

# Regulatory Analysis Form

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(1) Agency

OFFICE OF THE VICTIM ADVOCATE

(2) I.D. Number (Governor's Office Use)

41-020

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

IRRC Number: 2603

(3) Short Title

Pennsylvania Address Confidentiality Program Regulations

(4) PA Code Cite

37 Pa. Code Chapter 802

(5) Agency Contacts & Telephone Numbers

Primary Contact: Victoria Sostack  
717-783-5157

Secondary Contact: Linda Laub  
717-787-8126

(6) Type of Rulemaking (check one)

Final-omitted Regulations

(7) Is a 120-Day Emergency Certification Attached?

No

(8) Briefly explain the regulation in clear and nontechnical language.

These regulations establish general provisions and program rules for the Domestic and Sexual Violence Address Confidentiality Program (ACP) and the duties of the Office of the Victim Advocate (OVA) in implementing and maintaining the program. The regulations establish participant eligibility criteria, application process, participant responsibilities, use of the ACP legal substitute address, confidentiality of ACP records and the application process for agency waiver requests. In addition, the regulations incorporate amendments to Title 23 (Domestic Relations) and 75 (Vehicles) to allow for the use of the ACP substitute address.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The regulations are proposed under the authority of 23 Pa.C.S.A. Chapter 67, known as Domestic Violence and Sexual Violence Victim Address Confidentiality Act. This statute empowers the Office of the Victim Advocate to "promulgate regulations to replace the guidelines". The ACP guidelines were published in the *Pennsylvania Bulletin* on September 30, 2006.

## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Yes. Please see response to Question (9) above.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

ACP was implemented in June 2005 and is a new program in Pennsylvania. Regulations are needed to establish program parameters and to provide direction to state and local government agencies required to accept the ACP legal substitute address. Regulations will be helpful for victim service providers in community and systems based agencies when advising victims at risk of the availability of the program. Additionally, the Domestic and Sexual Violence Victim Address Confidentiality Act (23 Pa.C.S.A. §§ 6701 *et seq*) directs the OVA to promulgate regulations to replace the previously adopted guidelines.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

None

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The anticipated 100 annual applicants will benefit from the regulations. During the first year of the program, 56 individuals (25 adults and 30 children) were enrolled into the program. Victim service agencies, which assist victims in applying to ACP, including 25 sexual assault programs, 100 domestic violence programs and 20 other crime victim programs, will also benefit from the availability of directions on properly enrolling the applicants in ACP. In accepting the ACP legal substitute address, state and local government agencies will be contributing to the safety of this constituency.

## Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

Not applicable.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

State, county and municipal governments are required to comply with the regulations. Entities requesting waivers are also required to comply with the regulations.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

ACP Guidelines have also been distributed to members of the ACP Advisory Committee (ACPAC) which includes representations from the PA Coalition Against Domestic Violence and the PA Coalition Against Rape. The ACPAC provides a broad-based representation of victim service professionals, non-profit agencies and state government. Review by the ACPAC is designed to provide an opportunity for feedback to improve and strengthen the procedures outlined in the regulations. Publication of the ACP guidelines via the PA Bulletin provided an opportunity for public input.

Since May 2005, 30 trainings have been provided to 506 individuals from victim service agencies and other allied professionals. These trainings are also used as an opportunity to solicit concerns, recommendations and identify possible barriers regarding the accessibility, structure and operation of the Address Confidentiality Program by individuals who assist victims of domestic violence, sexual assault and/or stalking. This input has been incorporated into the regulations as presented.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures, which may be required.

None

## Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures that may be required.

No appreciable fiscal impact anticipated as modification to existing processes is minimal.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures that may be required.

Over a six-year period of this program's operation, the cost to State Government for the current Fiscal Year is expected to be \$52,009, which is then projected to rise to \$61,046 by the end of the sixth year. These costs are divided approximately 60% to 40% between salary with benefits, and operational expenses such as program dissemination, travel, office supplies etc.

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
<b>COSTS:</b>						
<b>Regulated</b>						
<b>Local Government</b>						
<b>State Government</b>	\$ 52,009	\$ 54,239	\$ 55,866	\$ 57,542	\$ 59,268	\$ 61,046
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>						
<b>Regulated</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0

(20a) Explain how the cost estimates listed above were derived.

These costs were derived based on current year to date actual costs, extrapolated to a full year projection. The outyear portions of the projections include the assumption that the Consumer Price Index will be 3%, which will be reflected in cost increases for both Personnel and Operation expenses.

The costs of this program are currently funded through a PCCD Grant. If Grant funding were to end, State funds are expected to be appropriated to replace any lost Grant monies, since current activities are coordinated through the Pennsylvania State Board of Probation and Parole.

## Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
N/A	\$ 0	\$ 0	\$ 0	\$ 0

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

It is not possible to accurately quantify the benefits of this program. The benefits will consist of avoided Social Services/Medical/Legal System costs to the taxpayer, since the registrants of this program will be able to maintain a level of personal security that would not be possible without the barriers provided by this program.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Regulations are required by 23 Pa.C.S.A. Chapter 67 Nonregulatory alternatives were not considered.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

The guidelines published in the *Pennsylvania Bulletin* and codified in the *Pennsylvania Code*, as required by 23 Pa.C.S.A. Chapter 67, are an alternative regulatory scheme.

## Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There is no federal standard for guidelines related to Address Confidentiality Programs.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The regulations are comparable with the regulatory and statutory standards of other states that have Address Confidentiality Programs. Pennsylvania will not be at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

Title 23 Pa.C.S.A. Chapter 67 requires that all state and local government agencies accept the ACP substitute address which will affect existing regulations of other state agencies. The enabling legislation specifically incorporate amendments to Title 23 (Domestic Relations) and 75 (Vehicles) to allow for the use of the ACP substitute address.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings or informational meetings are scheduled.

## Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The availability of the AT&T Language Line will assist in providing services to ACP participants whose primary language is not English. The program is also able to access translation services for any non-English correspondence that is needed. In addition, there is a separate toll-free number for deaf and hard-of-hearing individuals to use if they utilize a TTD machine for communication.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulations will be effective after completion of the approval process, hopefully by July 2007. Compliance with the regulations will be immediate as the entities affected by the regulations are already complying with the guidelines and these regulations mirror the guidelines.

(31) Provide the schedule for continual review of the regulation.

Once the regulations are promulgated, they will be reviewed as necessary.



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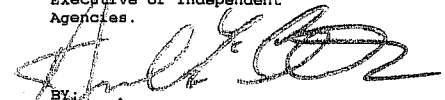
Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agencies.

BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

Office of the Victim Advocate  
\_\_\_\_\_  
(AGENCY)

BY:   
Andrew C. Clark

DOCUMENT/FISCAL NOTE NO. 41-20

DATE OF APPROVAL \_\_\_\_\_

DATE OF ADOPTION: February 1, 2007

MAR 29 2007  
DATE OF APPROVAL \_\_\_\_\_

BY:   
Carol Lavery

Deputy General Counsel  
~~Chief Counsel,~~  
~~Independent Agency)~~  
(Strike inapplicable title)

**Victim Advocate**  
TITLE: \_\_\_\_\_  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Check if applicable  
Copy not approved.  
Objections attached.

Check if applicable.  
No Attorney General approval  
or objection within 30 days  
after submission.

COMMONWEALTH OF PENNSYLVANIA

37 PA. CODE, CH. 802

Final-omitted regulations for the implementation of 23 Pa.C.S.A.  
Chapter 67 (relating to the Domestic and Sexual Violence Victim  
Address Confidentiality Program)

## PREAMBLE

### *Authority*

The Office of Victim Advocate (“OVA”), by this order, adopts the regulation set forth in Annex A pursuant to the authority of The Domestic and Sexual Violence Victim Address Confidentiality Act (23 Pa.C.S.A. §§ 6701 *et seq*), which directs the OVA to promulgate regulations to replace the previously adopted guidelines which were published in the Pennsylvania Bulletin on September 30, 2006 and can be found in the Pennsylvania Code at 37 Pa.Code § 801.1 *et seq*.

### *Omission of Proposed Rulemaking*

Notice of proposed rulemaking is omitted in accordance with §§ 204(1)(iii) & (3) of the Commonwealth Documents Law (45 P.S. § 1204(1)(iii) & (3)) and 1 Pa. Code §§ 7.4(1)(iii) & (3) because the OVA, for good cause, finds and incorporates the finding and the brief statement of the reasons therefore in the order adopting the administrative regulation, that the proposed rulemaking procedure is unnecessary. The regulations are identical to the previously published guidelines. See, 37 Pa. Code § 801.1 *et seq*. After publication of the guidelines, the OVA circulated the guidelines to all interested entities including county and state agencies as well as various members of the public. To date, the OVA has received no negative feedback regarding the guidelines. In fact, the OVA has received requests from other states who wish to use the guidelines as a template for the development of their own procedures and processes related to address confidentiality programs. Accordingly, the OVA finds good cause for omitting the proposed rulemaking.

### *Purpose*

The purpose of these regulations is to implement the Domestic and Sexual Violence Victim Address Confidentiality Program (“ACP”). The regulations implement 23 Pa.C.S.A. Chapter 67 (relating to the Domestic and Sexual Violence Victim Address Confidentiality Program), which permits eligible persons to receive a confidential substitute address provided by OVA. The regulations reflect the statutory changes affecting Title 23 (Domestic Relations) and Title 75 (Vehicles) and procedures affecting State and local government agencies impacted by ACP.

### *Requirement of the Regulations*

The regulations enumerate and detail the requirements of the act in the following structure:

#### *§§ 802.1-802.2 (relating to general provisions)*

These sections provide the scope of the guidelines and the definitions of words and terms used in Act 188 of 2004 (23 Pa.C.S.A. §§ 6701 *et seq*).

#### *§ 802.3 (relating to eligibility)*

This section provides the scope of eligibility for participation.

*§§ 802.10-802.11 (relating to application and certification)*

These sections provide procedures for application to ACP and the certification process.

*§ 802.12 (relating to use of substitute address)*

This section provides for the proper use of the ACP substitute address by state and local government agencies.

*§§ 802.13-802.14 (relating to use of substitute address on marriage license, on certificate of vehicle title, vehicle lien, vehicle registration and driver's license)*

These sections explain specific situations whereby the ACP participant can utilize the substitute address rather than the actual address.

*§§ 802.15 (relating to participant responsibility)*

This section provides procedures for ACP participants to notify OVA of a change of address or name.

*§ 802.16 (relating to cancellation, expiration and voluntary withdrawal)*

This section provides procedures for cancellation and expiration from ACP and also voluntary withdrawal.

*§§ 802.20 (relating to agency of use of designated address)*

This section provides procedures for the use of the substitute legal address.

*§ 802.21 (relating to ACP records)*

This section explains the status of ACP records in the hands of the OVA as well as what information will be released by OVA pertaining to requests for information in these records.

*§§ 802.22 (disclosure of actual address)*

This section provides procedures pertaining to the disclosure of the actual address by OVA if certain requirements are satisfied by the person or entity that is requesting disclosure.

*§ 802.23 (relating to emergency disclosure)*

This section provide for disclosure of a participant's actual address in specific emergency situations

*§§ 802.30-802.31 (relating to agency waiver process and waiver appeal)*

These sections provide procedures for those government agencies that are requesting disclosure of the actual address by OVA. These sections also set forth the process that the government agencies should follow should they wish to appeal a decision of OVA pertaining to the waiver process.

***Affected Parties***

Victims of domestic violence, sexual assault or stalking, as defined in the act, benefit by having clear regulations regarding eligibility, application and waiver procedures.

Additionally, the regulations provide guidance and direction to state and local government agencies and victim service agencies, including domestic violence programs and sexual assault programs.

### *Accomplishments and Benefits*

Victims of domestic violence, sexual assault or stalking, as defined in the act, benefit by having clear and up-to-date regulations regarding eligibility, enrollment, participant responsibilities, and address disclosure procedures. The rulemaking is intended to provide further guidance and direction to victim service providers in advising victims of crime of eligibility criteria, enrollment procedures and services available under the act. Additionally, these regulations will provide direction to local, county and state agencies required to accept the substitute address. Finally, the Domestic and Sexual Violence Victim Address Confidentiality Act (23 Pa.C.S.A. §§ 6701 *et seq*) directs the OVA to promulgate regulations to replace the previously adopted guidelines.

### *Fiscal Impact*

The regulations provide direction in implementing a program that is already in effect and for which funding has been appropriated. Therefore, there is no new significant fiscal impact to the OVA, other state agencies, county governments, the regulated community, consumers, clients, recipients, families and the general public as modification to existing processes is minimal.

### *Public Comment*

Although this regulations is being adopted without publication as proposed rulemaking, interested persons are invited to submit written comments, suggestions or objections regarding the regulation to the OVA at the following address:

*Office of the Victim Advocate  
1101 S Front St, Suite 5200  
Harrisburg, PA 17104*

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service at 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users).

### *Regulatory Review Act*

Under § 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on \_\_\_\_\_, 2007, the OVA submitted a copy of this regulation, with proposed rulemaking omitted, to the Independent Regulatory Review Commission ("IRRC") and the Chairpersons of the House Judiciary Committee and the Senate Judiciary Committee.

On the same date, the regulation was submitted to the Office of Attorney General for review and approval pursuant to the Commonwealth Attorneys Act.

In accordance with § 5.1(j.1) and (j.2) of the Regulatory Review Act, this regulation was [deemed] approved by the Committees on \_\_\_\_\_, 2007. The IRRC met on \_\_\_\_\_, 2007 and approved the regulation.

In addition to submitting the final-omit rulemaking, the OVA has provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the OVA. A copy of this form is available to the public upon request.

### Order

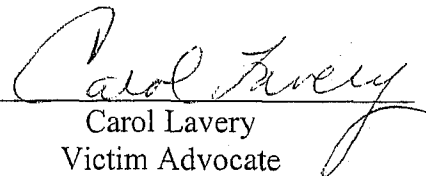
The OVA finds:

- (a) Notice of proposed rulemaking is omitted in accordance with § 204(1)(iii) & (3) of the Commonwealth Documents Law (45 P.S. § 1204(1)(iii) & (3)) and 1 Pa. Code §§ 7.4(1)(iii) & (3) because the OVA, for good cause, finds and incorporates the finding and the brief statement of the reasons therefore in the order adopting the administrative regulation, that the proposed rulemaking procedure is unnecessary. The regulations are identical to the previously published guidelines. See, 37 Pa. Code § 801.1 *et seq.* After publication of the guidelines, the OVA circulated the guidelines to all interested entities including county and state agencies as well as various members of the public. To date, the OVA has received no negative feedback regarding the guidelines. In fact, the OVA has received requests from other states who wish to use the guidelines as a template for the development of their own procedures and processes related to address confidentiality programs. Accordingly, the OVA finds good cause for omitting the proposed rulemaking.
- (b) That the adoption of this regulation in the manner provided by this Order is necessary and appropriate for the administration and enforcement of The Domestic and Sexual Violence Victim Address Confidentiality Act (23 Pa.C.S.A. §§ 6701 *et seq.*).

The OVA, acting pursuant to The Domestic and Sexual Violence Victim Address Confidentiality Act (23 Pa.C.S.A. §§ 6701 *et seq.*) orders:

- (a) The regulation of the OVA is adopted to read as set forth in Annex A of this Order.
- (b) The Victim Advocate shall submit this Order and Annex A to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.

- (c) The Victim Advocate shall certify and deposit this Order and Annex A with the Legislative Reference Bureau as required by law.
- (d) This Order shall take effect upon final publication in the *Pennsylvania Bulletin*.

  
\_\_\_\_\_  
Carol Lavery  
Victim Advocate

**Annex A**

**TITLE 37 LAW**

**PART XI - OFFICE OF VICTIM ADVOCATE**

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

**GENERAL PROVISIONS**

- 802.1 Scope.
- 802.2 Definitions.
- 802.3 Eligibility.

**PROGRAM**

- 802.10 Application.
- 802.11 Certification.
- 802.12 Use of Address Confidentiality Program Substitute Address.
- 802.13 Marriage License.
- 802.14 Certificate of Vehicle Title, Security Interest in Vehicle, Vehicle Registration and Driver's License.
- 802.15 Participant Responsibility.
- 802.16 Program Cancellation, Expiration and Voluntary Withdrawal.

**ADDRESS**

- 802.20 Agency Use of Substitute Address.
- 802.21 ACP Records and Release of Information.
- 802.22 Disclosure of Actual Address.

**WAIVER**

- 802.30 Agency Request for Waiver.
- 802.31 Waiver Review.
- 802.32 Waiver Appeal Process.

**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 a Program 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:

*ACP* – The Domestic and Sexual Violence Victim Address Confidentiality Program (23 Pa.C.S.A. § 6703)

*ACP Authorization Card* - Card issued by the Office of the Victim Advocate pursuant to section 802.7 (relating to Certification process)

*ACP Code* - An identifying number unique to each Program Participant.

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

*Agent for Service of Process* - Third party agent for the formal delivery of a writ, summons, or other legal process

*Cohabitant* - Any person who is a member of the same household as a Program Participant who is certified by the Office of the Victim Advocate to participate in ACP.

*OVA* – The Office of Victim Advocate.

*Victim Service Provider* - 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.A. § 6702) 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 a Program participant.
- (5) An adult who is a Cohabitant of a Program participant.



- (6) A Program participant who notifies OVA of the Program participant's intent to continue participation prior to expiration of the three year ACP certification period.
- (b.) An adult who is a Cohabitant of a Program participant must apply separately for participation.
- (c.) Minor children who are enrolled with an adult Program 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 Program participant's ACP Authorization Card.

## **PROGRAM**

### **§ 802.10 Application.**

- (a.) An application may be filed by any eligible person on the form provided by OVA.
  - (1) Any eligible Program participant may apply, in person, at a Victim Service Provider.
  - (2) The role of the Victim Service Provider is:
    - (i). To assist the eligible person in determining whether ACP should be part of such person's overall safety plan;
    - (ii). To explain ACP services and limitations;
    - (iii). To explain Program participants' responsibilities; and
    - (iv). To assist the person eligible for participation with the completion of application materials.
- (b.) The completed application must include:
  - (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 OVA;
  - (4) An applicant's Actual Address and telephone number, if different from the applicant's mailing address;
  - (5) A listing of any minor children residing at the Actual Address, each minor child's date of birth and each minor child's relationship to the applicant;
  - (6) Where 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) Where 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; and
  - (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 must be submitted to the ACP Substitute address by mail. Applications submitted via facsimile or electronic mail will not be accepted.
- (d) Application packets shall contain the following completed materials:
- (1) Completed and signed ACP Application form;
  - (2) Criminal/civil case information;
  - (3) Affidavit; and
  - (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.A. § 6704, which are 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 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.

**§ 802.11 Certification.**

(a.) If OVA determines that an applicant is eligible for participation in ACP, the Program participant is assigned a unique ACP number, known as an ACP Code.

(b.) Program participant data is entered into OVA's confidential records.

(c.) An ACP Authorization Card is created and certified by OVA. The ACP Authorization Card contains the Program participant's Substitute address.

(d.) Certification is valid for a period of three years unless the certification is withdrawn by OVA, at the sole discretion of OVA, or canceled by the Program participant prior to the expiration of the three-year period.

(e.) If the Program participant is a victim, witness, plaintiff or defendant involved in an ongoing civil or criminal case, OVA will provide, upon certification, notice of the Program participant's Substitute address to appropriate court officials in which a Program 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 a Program 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 of such to any appropriate court officials previously notified.

(g.) Upon certification by OVA, the Program participant receives the following:

- (1) Notification of the Program participant's enrollment in ACP.
- (2) A completed and laminated ACP Authorization Card with the Program participant's ACP code on the ACP Authorization Card.
- (3) Program materials advising the Program participant how to use ACP when the Program 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.

**§ 802.12 Use of Substitute Address.**

(a.) The Substitute address shall be used in the following format on all mail sent to a Program participant:

**Participant Name, (ACP # \_\_\_\_\_)  
PO Box \_\_\_\_\_  
Harrisburg, PA 17105**

(b) The OVA will accept only first class, registered and certified mail on behalf of a Program participant at the Substitute address.

(c) The OVA will not forward magazines, packages, articles of bulk mailing or any 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 Program participant's expense.

(e) Program participant mail received at OVA will be re-packaged and forwarded, via first class mail, to the Program participant's Actual address within three business days of receipt at the OVA. Mail that is forwarded by OVA will use the ACP PO Box as a return address.

**§ 802.13 Marriage Licenses.**

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

(b.) Program participants residing with the Program participant's parent/s may use the Substitute address as the Program participant's residential address when applying for a marriage license.

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

**§ 802.14 Certificate of Vehicle Title, Security Interest in Vehicle, Vehicle Registration and Driver's License.**

(a) Program participants may use the Substitute address as the Program participant's Actual address when applying to the Commonwealth's Department of Transportation (PennDOT) for:

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

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

### **§ 802.15 Program Participant Responsibility.**

Program participants shall:

- (1) Notify OVA of any change in the information provided to OVA during the ACP certification procedure.
- (2) Provide the Program 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 Program participant's legal Agent for Service of Process and maintain responsibility for all legal documents received by OVA on behalf of the Program participant.
- (5) Present the Program 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 five calendar days of the date that the change occurs.

### **§ 802.16 Cancellation, expiration and voluntary withdrawal.**

(a.) ACP participation will expire three years after the date of ACP certification. The date of expiration shall be indicated on the ACP Authorization Card.

(b.) No less than sixty days prior to the expiration of certification, OVA will send written notification to the Program participant's Actual address to afford the Program participant the option of continuing the Program participant's ACP certification.

(c.) Program participants may voluntarily withdraw from ACP at any time by advising OVA in writing of the Program participant's intent to withdraw. OVA will

verify, to the extent possible, the accuracy of the request to ensure that the Program participant is making the request knowingly and voluntarily.

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

- (1) The Program participant provides false information on any part of the ACP application.
- (2) The Program participant fails to notify OVA of a change of name or change of address within five calendar days of the date that the change occurred.
- (3) The Program participant's mail is returned to OVA as nondeliverable.

(e) Mail that is returned to OVA as non-deliverable will be retained for five business days before being returned to the sender as non-deliverable.

(f.) Program participants whose participation is canceled, withdrawn or expires may reapply for participation in ACP.

### ADDRESS

#### **§ 802.20 Agency of use of substitute address.**

(a.) Commonwealth and local government agencies shall accept the Substitute address indicated on a Program participant's ACP Authorization Card whenever the Program participant's Actual address is required except as set forth in 23 Pa.C.S.A. § 6707(2), which is incorporated by reference.

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

**Jane Doe, (ACP # \_\_\_\_\_)  
PO Box \_\_\_\_\_  
Harrisburg, PA 17105**

(c.) Commonwealth and local government agencies shall not require a Program participant to disclose the Program 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.

**§ 802.21 ACP Records and Release of Information.**

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

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

(b) OVA will verify the enrollment status of a Program participant to Commonwealth and local government agencies. No other information regarding Program participants will be released to any entities or persons except as provided in §§ 802.22-802.23 (relating to disclosure of actual addresses) or as permitted and agreed to by the Program participant in writing.

**§ 802.22 Disclosure of Actual address.**

(a.) OVA will disclose the Actual address of Program participants in accordance with the requirements contained in 23 Pa.C.S.A. § 6708, which are incorporated by reference.

(b.) Government agencies may request emergency disclosure of a Program 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.A. § 6710(c), which are incorporated by reference.

(d) The OVA will disclose a Program participant's Actual address in accordance with the standards set forth in 23 Pa.C.S.A. § 6710(b), which are incorporated by reference.

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

**WAIVER**

**§ 802.30 Agency Request for Waiver.**

(a) A Commonwealth or local government agency requesting disclosure of a Program participant's Actual Address shall provide OVA with the information set forth in 23 Pa.C.S.A. § 6709 (a), which is incorporated by reference, and specify in the written statement what person(s) 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 via certified mail.

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

(d) Whenever possible, the Program 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 a Program participant's Actual address shall not be provided to a Program participant if the requirements of 23 Pa.C.S.A. § 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 Program participant provides written consent to OVA to disclose the Program participant's Actual address.

#### **§ 802.31 Waiver Review.**

(a.) Promptly after receiving a complete waiver request as set forth in § 802.30 (relating to agency requests for waiver) from a Commonwealth or local government agency, the OVA will review such 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 such request for information will toll the waiver review process 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.A. § 6709(d), 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) Program participant's Actual address;
- (2) A description of the scope of permitted use of the Program 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; and
- (5) In cases where 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 Program participant's Actual address and shall delete all references to the Program participant's Actual address from all of its files.

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

### **§ 802.32 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 fifteen (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; and
- (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 must be submitted via 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.A. § 6709(i), 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.A. § 6709(j), which is incorporated by reference.

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 41-20  
 SUBJECT: PENNSYLVANIA ADDRESS CONFIDENTIALITY PROGRAM REGULATIONS  
 AGENCY: OFFICE OF THE VICTIM ADVOCATE

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a. With Revisions
  - b. Without Revisions

RECEIVED  
 2007 APR -9 AM 11:54  
 INDEPENDENT REGULATORY  
 REVIEW COMMISSION

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
4-9-07	<u>Linda Beck</u>	HOUSE COMMITTEE ON JUDICIARY
4/9/07	<u>Anna Squinzi</u>	
4/9/07	<u>Delattre</u>	SENATE COMMITTEE ON JUDICIARY
4/9/07	<u>Rachel Seva</u>	
4/9/07	<u>Kathy Cooper</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
4-9-07	<u>M. Mumment</u>	ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

March 30, 2007