application.

(a) An application may be filed by any eligible person on the form provided by OVA.

(1) An eligible ACP participant may apply, in person, at a victim service provider.

(2) The role of the victim service provider is to:

(i) Assist the eligible person in determining whether ACP should be part of the person's overall safety plan.

(ii) Explain ACP services and limitations.

(iii) Explain ACP participants' responsibilities.

(iv) Assist the person eligible for participation with the completion of application materials.

(b) The completed application must include the following:

(1) An affidavit from the applicant describing, in detail, a perpetrator's violent actions or threatened violent actions, or course of stalking conduct and describing, in detail, the applicant's fear of future violent acts of abuse, sexual assault or stalking, or all, by the perpetrator.

(2) Designation of the OVA as the applicant's agent for service of process.

(3) An applicant's mailing address to which mail can be forwarded by the OVA.

(4) An applicant's actual address and telephone number, if different from the applicant's mailing address.

(5) A listing of minor children residing at the actual address, each minor child's date of birth and each minor child's relationship to the applicant.

(6) When applicable, a listing of all pending civil and criminal proceedings, including, but not limited to, domestic relations, family court, child custody or Protection From Abuse proceedings, in which the applicant or minor child is a victim, witness, plaintiff or defendant.

(7) When applicable, an explanation of the applicant's probation or parole supervision requirements (Federal, State or county) as well as the name and phone number of the applicant's probation or parole officer.

(8) A signed statement affirming that information provided on the ACP application is true and acknowledging the applicant's duty to notify OVA of any change in information provided on the application.

(9) The date and signature of the applicant and the signature of any person who assisted in the preparation of the application.

(c) Completed applications shall be submitted to the ACP substitute address by mail. Applications submitted by means of facsimile or electronic mail will not be accepted.

(d) Application packets must contain the following completed materials:

(1) Completed and signed ACP application form.

- (2) Criminal/civil case information.
- (3) Affidavit.
- (4) Signed ACP authorization card.
- (e) Upon receipt, OVA will determine if the applicant meets the prescribed criteria for eligibility for enrollment in ACP in accordance with 23 Pa.C.S. § 6704 (relating to persons eligible to apply), which is incorporated by reference.
- (f) For purposes of ACP, residents of temporary housing (30 days or less), such as emergency domestic violence shelter, are not eligible to enroll in ACP until a permanent, residential address is obtained, unless otherwise determined by the OVA, at the sole discretion of the OVA.
- (g) OVA will contact the applicant if additional information is necessary for OVA to determine the eligibility of the applicant or minor child for participation in ACP.

§ 802.12. Certification.

- (a) If OVA determines that an applicant is eligible for participation in ACP, the ACP participant is assigned a unique ACP number, known as an ACP code.
- (b) ACP participant data will be entered into OVA's confidential records.
- (c) An ACP authorization card is created and certified by OVA. The ACP authorization card contains the ACP participant's substitute address.
- (d) Certification is valid for 3 years unless the certification is withdrawn by OVA, at the sole discretion of OVA, or canceled by the ACP participant prior to the expiration of the 3-year period.
- (e) If the ACP participant is a victim, witness, plaintiff or defendant involved in an ongoing civil or criminal case, OVA will provide, upon certification, notice of the ACP participant's substitute address to appropriate court officials in which an ACP participant is a victim, witness, plaintiff or defendant. Appropriate officials may include, but not be limited to, the county district attorney, clerks of court or other agencies with prosecutorial authority.
- (f) If an ACP participant who is a victim, witness, plaintiff or defendant involved in an ongoing civil or criminal case cancels, withdraws or expires from ACP participation, OVA will provide notice to any appropriate court officials previously notified.
- (g) Upon certification by OVA, the ACP participant will receive the following:
 - (1) Notification of the ACP participant's enrollment in ACP.
 - (2) A completed and laminated ACP authorization card with the ACP participant's ACP code on the ACP authorization card.
 - (3) ACP materials advising the ACP participant how to use ACP when the ACP participant is dealing with Commonwealth and local agencies.
- (h) If OVA determines, in the sole discretion of OVA, that an applicant or minor child does not meet the criteria for ACP certification, the applicant will receive notice of this decision from OVA.

Cross References

This section cited in 37 Pa. Code § 802.2 (relating to definitions).

§ 802.13. Use of substitute address.

(a) The substitute address shall be used in the following format on all mail sent to an ACP participant:

Participant Name, (ACP # _____)
PO Box _____
Harrisburg, PA 17105

(b) The OVA will accept only first class, registered and certified mail on behalf of an ACP participant at the substitute address.

(c) The OVA will not forward magazines, packages, articles of bulk mailing or other items of mail.

(d) The OVA may arrange, at the discretion of the OVA, to receive and forward other classes or kinds of mail at the ACP participant's expense.

(e) ACP participant mail received at OVA will be repackaged and forwarded, by means of first class mail, to the ACP participant's actual address within 3 business days of receipt at the OVA. Mail that is forwarded by OVA will use the ACP PO Box as a return address.

§ 802.14. Marriage licenses.

(a) ACP participants may use the substitute address as the ACP participant's residential address when applying for a marriage license.

(b) ACP participants residing with the ACP participant's parents may use the substitute address as the ACP participant's residential address when applying for a marriage license.

(c) Adult children of an ACP participant may use the substitute address as the ACP participant's residential address when applying for a marriage license.

§ 802.15. Certificate of vehicle title, security interest in vehicle, vehicle registration and driver's license.

(a) ACP participants may use the substitute address as the ACP participant's actual address when applying to the Department of Transportation (PennDOT) for the following:

- (1) A vehicle certificate of title.
- (2) A perfection of a security interest in a vehicle.
- (3) Vehicle registration, including the process of self-certification of financial responsibility.
- (4) Applying for or renewing a Commonwealth driver's license or a PennDOT identification card.

(b) ACP participants are responsible for any fee associated with the issuance of an updated Commonwealth driver's license or identification card.

(c) ACP participants shall utilize a centralized address provided by PennDOT when applying for or renewing a Commonwealth driver's license or a PennDOT identification card.

§ 802.16. ACP participant responsibility.

ACP participants shall:

- (1) Notify OVA of any change in the information provided to OVA during the ACP certification procedure.
- (2) Provide the ACP participant's actual address to OVA but can opt to receive mail forwarded by OVA at an alternative address.
- (3) Accept all mail forwarded to them by OVA.
- (4) Designate OVA as the ACP participant's legal agent for service of process and maintain responsibility for all legal documents received by OVA on behalf of the ACP participant.
- (5) Present the ACP participant's ACP authorization card to Commonwealth and local government agencies to receive ACP privileges.
- (6) Notify OVA of any name change or change of actual address within 5 calendar days of the date that the change occurs.

§ 802.17. Cancellation, expiration and voluntary withdrawal.

(a) ACP participation will expire 3 years after the date of ACP certification. The date of expiration will be indicated on the ACP authorization card.

(b) At least 60 days prior to the expiration of certification, OVA will send written notification to the ACP participant's actual address to afford the ACP participant the option of continuing the ACP participant's ACP certification.

(c) ACP participants may voluntarily withdraw from ACP at any time by advising OVA in writing of the ACP participant's intent to withdraw. OVA will verify, to the extent possible, the accuracy of the request to ensure that the ACP participant is making the request knowingly and voluntarily.

(d) The OVA may, in its sole discretion, cancel an ACP participant's certification if the following occurs:

- (1) The ACP participant provides false information on any part of the ACP application.
 - (2) The ACP participant fails to notify OVA of a change of name or change of address within 5 calendar days of the date that the change occurred.
 - (3) The ACP participant's mail is returned to OVA as nondeliverable.
- (e) Mail that is returned to OVA as nondeliverable will be retained for 5 business days before being returned to the sender as nondeliverable.
- (f) ACP participants whose participation is canceled, withdrawn or expires may reapply for participation in ACP.

ADDRESS

§ 802.21. Agency of use of substitute address.

(a) Commonwealth and local government agencies will accept the substitute address indicated on an ACP participant's ACP authorization card whenever the ACP participant's actual address is required except as set forth in 23 Pa.C.S. § 6707(2) (relating to agency use of designated address), which is incorporated by reference.

(b) The substitute address shall be in the following format on all mail sent to the ACP participant by a Commonwealth or local government agency:

Jane Doe, (ACP # _____)
PO Box _____
Harrisburg, PA 17105

(c) Commonwealth and local government agencies are forbidden from requiring an ACP participant to disclose the ACP participant's actual address.

(d) Commonwealth and local government agencies may contact OVA during regular business hours to verify a person's participation in ACP and the substitute address.

§ 802.22. ACP records and release of information.

(a) Records regarding ACP applicants and participants are the property of OVA. This includes, but is not limited to, the following records:

- (1) ACP applications.
- (2) Actual residential, work or school, or both, addresses of ACP participant.
- (3) Records related to Commonwealth or local government agencies' requests for waiver.

(b) OVA will verify the enrollment status of an ACP participant to Commonwealth and local government agencies. No other information regarding ACP participants will be released to any entities or persons except as provided in this section and § 802.23 (relating to disclosure of actual address) or as permitted and agreed to by the ACP participant in writing.

§ 802.23. Disclosure of actual address.

(a) OVA will disclose the actual address of an ACP participant in accordance with 23 Pa.C.S. § 6708 (relating to disclosure of actual address), which is incorporated by reference.

(b) Government agencies may request emergency disclosure of an ACP participant's actual address by contacting the phone number established by the OVA.

(c) For government agencies making requests for emergency disclosure, the requirements are contained in 23 Pa.C.S. § 6710(c) (relating to emergency disclosure), which are incorporated by reference.

(d) The OVA will disclose an ACP participant's actual address in accordance with 23 Pa.C.S. § 6710(b), which is incorporated by reference.

(e) Determinations regarding the emergency disclosure of an ACP participant's actual address will be made solely at the discretion of the Victim Advocate or the designee of the Victim Advocate.

Cross References

This section cited in 37 Pa. Code § 802.22 (relating to ACP records and release of information).

WAIVER

§ 802.31. Agency request for waiver.

(a) A Commonwealth or local government agency requesting disclosure of an ACP participant's actual address will provide OVA with the information set forth in 23 Pa.C.S. § 6709(a) (relating to waiver process), which is incorporated by reference, and specify in the written statement what persons shall have access to the actual address information, where the actual address information shall be maintained and how the actual address information shall be maintained.

(b) The completed request for a waiver shall be sent to OVA by means of certified mail.

(c) Upon receipt of an agency waiver request, OVA will contact the ACP participant in accordance with 23 Pa.C.S. § 6709(b), which is incorporated by reference.

(d) Whenever possible, the ACP participant may be given the opportunity to be heard by the Victim Advocate or Victim Advocate's designee regarding the waiver request. Notice and the opportunity to be heard regarding disclosure of an ACP participant's actual address may not be provided to an ACP participant if the requirements of 23 Pa.C.S. § 6709(b)(3) are met, which are incorporated by reference.

(e) The OVA may grant the waiver request of Commonwealth and local government agencies if the ACP participant provides written consent to OVA to disclose the ACP participant's actual address.

Cross References

This section cited in 37 Pa. Code § 802.32 (relating to waiver review).

§ 802.32. Waiver review.

(a) Promptly after receiving a complete waiver request as set forth in § 802.31 (relating to agency request for waiver) from a Commonwealth or local government agency, the OVA will review the request and determine whether to grant or deny the waiver request.

(b) The OVA may require additional information during the review of the waiver request, and the request for information will toll the waiver review pro-

cess until the Commonwealth or local government agency complies with OVA's request for additional information.

(c) The OVA will grant a request for waiver from a Commonwealth or local government agency in accordance with 23 Pa.C.S. § 6709(d) (relating to waiver process), which is incorporated by reference.

(d) When the OVA grants a waiver to a Commonwealth or local government agency, OVA will provide, in writing, to the requesting agency the following:

(1) The ACP participant's actual address.

(2) A description of the scope of permitted use of the ACP participant's actual address.

(3) A listing of the names or classes of persons permitted to have access to and use of the actual address.

(4) An explanation that the agency receiving the actual address is required to limit access to and use of the actual address.

(5) When the permitted use of the actual address is only for a set period of time, OVA will provide a date that the granted waiver expires. Upon reaching the expiration date, the agency which obtained a waiver will be required to no longer maintain, use or have access to the ACP participant's actual address and shall delete all references to the ACP participant's actual address from all of its files.

(e) A Commonwealth or local government agency receiving a waiver by the OVA shall comply with 23 Pa.C.S. § 6709(f), which is incorporated by reference.

§ 802.33. Waiver appeal process.

(a) When the OVA denies a request for a waiver, the Commonwealth or local government agency requesting the waiver will be notified of the refusal, in writing, by the OVA and provided the reasons for denial of the waiver.

(b) Within 15 calendar days of receiving written notice of the waiver denial, the Commonwealth or local government agency may file a written exception with the OVA. The exception must:

(1) Attach a copy of the letter from OVA denying the original waiver request.

(2) State the reason that and the grounds upon which the original waiver request should be granted.

(3) Specifically respond to the reasons stated by the OVA for denying the original waiver request.

(c) The filing of an exception to the OVA shall be submitted by means of certified mail and the date of actual delivery to the OVA controls for purposes of time calculations.

(d) If a Commonwealth or local government agency timely files exceptions, the OVA will review the exception request in accordance with 23 Pa.C.S. § 6709(i) (relating to waiver process), which is incorporated by reference.

(e) A Commonwealth or local government agency may appeal the final determination of the OVA in accordance with 23 Pa.C.S. § 6709(j), which is incorporated by reference.