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 312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower  
 Nashville, TN 37243  
 Phone: 615-741-2650  
 Email: publications.information@tn.gov

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 Sequence Number: 05-10-20  
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# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

<b>Agency/Board/Commission:</b>	Department of State
<b>Division:</b>	Division of Publications, Safe at Home Address Confidentiality Program
<b>Contact Person:</b>	Mary Beth Thomas
<b>Address:</b>	State Capitol, 1 <sup>st</sup> FL, Nashville, Tennessee, 37243
<b>Phone:</b>	(615) 741-2819
<b>Email:</b>	Mary.Beth.Thomas@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

<b>ADA Contact:</b>	Melinda Kelsey, Director of Human Resources
<b>Address:</b>	312 Rosa L. Parks Ave., 7 <sup>th</sup> FL, Nashville, TN 37243
<b>Phone:</b>	(615) 253-4548
<b>Email:</b>	Melinda.Kelsey@tn.gov

## Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	WR Snodgrass Tower, Conference Room G		
Address 2:	312 Rosa L. Parks Ave., 3 <sup>rd</sup> FL		
City:	Nashville		
Zip:	37243		
Hearing Date :	07/16/2020		
Hearing Time:	8:30 AM	<input checked="" type="checkbox"/> _X_CST/CDT	<input type="checkbox"/> _EST/EDT

## Additional Hearing Information:

The proposed amendments to Chapter 1360-11-01 are designed to conform the rules with Public Chapter 577, enacted on March 19, 2020.

**\*\*\* In the event that this In-Person Hearing is prohibited by reason of Executive Order or closure of the TN Tower Conference Center, this hearing will be conducted via telephone conference. In such a case, the meeting may be accessed by dialing 615-253-1098. \*\*\***

**\*\*\* Additionally, anyone wishing to participate in the In-Person Hearing by phone may call into the hearing by dialing 615-253-1098. \*\*\***

## Revision Type (check all that apply):

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

<b>Chapter Number</b>	<b>Chapter Title</b>
1360-11-01	Tennessee Address Confidentiality Program General Provisions
<b>Rule Number</b>	<b>Rule Title</b>
1360-11-01-.02	Eligibility and Application Procedures
1360-11-01-.03	Participant Responsibilities
1360-11-01-.05	Cancellation from Program Participation; Withdrawal.

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

## AMENDED RULES

### 1360-11-01-.02 ELIGIBILITY AND APPLICATION PROCEDURES.

**AMEND** paragraph (1) of Rule 1360-11-01-.02, Eligibility and Application Procedures, by deleting it in its entirety and substituting instead the following, while leaving its underlying parts in place:

- (1) To be eligible for participation in the Address Confidentiality Program, an individual must be a resident of the State of Tennessee and meet the following requirements:

**FURTHER AMEND** subparagraphs (1), (2), & (3) of subparagraph (e) of paragraph (3) of Rule 1360-11-01-.02, Eligibility and Application Procedures, by deleting these subparagraphs in their entirety and substituting instead the following:

1. Documentary evidence that the applicant has moved to a new residential address within the State of Tennessee, which is unknown to the applicant's abuser to the best of the applicant's knowledge and belief, within the previous thirty (30) days; or,
2. A sworn statement by the applicant that the applicant has the present intent to move to a new address within the State of Tennessee, which will be unknown to the applicant's abuser, within the ninety (90) days following the application date.
3. The documentary evidence required by subparagraph (1) above may consist of a rental agreement or utility service agreement bearing the name of the applicant as a party to the agreement and evidencing a residential address within the State of Tennessee, or any other documentary evidence which is determined to be acceptable by the Office of the Secretary of State.

**FURTHER AMEND** subparagraph (4) of Rule 1360-11-01-.02, Eligibility and Application Procedures, by deleting it in its entirety and substituting instead the following:

- (4) If an applicant submits an application based on the applicant's present intent to relocate to a new residential address within the State of Tennessee within the ninety (90) days following the date of application, the applicant must submit documentation of the applicant's move to such residential address within ninety (90) days from the date of application. Such documentation may include, but is not limited to, a rental agreement or a utility service agreement executed within ninety (90) days of the date of application and evidencing a residential address within the State of Tennessee, or any other documentary evidence which is determined to be acceptable by the Office of the Secretary of State.

**Authority:** *T.C.A. §§ 40-38-601, et seq.; Public Chapter 577, enacted 3/19/2020.*

### 1360-11-01-.03 PARTICIPANT RESPONSIBILITIES.

**AMEND** subparagraph (b) of paragraph (4) of Rule 1360-11-01-.03, Participant Responsibilities, by deleting it in its entirety and substituting instead the following:

- (b) In the event that the participant moves to a new residential address, or the participant's contact information otherwise changes, and the participant does not provide notification of such to the Office of the Secretary of State, any materials received at the participant's substitute address may not be received by the participant upon forwarding of the materials by the Office of the Secretary of State and the program participant may be prevented from voting in any precinct other than the precinct established by the program participant's application. Any materials which cannot be delivered to the program participant will be maintained by the Office of the Secretary of State for a period of twenty (20) business days and will then be destroyed if unclaimed.

**Authority:** T.C.A. §§ 40-38-601, et seq.; Public Chapter 577, enacted 3/19/2020.

**1360-11-01-.05 CANCELLATION OF PROGRAM PARTICIPATION; WITHDRAWAL.**

**AMEND** subparagraph (b) of paragraph (1) of Rule 1360-11-01-.05, Cancellation of Program Participation; Withdrawal, by deleting it in its entirety and substituting instead the following:

- (b) The program participant fails to relocate to a new residential address, or fails to provide documentary evidence of the new residential address to the Office of the Secretary of State, within ninety (90) days from the date of application, unless the Secretary of State determines that the program participant is currently residing at a shelter, as defined by T.C.A. § 71-6-202, or a similar facility;

**FURTHER AMEND** subparagraph (e) of paragraph (1) of Rule 1360-11-01-.05, Cancellation of Program Participation; Withdrawal, by deleting it in its entirety and substituting instead the following:

- (e) The Office of the Secretary of State finds or determines that the program participant is unreachable for a period of twenty (20) business days or more;

**FURTHER AMEND** paragraph (2) of Rule 1360-11-01-.05, Cancellation of Program Participation; Withdrawal, by deleting it in its entirety and substituting instead the following:

- (2) A program participant will be found to be unreachable when the Office of the Secretary of State has determined that any materials forwarded to the program participant at the designated address have been returned to the Office of the Secretary of State by the United States Postal Service, or other mail carrier, as either undeliverable or refused and the Office of the Secretary of State has been unable to reach the program participant by phone or electronic mail for a period of at least twenty (20) business days.

**FURTHER AMEND** subparagraph (a) of paragraph (4) of Rule 1360-11-01-.05, Cancellation of Program Participation; Withdrawal, by deleting it in its entirety and substituting instead the following:

- (a) In the event that cancellation occurs because the Office of the Secretary of State has found the program participant to have been unreachable for a period of twenty (20) business days or more and the notice of cancellation sent to the program participant by certified mail is returned to the Office of the Secretary of State as either undeliverable or refused, the program participant shall not have the right to appeal the cancellation of program participation.

**Authority:** T.C.A. §§ 40-38-601, et seq.; Public Chapter 577, enacted 3/19/2020.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: May 18, 2020

Signature: 

Name of Officer: Lauren Topping

Title of Officer: Assistant General Counsel

**Department of State Use Only**

Filed with the Department of State on: 5/18/2020



Tre Hargett  
Secretary of State

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**RULES  
OF  
THE TENNESSEE DEPARTMENT OF STATE  
DIVISION OF PUBLICATIONS**

**CHAPTER 1360-11-01  
TENNESSEE ADDRESS CONFIDENTIALITY PROGRAM GENERAL PROVISIONS**

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**1360-11-01-.01 DEFINITIONS.**

- (1) The terms defined in Tennessee Code Annotated Title 40, Chapter 38, Part 6, T.C.A. §§ 40-38-601 et seq., shall have the same meaning for the purpose of these rules and definitions in these rules shall apply to T.C.A. §§ 40-38-601 et seq.
- (2) For purposes of these rules, “program participant” may also refer to the parent, guardian, or fiduciary who filed the initial application for program participation on behalf of a minor or a person with a disability who has been certified as a program participant. “Program participant” may also refer to the participant’s minor children, if included on the initial application as a “co-applicant”.
- (3) “Applicant” means the individual submitting an application to participate in the address confidentiality program, or the parent or fiduciary acting on such individual’s behalf.
- (4) “Co-applicant” means an individual residing at the same residential address as an individual applicant who applies to participate in the program on the same application as the primary applicant. If a co-applicant is an adult, then the co-applicant must consent to participate in the program and abide by all program rules. In order to participate as a co-applicant, the co-applicant must not be prohibited from program participation by T.C.A. § 40-38-603.
- (5) “Date of application” or “time of application” means the date on which the application for enrollment is received for processing by the secretary of state. Applications must be completed, and all necessary supporting documentation provided, before an applicant and/or co-applicant will be approved to participate in the Safe at Home Address Confidentiality Program. Applications must be completed within 30 days from the date of application in order to be approved for enrollment unless, at the sole discretion of the secretary, just cause can be shown to excuse a delay.
- (6) “Residential address” means the address at which the applicant currently resides.

**Authority:** T.C.A. §§ 40-38-601, et seq. **Administrative History:** Emergency rules filed October 30, 2018; effective through April 28, 2019. Emergency rules expired effective April 29, 2019. Original rules filed November 21, 2019; effective February 19, 2020.

**1360-11-01-.02 ELIGIBILITY AND APPLICATION PROCEDURES.**

- (1) To be eligible for participation in the Address Confidentiality Program, an individual must be a resident of the State of Tennessee and meet the following requirements:

(Rule 1360-11-01-.02, continued)

- (a) Be a victim of domestic abuse, stalking, human trafficking, or any sexual offense, including violent sexual offenses; and,
  - (b) Have moved to a new residential address, which is unknown to the victims' abuser, within the previous thirty (30) days, or presently intend to move to a new residential address unknown to the victims' abuser, within ninety (90) days from the date of application; or,
  - (c) Be a co-applicant residing at the residence of a primary applicant who satisfies the two criteria above.
- (2) A person who is required by law to be registered under any of the following is not eligible to participate in the address confidentiality program:
- (a) Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004, T.C.A. §§ 40-39-201 et seq.;
  - (b) Tennessee Animal Abuser Registration Act, T.C.A. §§ 40-39-101 et seq.;
  - (c) Registry of persons who have abused, neglected, or misappropriated the property of vulnerable individuals, T.C.A. §§ 68-11-1001 et seq.; or
  - (d) Drug Offender Registry, T.C.A. § 39-17-436.
- (3) A prospective applicant may submit an application for program participation to the Office of the Secretary of State, with the assistance of an application assistant. An application for program participation must be submitted on the designated form prescribed by the Office of the Secretary of State. The application must include all of the following:
- (a) The mailing address and telephone number(s) at which the applicant may be contacted;
  - (b) The address or addresses of the applicant's residence address, school, institution of higher education, business and/or place of employment, and/or those of the applicant's minor children, which the applicant requests be treated as confidential;
  - (c) Documentary evidence that, either:
    - 1. There exists an ongoing criminal case that may result in, or an ongoing criminal case that has resulted in, a conviction by a judge or jury or by a defendant's guilty plea, in which the applicant was a victim of domestic abuse, stalking, human trafficking, or any sexual offense; or,
    - 2. A court of competent jurisdiction has granted an order of protection to the applicant, which is in effect at the time of application;
  - (d) In the absence of an ongoing criminal case that may result, or an ongoing criminal case that has resulted, in a conviction or guilty plea, or an order of protection granted by a court of competent jurisdiction within this state which is in effect at the time of application, the applicant may submit a notarized statement by a licensed professional with knowledge of the circumstances, such as an attorney, social worker, or therapist, confirming that such individual believes that the applicant is in danger of further harm;
  - (e) Either of the following:

(Rule 1360-11-01-.02, continued)

1. Documentary evidence that the applicant has moved to a new residential address within the State of Tennessee, which is unknown to the applicant's abuser to the best of the applicant's knowledge and belief, within the previous thirty (30) days; or,
  2. A sworn statement by the applicant that the applicant has the present intent to move to a new address within the State of Tennessee, which will be unknown to the applicant's abuser, within the ninety (90) days following the application date.
  3. The documentary evidence required by sub~~paragraph~~division (1) above may consist of a rental agreement or utility service agreement bearing the name of the applicant as a party to the agreement and evidencing a residential address within the State of Tennessee, or any other documentary evidence which is determined to be acceptable by the Office of the Secretary of State.
- (f) A sworn statement by the applicant that disclosure of the confidential address or addresses would endanger the safety of the applicant or the minor or the person with a disability on whose behalf the application is made;
- (g) A sworn statement by the applicant confirming that the applicant understands all of the following:
1. That during the time the applicant chooses to have a confidential voter registration record, the applicant may vote only by absentee ballot;
  2. That the applicant may provide a program participation number instead of their residential address on an application for an absentee ballot or on an absentee voter's ballot identification envelope statement of voter with the voter's signature;
  3. That casting any ballot in person during program participation will reveal the applicant's precinct and residence address to precinct election officials and employees of the county election commission, and may reveal the applicant's precinct or residential address to members of the public; and,
  4. That if the applicant signs an election petition during program participation, the applicant's address will be made available to the public.
- (h) A knowing and voluntary designation of the Secretary of State as the applicant's agent for the purposes of receiving service of process and the receipt of mail;
- (i) A knowing and voluntary release and waiver of all future claims against the state for any claim that may arise from participation in the address confidentiality program, except for a claim based on the performance or nonperformance of a public duty that was manifestly outside the scope of the officer's or employee's office or employment or in which the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner;
- (j) -A statement of the applicants consent for the Department of State to release their information, including their residential address, to the Department of Correction and/or the Board of Parole, if the participant is subject to probation and/or parole;
- (k) -A statement of the applicants consent for the Department of State to release their information, including their residential address, to the Department of Children's Services, if the participant is receiving services from the Department of Children's Services or are



(Rule 1360-11-01-.02, continued)

otherwise required to participate in home visits with the Department of Children's Services.

- (l) The notarized signature of the applicant, the name and notarized signature of the application assistant who assisted the applicant, and the date on which the applicant and application assistant signed the application;
  - (m) If, at the time of application, the applicant is subject to a court order or is involved in a court action related to the dissolution of marriage proceedings, child support, or the allocation of parental responsibilities or parenting time, the applicant must also provide the name of the court, contact information for the court, and the case number(s) associated with those proceedings; and,
  - (n) A voter registration form, if the applicant is eligible to vote and wishes to register to vote or update a current voter registration.
- (4) If an applicant submits an application based on the applicant's present intent to relocate to a new residential address within the State of Tennessee within the ninety (90) days following the date of application, the applicant must submit documentation of the applicant's move to such residential address within ninety (90) days from the date of application. Such documentation may include, but is not limited to, a rental agreement or a utility service agreement executed within ninety (90) days of the date of application and evidencing a residential address within the State of Tennessee, or any other documentary evidence which is determined to be acceptable by the Office of the Secretary of State.
- (5) Following receipt and certification of a properly submitted application, the Secretary of State shall issue to the program participant a unique substitute address, a unique participant identification number, and documentary evidence of such participation that may be used as proof of program participation, if requested, when the applicant requests that a governmental entity or third party use the substitute address as the participant's official address of record. The Secretary of State shall also issue to the participant all other informational documentation required by law.
- (6) Following certification of program participation, the Office of the Secretary of State will accept all first class mail and/or certified mail received at the substitute address and forward this material to the participant at the address designated by the participant on the participant's application within three (3) business days from the date of receipt. The Office of the Secretary of State will also accept all service of process received at the substitute address and shall immediately forward this material to the participant at the address designated by the program participant on the participant's application.
- (7) The Office of the Secretary of State will not accept or forward packages, periodicals, or marketing materials. If these materials are received by the Office of the Secretary of State, they will be immediately returned to sender or securely shredded as applicable. For these purposes, a package is defined as any piece of mail with any dimension greater than 12 inches wide, 15 inches long,  $\frac{3}{4}$  inches thick, or over 13 ounces in weight.
- (8) Mail received by the Office of the Secretary of State for forwarding cannot be retrieved by participants in person for any reason. Participants should not attempt to physically retrieve their mail from the Office of the Secretary of State at any time.

**Authority:** T.C.A. §§ 40-38-601, et seq. **Administrative History:** Emergency rules filed October 30, 2018; effective through April 28, 2019. Emergency rules expired effective April 29, 2019. Original rules filed November 21, 2019; effective February 19, 2020.

(Rule 1360-11-01-.02, continued)

**1360-11-01-.03 PARTICIPANT RESPONSIBILITIES.**

- (1) Program participants must provide the substitute address to all governmental and private entities to ensure the confidentiality of the program participant's confidential address. Program participants must also provide the substitute address to all governmental and private entities in matters relating to the participant's minor children to ensure the confidentiality of the program participant's confidential address.
- (2) Program participants are not permitted to use their substitute address for the following purposes, and must instead use their confidential address:
  - (a) For purposes of listing, appraising, or assessing property taxes and collecting property taxes; or
  - (b) On any document related to real property recorded with a county clerk and recorder.
- (3) If a program participant obtains a legal name change, the participant must provide evidence of the legal name change to the Office of the Secretary of State within ten (10) days of the date of the legal name change.
- (4) Program participants must notify the Office of the Secretary of State of any change in the participant's residential address and/or application information in writing within thirty (30) days after any change has occurred by submitting a Notice of Change Form to the Office of Secretary of State. This Notice of Change must be notarized; if the Notice of Change is not properly notarized, the Participant's information cannot be updated and the Participant may become subject to cancellation.
  - (a) Program participants will be required to provide documentation to verify any change in the program participant's residential address to the satisfaction of the Office of the Secretary of State. Such documentation may include, but is not limited to, a rental agreement or a utility service agreement, executed within thirty (30) days of the date of the reported change.
  - (b) In the event that the participant moves to a new residential address, or the participant's contact information otherwise changes, and the participant does not provide notification of such to the Office of the Secretary of State, any materials received at the participant's substitute address may not be received by the participant upon forwarding of the materials by the Office of the Secretary of State and the program participant may be prevented from voting in any precinct other than the precinct established by the program participant's application. Any materials which cannot be delivered to the program participant will be maintained by the Office of the Secretary of State for a period of ~~sixty (60)~~ twenty (20) business days and will then be destroyed if unclaimed.
  - (c) In the event that a program participant moves to a new residential address outside of the State of Tennessee, the program participant may submit a Change of Address form showing the new, out-of-state address and the Office of the Secretary of State will forward program participant mail received at the substitute address for up to sixty (60) days or until the program participant enrolls in the state's address confidentiality program, if available. Participants who enroll in an address confidentiality program in another state should withdraw their program participation in Tennessee. If the program participant does not withdraw their program participation in Tennessee and does not return to Tennessee within the sixty (60) day forwarding period, program participation will be cancelled.

(Rule 1360-11-01-.03, continued)

- (5) Program participants must request that any public record created within thirty (30) days prior to the date of the participant's application for participation and which contains the participant's confidential address be treated as confidential by the governmental entity holding the public record and/or that the confidential address be substituted with the substitute address, and must provide proof of program participation to the governmental entity.
- (6) Program participants must abide by all applicable voter registration and absentee deadlines, as well as any procedures established by the coordinator of elections for the submission and processing of absentee ballots by program participants.
- (7) Program participants must provide the substitute address and evidence of program participation to public schools for purposes of enrollment for themselves or their minor children in order to ensure the confidentiality of the program participant's confidential address. Public school officials must then contact the Office of the Secretary of State in order to obtain verification of eligibility for enrollment, if residential verification is required. The Office of the Secretary of State shall then provide confirmation or denial of enrollment eligibility based on the most recent information provided to the Office of the Secretary of State by the program participant.
- (8) Program participants may be required to provide their confidential residential address to a utility service provider for the purposes of obtaining utility services. Program participants must also provide the utility service provider with evidence of program participation and request that the utility service provider treat their residential address as confidential. The program participant may also request that the utility service provider use the substitute address as the program participant's official mailing address.
- (9) Program participation certification shall be valid for four (4) years following the date of filing of the application by the Office of the Secretary of State, unless participation is otherwise withdrawn or invalidated prior to the end of the four year term. A program participant who wishes to renew their participation beyond the current four (4) year term may do so by submitting a renewal application to the Office of the Secretary of State within the ninety (90) days prior to the termination of the current four (4) year term. The renewal application must contain all of the information required by Rule 1360-11-01-.02(c).
- (10) Program participants are exempt from selection for state and municipal jury duty. In the event that the program participant receives a jury summons for either a state or municipal jury, it shall be the responsibility of the program participant to notify the summoning court of the participant's participation in the program and exempt status. Program participants may not fail to respond to a jury summons.
- (11) If an individual ceases to be a program participant, by reason of either cancellation or withdrawal, it shall be the responsibility of such individual to notify persons and entities that use of the substitute address is no longer valid.

**Authority:** T.C.A. §§ 40-38-601, et seq. **Administrative History:** Emergency rules filed October 30, 2018; effective through April 28, 2019. Emergency rules expired effective April 29, 2019. Original rules filed November 21, 2019; effective February 19, 2020.

#### **1360-11-01-.04 SERVICE OF PROCESS.**

- (1) Upon request by a person who intends to serve process on an individual, the Office of the Secretary of State shall confirm whether the individual is a program participant but shall not disclose any other information concerning a program participant.

(Rule 1360-11-01-.04, continued)

- (2) Any person intending or attempting to serve process on a program participant may do so by serving Secretary of State as agent of a program participant at Department of State, Safe At Home Address Confidentiality Program, W.R. Snodgrass Tower, 3<sup>rd</sup> Floor, 312 Rosa L. Parks Avenue, Nashville, TN 37243. Service of process may be delivered by mail to: Department of State, Safe At Home Address Confidentiality Program, W.R. Snodgrass Tower, 6<sup>th</sup> Floor, 312 Rosa L. Parks Avenue, Nashville, TN 37243.

**Authority:** T.C.A. §§ 40-38-601, et seq. **Administrative History:** Emergency rules filed October 30, 2018; effective through April 28, 2019. Emergency rules expired effective April 29, 2019. Original rules filed November 21, 2019; effective February 19, 2020.

**1360-11-01-.05 CANCELLATION OF PROGRAM PARTICIPATION; WITHDRAWAL.**

- (1) Program participation shall be cancelled if any of the following occurs:
  - (a) The Office of the Secretary of State finds or determines that the participant's application contained one or more false statements;
  - (b) The program participant fails to relocate to a new residential address, or fails to provide documentary evidence of the new residential address to the Office of the Secretary of State, within ninety (90) days from the date of application, unless the Secretary of State determines that the program participant is currently residing at a shelter, as defined by T.C.A. § 71-6-202, or a similar facility;
  - (c) The program participant obtains a name change, unless the program participant provides the Office of the Secretary of State with documentation of a legal name change within ten (10) business days of the name change;
  - (d) The program participant's certification has expired and the program participant has not submitted a renewal application prior to the expiration of the current four (4) year term;
  - (e) The Office of the Secretary of State finds or determines that the program participant is unreachable for a period of sixty (60) twenty (20) business days or more;
  - (f) The Office of the Secretary of State finds or determines that circumstances have changed such that the participant no longer meets the criteria outlined by statute or by Rule 1360-11-01-.02 for program participation; or
  - (g) The program participant submits to the Office of the Secretary of State a request to withdraw from the program.
- (2) A program participant will be found to be unreachable when the Office of the Secretary of State has determined that any materials forwarded to the program participant at the designated address have been returned to the Office of the Secretary of State by the United States Postal Service, or other mail carrier, as either undeliverable or refused and the Office of the Secretary of State has been unable to reach the program participant by phone or electronic mail for a period of at least sixty (60) twenty (20) business days.
- (3) A program participant may request to withdraw from program participation by submitting a written and notarized Withdrawal form to the Office of the Secretary of State. The Withdrawal form must include the following:
  - (a) The program participant's name, residential address and participant identification number;

(Rule 1360-11-01-.05, continued)

- (b) A statement that the participant wishes to cease being a program participant;
  - (c) An acknowledgement that the participant's address(es) will no longer be kept confidential, the Secretary of State will no longer accept or process mail received on their behalf, and participant's voter registration will no longer be kept confidential; and,
  - (d) A statement that the administrator of election should either treat the participant's voter registration in the same manner as other voter registration forms, or purge the participant's voter registration.
- (4) Upon finding that a program participant's participation should be cancelled, either by means of cancellation or withdrawal, the Office of the Secretary of State shall mail a notice of cancellation to the program participant at the last known address by certified mail. This notice shall set out the reason(s) for cancellation, the program participant's right to appeal the cancellation, and the procedures for appealing the notice of cancellation before an administrative law judge.
- (a) In the event that cancellation occurs because the Office of the Secretary of State has found the program participant to have been unreachable for a period of ~~sixty (60)~~ **twenty (20) business** days or more, and the notice of cancellation sent to the program participant by certified mail is returned to the Office of the Secretary of State as either undeliverable or refused, the program participant shall not have the right to appeal the cancellation of program participation.

**Authority:** T.C.A. §§ 40-38-601, et seq. **Administrative History:** Emergency rules filed October 30, 2018; effective through April 28, 2019. Emergency rules expired effective April 29, 2019. Original rules filed November 21, 2019; effective February 19, 2020.

#### 1360-11-01-.06 APPEAL PROCEDURES.

- (1) A program participant has the right to appeal the cancellation of program participation within thirty (30) days from the date of the notice of cancellation, unless otherwise limited by law or these rules. A petition for appeal may be submitted to the Office of the Secretary of State.
- (2) A program participant has the right to appeal the disclosure by the Office of the Secretary of State of the program participant's confidential address, or any other information pertaining to the program participant, disclosed to a state or federal agency within ten (10) business days of the Secretary's determination that such information should be disclosed.
- (3) Upon receipt of a petition for appeal, the Office of the Secretary of State will transmit the petition to the Administrative Procedures Division for a contested case hearing before an administrative law judge in accordance with the Uniform Administrative Procedures Act.

**Authority:** T.C.A. §§ 40-38-601, et seq. **Administrative History:** Emergency rules filed October 30, 2018; effective through April 28, 2019. Emergency rules expired effective April 29, 2019. Original rules filed November 21, 2019; effective February 19, 2020.

#### 1360-11-01-.07 DISCLOSURES.

- (1) Except as otherwise allowed by law, the Office of the Secretary of State shall not disclose the confidential address or any other information contained within a program participant's file, other than the substitute address designated by the Secretary of State.
- (2) Public schools and other governmental entities that require verification of residency for purposes of public school enrollment or public benefits enrollment must submit to the Office of the Secretary of State a completed Request for Residency Verification form to verify a program

(Rule 1360-11-01-.07, continued)

participant's eligibility for enrollment and/or the eligibility for enrollment of the participant's minor children. The public school or other governmental entity seeking such verification must provide a written statement and/or a map, as required by the Secretary of State, outlining the applicable residential district eligible for enrollment.

- (3) As authorized by law, properly designated law enforcement agency officials and administrative agency officials may request confirmation of program participation pertaining to a supposed program participant by submitting a Request for Program Participation Confirmation Form to the Office of the Secretary of State. The Office of the Secretary of State shall make a determination and respond to such requests within three (3) business days, unless emergency circumstances exist.
- (4) The Office of the Secretary of State shall provide an after-hours emergency phone number to the Chief Law Enforcement Official of every state law enforcement agency, county sheriff's office, and municipal police department that may be used only by such chief law enforcement official. In such emergency situations, where there exists a significant threat to the physical health or welfare of the program participant or a member of the program participant's immediate family, the Chief Law Enforcement Official of the requesting agency may request the immediate disclosure of the program participant's confidential address. The Office of the Secretary of State may require the requesting official to verify their identity prior to the release of the program participant's confidential address.
- (5) As authorized by law, properly designated law enforcement agency officials and administrative agency officials may request disclosure of information pertaining to a program participant by submitting a Request for Disclosure Form to the Office of the Secretary of State.
  - (a) Request for Disclosure Forms submitted by law enforcement officials will be reviewed and addressed by the Secretary of State, or the Secretary's designee, as soon as practicable. A program participant is not entitled to notice of the Secretary's determination prior to the disclosure of the requested information.
  - (b) Request for Disclosure Forms submitted by state or federal administrative agency officials will be reviewed and addressed by the Secretary of State, or the Secretary's designee, as soon as practicable. However, the program participant shall be notified of the nature of the request received and afforded an opportunity to respond to the request in writing stating any objections to the disclosure.
    1. The program participant shall have ten (10) business days from the date of the notice issued to the program participant in which to respond to the notice. If no response from the program participant is received after ten (10) business days from the date of notice, then the information requested shall be disclosed to the requesting agency as soon as practicable.
    2. If the program participant responds to the notice provided, the Secretary or the Secretary's designee shall review the objections received and weigh those objections against the reasons cited by the requesting agency official for the disclosure. The Secretary or the Secretary's designee shall then issue a determination within three (3) business days.
    3. Any party may appeal the Secretary's decision within ten (10) business days from the notice of the Secretary's determination by submitting a petition for appeal to the Office of the Secretary of State. If no request for appeal is received within ten (10) business days, the Secretary's decision shall be implemented according to its terms.



(Rule 1360-11-01-.07, continued)

- (6) Disclosure of a participant's confidential address, or any other information contained within a program participant's file, shall be limited under the terms of the court's order or, in the absence of a court order, the secretary's determination, to ensure that the disclosure and dissemination of the confidential address will be no greater than necessary for the specific purpose for which it was requested.
- (7) Individuals granted access to the program participant's confidential information, whether by court order or by virtue of the individual's position as an employee of a governmental entity, are prohibited from knowingly disclosing such information to unauthorized individuals, except as otherwise required by law.
- (8) No person shall knowingly obtain a program participant's confidential address or telephone number from any governmental agency knowing that the person is not authorized to obtain the confidential information.
- (9) The Secretary of State may grant a request for disclosure to a state or local government agency upon receipt of a program participant's written and notarized consent to do so. In the event that a program participant submits a written and notarized consent for disclosure relating to a specific request for disclosure, the requested information shall be disclosed as soon as practicable and the program participant shall have no further right to appeal the disclosure.
- (10) In the event that the state, a county, a municipality, an agency of the state or county or municipality, or an employee of the state or county or municipality negligently or otherwise unlawfully discloses the program participant's confidential address, such entity must immediately upon learning of the disclosure notify the program participant of the disclosure and the full extent of the disclosure.

**Authority:** T.C.A. §§ 40-38-601, et seq. **Administrative History:** Emergency rules filed October 30, 2018; effective through April 28, 2019. Emergency rules expired effective April 29, 2019. Original rules filed November 21, 2019; effective February 19, 2020.

#### **1360-11-01-.08 APPLICATION ASSISTANTS.**

- (1) Individuals seeking certification as an application assistant must:
  - (a) Be an employee or a volunteer at an approved agency or organization that serves victims of domestic abuse, stalking, human trafficking, rape, sexual battery, or any other sexual offense;
  - (b) Submit an application for certification as an application assistant to the Office of the Secretary of State; and,
  - (c) Receive training and instruction from the Office of the Secretary of State relating to the address confidentiality program and these rules to help prospective applicants to complete applications for program participation.
- (2) Application assistants may not offer legal advice to any prospective applicant for program participation or program participant, unless otherwise authorized to engage in the practice of law in this state.

**Authority:** T.C.A. §§ 40-38-601, et seq. **Administrative History:** Emergency rules filed October 30, 2018; effective through April 28, 2019. Emergency rules expired effective April 29, 2019. Original rules filed November 21, 2019; effective February 19, 2020.