

Crime Victim Address Protection Program

The Act establishes crime victim address protection program for victims of domestic violence and abuse, stalking, and felony sexual offenses. It allows crime victims to use an address provided by the Secretary of State in lieu of the person's actual physical address and allows program participants to vote by mail-in absentee ballot.

Submitted as:

Kentucky

[HB 222](#)

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Suggested State Legislation

(Title, enacting clause, etc.)

- 1 Section 1. [*Definitions.*]
- 2 (1) "Address" means a residential street address, school address, or work address of an
- 3 individual, as specified on the application of an individual to be a program participant under
- 4 this section;
- 5 (2) "Applicant" means a person applying for certification in the address confidentiality program
- 6 under Sections 1 to 10 of this Act;
- 7 (3) "Criminal offense against a victim who is a minor" has the same meaning as in [Insert
- 8 citation.];
- 9 (4) "Domestic violence and abuse" has the same meaning as in [Insert citation.];
- 10 (5) "Program participant" means a person certified as a program participant under Sections 1 to
- 11 10 of this Act;
- 12 (6) "Sex crime" means an offense or an attempt to commit an offense defined in [Insert citation.]
- 13 or any criminal attempt to commit an offense specified in this subsection, regardless of the
- 14 penalty for the attempt;
- 15 (7) "Specified offense" means:
- 16 (a) Domestic violence and abuse;
- 17 (b) Stalking;
- 18 (c) A sex crime;
- 19 (d) A criminal offense against a victim who is a minor;
- 20 (e) A similar federal offense; or
- 21 (f) A similar offense from another state or territory; and
- 22 (8) "Stalking" means conduct prohibited [Insert citation.]
- 23
- 24 Section 2. [*Crime victim address protection program.*]
- 25 (1) On or after [July 1, 2013], the Secretary of State shall create a crime victim address
- 26 protection program.
- 27 (2) The crime victim address protection program shall be open to victims of a specified offense
- 28 who are United States citizens and residents of the state, without any cost to the program
- 29 participant.

1 (3) The Secretary of State shall require that each person employed in the Office of the Secretary
2 of State directly responsible for the administration of the crime victim address protection
3 program submit his or her fingerprints to the Department of State. The Department of State
4 shall exchange fingerprint data with the [State Police] and the Federal Bureau of
5 Investigation in order to conduct a criminal history background check of each employee
6 directly responsible for the administration of the program.
7

8 Section 3. *[Address for voting purposes.]*

9 (1) Upon the creation of the crime victim address protection program, an applicant, a parent or
10 guardian acting on behalf of a minor, a guardian acting on behalf of a person who is declared
11 incompetent, or a designee of an applicant or a parent or guardian of a minor or a guardian of
12 a person declared incompetent who cannot for any reason apply themselves, may apply to the
13 Secretary of State to have an address designated by the Secretary of State serve for voting
14 purposes as the address of the applicant, the minor, or the incompetent person. The Secretary
15 of State shall approve an application if it is filed in the manner and on the form prescribed by
16 the Secretary of State by administrative regulation and if it contains:

17 (a) A sworn statement by the applicant that:

- 18 1. The applicant or the minor or the incompetent person on whose behalf the
19 application is made is a victim of a specified offense in an ongoing criminal
20 case or in a criminal case that resulted in a conviction by a judge or jury or by
21 a defendant's guilty plea; or
- 22 2. The applicant or the minor or the incompetent person on whose behalf the
23 application is made has been granted an emergency protective order or a
24 domestic violence order under [Insert citation.] by a court of competent
25 jurisdiction within the [state] and the order is in effect at the time of
26 application;

27 (b) A sworn statement by the applicant that disclosure of the address of the applicant
28 would endanger the safety of the applicant or the safety of the children of the
29 applicant, or the minor or incompetent person on whose behalf the application is
30 made.

31 (c) The mailing address and the phone number or numbers where the applicant can be
32 contacted by the Secretary of State;

33 (d) The new address or addresses that the applicant requests not be disclosed for the
34 reason that disclosure will increase the risk of a specified offense; and

35 (e) The signature of the applicant and of a representative of any office designated under
36 Section 6 of this Act as a referring agency who assisted in the preparation of the
37 application, and the date on which the applicant signed the application.

38 (2) Applications shall be filed with the Office of the Secretary of State.

39 (3) Upon the filing of a properly completed application, the Secretary of State shall certify the
40 applicant as a program participant if the applicant is not required to register as a sex offender
41 or is not otherwise prohibited from participating in the program.

42 (4) Applicants shall be certified for two (2) years following the date of filing unless the
43 certification is withdrawn or invalidated before that date. The Secretary of State shall
44 promulgate an administrative regulation to establish a renewal procedure.

45 (5) A person who falsely attests in an application that disclosure of the address of the applicant
46 would endanger the safety of the applicant or the safety of the children of the applicant, or

1 the minor or incompetent person on whose behalf the application is made, or who knowingly
2 provides false or incorrect information upon making an application may be found guilty of a
3 violation of [Insert citation.]

- 4 (6) The addresses of individuals applying for entrance into the crime victim address
5 confidentiality program and the addresses of those certified as program participants shall be
6 exempt from disclosure under the Open Records Act [Insert citation.]
7 (7) A program participant shall notify the Office of the Secretary of State of a change of address
8 within seven (7) days of the change of address.
9

10 Section 4. [*Cancellation of certification of program participants.*]

- 11 (1) The Secretary of State may cancel certification of a program participant if within fourteen
12 (14) days:
13 1) From the date of the program participant changing his or her name, the program
14 participant fails to notify the Secretary of State that he or she has obtained a name
15 change; however, the program participant may reapply under his or her new name; or
16 2) From the date of changing his or her address, the program participant fails to notify
17 the Secretary of State of the change of address.
18 (2) The Secretary of State shall cancel certification of a program participant who applies using
19 false information.
20 (3) The Secretary of State shall send notice of certification cancellation to the program
21 participant. The notice of certification cancellation shall set out the reasons for cancellation.
22 The program participant has the right to appeal the decision within thirty (30) days under
23 procedures established by the Office of the Secretary of State by administrative regulation.
24 (4) The Secretary of State shall cancel certification of a program participant who is required to
25 register as a sex offender.
26 (5) A program participant may withdraw from the program by providing the Secretary of State
27 with notice of his or her intention to withdraw from the program. The Secretary of State shall
28 promulgate by administrative regulations a secure procedure by which to ensure that the
29 program participant's request for withdrawal is legitimate.
30

31 Section 5. [*Protection of files of program participants.*]

32 The Secretary of the State shall not make available for inspection or copying any records in a file
33 of a program participant, other than the address designated by the Secretary of State, except
34 under the following circumstances:

- 35 (1) If directed by a court order signed by a judge or justice of a court of competent jurisdiction
36 within the [state]; or
37 (2) Upon written request by the chief law enforcement officer of a city or county, or the
38 commander of a Department of [Kentucky] State Police post or branch, if related to an
39 ongoing official investigation. Requests shall include the reason the information is needed by
40 the law enforcement agency.
41

42 Section 6. [*Counseling and shelter services.*]

43 The Secretary of State shall establish a list of state and local agencies and nonprofit agencies that
44 provide counseling and shelter services to victims of a specified offense to assist persons
45 applying to be program participants. Any assistance and counseling rendered to applicants by the
46 Office of the Secretary of State or its designees shall in no way be construed as legal advice.

1 Section 7. [*Absentee ballots.*]

- 2 (1) A program participant who is otherwise qualified to vote may register to vote and apply for
3 and submit a mail-in absentee ballot under this section.
- 4 (2) Using the authority granted under subsection (1) of Section 10 of this Act, the State Board of
5 Elections shall design a system allowing a county clerk to shield from public view all voting
6 records of a program participant, including the name and address of a program participant,
7 and allowing a program participant to vote by mail-in absentee ballot. This authority may be
8 used to modify statutory or regulatory requirements that would lead to disclosure of the
9 program participant's name and address, but shall not include authority to waive or modify
10 any other requirements relative to the program participant's qualifications to vote, including
11 age and geographic residency.
- 12 (3) The program participant may receive mail-in absentee ballots for all elections in the
13 jurisdiction in which that individual resides in the same manner as a person requesting an
14 absentee ballot under subsection (1)(a) of Section 11 of this Act. The county clerk shall
15 transmit a mail-in absentee ballot to the program participant at the address designated by the
16 participant in his or her application.
- 17 (4) Neither the name nor the address of a program participant shall be included in any list of
18 registered voters available to the public, including any list inspected under [Insert citation.]
19

20 Section 8. [*Custody or visitation orders.*]

21 Nothing in this chapter, nor participation in the program created in this chapter, shall affect
22 custody or visitation orders in effect prior to or during program participation.
23

24 Section 9. [*Negligent disclosure of actual address.*]

25 No actionable duty or any right of action shall accrue against the state, a county, a municipality,
26 an agency of the state or county or municipality, or an employee of the state or county or
27 municipality in the event of negligent disclosure of a program participant's actual address.
28

29 Section 10. [*Administrative regulations.*]

- 30 (1) The State Board of Elections may promulgate administrative regulations to implement
31 Sections 7 and 11 of this Act.
- 32 (2) The Secretary of State may promulgate administrative regulations to implement Sections 1 to
33 6, 8, and 9 of this Act.
34

35 Section 11. [*Requests for absentee ballots.*]

- 36 (1) All requests for an application for an absentee ballot may be transmitted by telephone,
37 facsimile machine, by mail, by electronic mail, or in person. Except as provided in paragraph
38 (b) of this subsection, all applications for an absentee ballot shall be transmitted only by mail
39 to the voter or in person at the option of the voter, except that the county clerk shall hand an
40 application for an absentee ballot to a voter permitted to vote by absentee ballot who appears
41 in person to request the application, or shall mail the application to a voter permitted to vote
42 by absentee ballot who requests the application by telephone, facsimile machine, or mail. The
43 absentee ballot application may be requested by the voter or the spouse, parents, or children
44 of the voter, but shall be restricted to the use of the voter. Except for qualified voters who
45 apply pursuant to the requirements of [Insert citation.], those who are incarcerated in jail but
46 have yet to be convicted, military personnel confined to a military base on election day, and

1 persons who qualify under paragraph (a)7 of this subsection, absentee ballots shall not be
2 mailed to a voter's residential address located in the county in which the voter is registered.
3 In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two
4 (2) official envelopes for returning the ballot, and instructions for voting to a voter who
5 presents a completed application for an absentee ballot as provided in this section and who is
6 properly registered as stated in his or her application.
7

8 (a) The following voters may apply to cast their votes by mail-in absentee ballot if the
9 application is received not later than the close of business hours seven (7) days before the
10 election:

- 11 1. Voters permitted to vote by absentee ballot pursuant to [Insert citation.];
- 12 2. Voters who are residents of [state] who are members of the Armed Forces,
13 dependents of members of the Armed Forces, and citizens residing overseas;
- 14 3. Voters who are students who temporarily reside outside the county of their residence;
- 15 4. Voters who are incarcerated in jail who have been charged with a crime but have not
16 been convicted of the crime;
- 17 5. Voters who change their place of residence to a different state while the registration
18 books are closed in the new state of residence before an election of electors for
19 President and Vice President of the United States, who shall be permitted to cast an
20 absentee ballot for electors for President and Vice President of the United States only;
- 21 6. Voters who temporarily reside outside the state but who are still eligible to vote in
22 this state;
- 23 7. Voters who are prevented from voting in person at the polls on election day and from
24 casting an absentee ballot in person in the county clerk's office on all days absentee
25 voting is conducted prior to election day because their employment location requires
26 them to be absent from the county all hours and all days absentee voting is conducted
27 in the county clerk's office; and
- 28 8. Voters who are program participants in the Secretary of State's crime victim address
29 confidentiality protection program as authorized by Section 7 of this Act.

30 (b) Residents of [state] who are members of the Armed Forces, dependents of members of
31 the Armed Forces, and overseas citizens, may apply for an absentee ballot by means of
32 the federal post-card application, which may be transmitted to the county clerk's office by
33 mail or by facsimile machine. The application may be used to register, reregister, and to
34 apply for an absentee ballot. If the federal post-card application is received at any time
35 not less than seven (7) days before the election, the county clerk shall affix his or her seal
36 to the application form upon receipt.

37 (c) Absentee voting shall be conducted in the county clerk's office or other place designated
38 by the county board of elections and approved by the State Board of Elections during
39 normal business hours for at least the twelve (12) working days before the election. A
40 county board of elections may permit absentee voting to be conducted on a voting
41 machine for a period longer than the twelve (12) working days before the election.

42 (d) Any qualified voter in the county who is not permitted to vote by absentee ballot under
43 paragraph (a) of this subsection who will be absent from the county on any election day
44 may, at any time during normal business hours on those days absentee voting is
45 conducted in the county clerk's office, make application in person to the county clerk to

1 vote on a voting machine in the county clerk's office or other place designated by the
2 county board of elections and approved by the State Board of Elections.

3 (e) The following voters may, at any time during normal business hours on those days
4 absentee voting is conducted in the county clerk's office, make application in person to
5 the county clerk to vote on a voting machine in the county clerk's office or other place
6 designated by the county board of elections and approved by the State Board of
7 Elections:

- 8 1) Voters who are residents of [state] who are members of the Armed Forces,
9 dependents of members of the Armed Forces, and citizens residing overseas, who will
10 be absent from the county on any election day;
- 11 2) Voters who are students who temporarily reside outside the county of their residence;
- 12 3) Voters who have surgery scheduled that will require hospitalization on election day,
13 and the spouse of the voter;
- 14 4) Voters who temporarily reside outside the state but who are still eligible to vote in
15 this state and who will be absent from the county on any election day;
- 16 5) Voters who are residents of [state] who are members of the Armed Forces confined to
17 a military base on election day and who learn of that confinement within seven (7)
18 days or less of an election and are not eligible for a paper absentee ballot under this
19 subsection; and
- 20 6) A voter who is a pregnant woman in her last trimester of pregnancy at the time she
21 wishes to vote under this paragraph. The application form for a voter under this
22 subparagraph shall be prescribed by the State Board of Elections, which shall contain
23 the woman's sworn statement that she is in fact in her last trimester of pregnancy at
24 the time she wishes to vote.

25 (f) Voters who change their place of residence to a different state while the registration
26 books are closed in the new state of residence before a presidential election shall be
27 permitted to cast an absentee ballot for President and Vice President only, by making
28 application in person to the county clerk to vote on a voting machine in the county clerk's
29 office or other place designated by the county board of elections and approved by the
30 State Board of Elections.

31 (g) Any member of the county board of elections, any precinct election officer appointed to
32 serve in a precinct other than that in which he or she is registered, any alternate precinct
33 election officer, any deputy county clerk, any staff for the State Board of Elections, and
34 any staff for the county board of elections may vote on a voting machine in the county
35 clerk's office or other place designated by the county board of elections, and approved by
36 the State Board of Elections, up to the close of normal business hours on the day before
37 the election. The application form for those persons shall be prescribed by the State
38 Board of Elections and, in the case of application by precinct election officers, shall
39 contain a verification of appointment signed by a member of the county board of
40 elections. If an alternate precinct election officer or a precinct election officer appointed
41 to serve in a precinct other than that in which he or she is registered receives his or her
42 appointment while absentee voting is being conducted in the county, such officer may
43 vote on a voting machine in the county clerk's office or other place designated by the
44 county board of elections, and approved by the State Board of Elections, up to the close
45 of normal business hours on the day before the election. In case of such voters, the

1 verification of appointment shall also contain the date of appointment. The applications
2 shall be restricted to the use of the voter only.

3 (h) The members of the county board of elections or their designees who provide equal
4 representation of both political parties may serve as precinct election officers, without
5 compensation, for all absentee voting performed on a voting machine in the county
6 clerk's office or other place designated by the county board of elections and approved by
7 the State Board of Elections. If the members of the county board of elections or their
8 designees serve as precinct election officers for the absentee voting, they shall perform
9 the same duties and exercise the same authority as precinct election officers who serve on
10 the day of an election. If the members of the county board of elections or their designees
11 do not serve as precinct election officers for the absentee voting, the county clerk or
12 deputy county clerks shall supervise the absentee voting.

13 (i) Any individual qualified to appoint challengers for the day of an election may also
14 appoint challengers to observe all absentee voting performed at the county clerk's office
15 or other place designated by the county board of elections, and approved by the State
16 Board of Elections, and those challengers may exercise the same privileges as challengers
17 appointed for observing voting on the day of an election at a regular polling place.

18 (2) The clerk shall type the name of the voter permitted to vote by absentee ballot on the
19 application form for that person's use and no other. The absentee ballot application form shall
20 be in the form prescribed by the State Board of Elections, shall bear the seal of the county
21 clerk, and shall contain the following information: name, residential address, precinct, party
22 affiliation, statement of the reason the person cannot vote in person on election day,
23 statement of where the voter shall be on election day, statement of compliance with residency
24 requirements for voting in the precinct, and the voter's mailing address for an absentee ballot.
25 The form shall be verified and signed by the voter. A notice of the actual penalty provisions
26 in [Insert citation.] shall be printed on the application.

27 (3) If the county clerk finds that the voter is properly registered as stated in his or her application
28 and qualifies to receive an absentee ballot by mail, he or she shall mail to the voter an
29 absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting.
30 The county clerk shall complete a postal form for a certificate of mailing for ballots mailed
31 within the fifty (50) states, and it shall be stamped by the postal service when the ballots are
32 mailed. An absentee ballot may be transmitted by facsimile machine to a resident of [state]
33 who is a member of the Armed Forces, a dependent of a member of the Armed Forces, or a
34 citizen residing overseas.

35 (4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the
36 county clerk to the voter within three (3) days of the receipt of the printed ballots; and
37 absentee ballots which are requested subsequent to the receipt of the ballots by the county
38 clerk shall be mailed to the voter within three (3) days of the receipt of the request.

39 (5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general
40 election.

41 (6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title
42 of the county clerk and shall provide space for the voter's signature, voting address, precinct
43 number, and signatures of two (2) witnesses if the voter signs the form with the use of a mark
44 instead of the voter's signature. A detachable flap on the inner envelope shall provide space
45 for the voter's signature, voting address, precinct number, signatures of two (2) witnesses if
46 the voter signs the form with the use of a mark instead of the voter's signature and notice of

1 penalty provided in [insert citation.] The clerk shall type the voter's address and precinct
2 number in the upper left hand corner of the outer envelope and of the detachable flap on the
3 inner envelope immediately below the blank space for the voter's signature. The inner
4 envelope shall be blank. The clerk shall retain the application and the postal form required by
5 subsection (3) of this section for twenty-two (22) months after the election.

6 (7) Any person who has received an absentee ballot by mail but who knows at least seven (7)
7 days before the date of the election that he or she will be in the county on election day and
8 who has not voted pursuant to the provisions of [Insert citation.] shall cancel his or her
9 absentee ballot and vote in person. The voter shall return the absentee ballot to the county
10 clerk's office no later than seven (7) days prior to the date of the election. Upon the return of
11 the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the
12 unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed
13 envelopes so marked shall not be opened. The clerk shall remove the voter's name from the
14 list of persons who were sent absentee ballots, and the voter may vote in the precinct in
15 which he or she is properly registered.

16 (8) Any voter qualified for a mail-in absentee ballot who does not receive a requested mail-in
17 ballot within a reasonable amount of time shall contact the county clerk, who shall reissue a
18 second ballot. The county clerk shall keep a record of the absentee ballots issued and
19 returned by mail, and the absentee voting that is performed on the voting machine in the
20 county clerk's office or other place designated by the county board of elections and approved
21 by the State Board of Elections, to verify that only the first voted ballot to be returned by the
22 voter is counted. Upon the return of any ballot after the first ballot is returned, the clerk shall
23 mark on the outer envelope of the sealed ballot the words "Canceled because ballot
24 reissued."

25 (9) Any member of the military who has received an absentee ballot by mail but who knows that
26 he or she will be in the county on election day and who has not voted pursuant to the
27 provisions of [Insert citation.] shall cancel his or her absentee ballot and vote in person. The
28 voter shall return the absentee ballot to the county clerk's office on or before election day.
29 Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the
30 sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in
31 person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's
32 name from the list of persons who were sent absentee ballots, provide the voter with written
33 authorization to vote at the precinct, and the voter may vote in the precinct in which he or she
34 is properly registered.