

Arizona Address Confidentiality Program

Office of Secretary of State- Ken Bennett



What is the Arizona Address Confidentiality Program?

The Address Confidentiality Program (ACP) will provide survivors of domestic violence, sexual offenses and stalking with a means to prevent abusers and potential abusers from locating them through public records. The goal of ACP is to help survivors stay safe by protecting their location. We are a *part* of an overall safety plan.

The ACP was signed into law April 19, 2011 and is administered by the Office of Secretary of State. Laws governing the program are located in Title 41, Article 3 and will be funded by a \$50 assessment levied on persons convicted of crimes outlined in statute. We are currently in the beginning stages of implementation and are not accepting applications for enrollment at this time. We *hope* to be enrolling participants by Spring of 2012.

The ACP will provide two critical services:
(ARS §41-162)

- 1) **A legal substitute mailing address**, which may be used as a residential, school or work address. This address will be reflected on their ACP authorization card, which will be carried by ACP participants, and has no reflection of their actual address. When presented with a current and valid authorization card, state and local government agencies are required to accept the substitute address as their lawful address of record.
- 2) **A mail forwarding service**. When ACP participants use the substitute address, their mail is sent to the substitute address. The ACP will receive participant's 1st class mail and forward the mail to the participant's actual confidential mailing address. The ACP can also accept registered, certified and legal mail on behalf of the participants. There will be no cost to participants for this service. ACP will not forward on magazines, junk mail or packages. Mail will be sent out to participants the same day ACP receives the mail.

Participation in The Address Confidentiality Program is not confidential, only participant's real address is confidential.

Eligibility and Enrollment Process

(ARS §41-162 & §41-163)

A person who is interested in enrolling as an ACP participant will have to meet with an Applicant Assistant who is trained and registered by the ACP. The following are the statutory requirements for enrollment:

- Adult or Child
- Must be a victim of domestic violence (as prescribed in ARS §13-3601), sexual offense (as offenses included in title 13, chapter 14 or 35.1) and stalking (as prescribed in ARS §13-2923) and is in fear of his or her safety
 - OR resides with someone who is an enrolled ACP participant.
- Must have relocated within the past 90 days or be planning to relocate
- Must provide evidence of victimization, such as police report, order of protection, agency document or a letter from a professional (*DV/Sexual Abuse Program, Religious, Medical or Other*) for whom the survivor has sought assistance for victimization

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ACP Authorization Card

Authorization cards will be provided to participants who are enrolled in the program. Each authorization card will contain the ACP substitute address, the participant's name, signature (or the signature of the parent or guardian), an individual authorization code and a card expiration date. Participants will receive their authorization cards after their application has been received and certified. Below is a draft-sample authorization card for ACP participants:

 State of Arizona Address Confidentiality Program	
Pursuant to ARS §41-163, the following person is authorized to use the following substitute address for all legal purposes:	
Participant Name 1901 W. Madison Apt#0000 Phoenix, AZ 85009	Expiration Date: 00/00/0000
_____ <i>Signature of Participant or Parent/ Guardian</i>	

It is the participant's responsibility to provide the local and state government entity with their substitute address and show their ACP authorization card to the entity or agency when using the substitute address as their lawful address of record for residential, work or school.

Cancellation of Certificate

The certification of participation in ACP can be cancelled for a variety of reasons. A participant can choose to withdraw from the program, fails to notify ACP staff of a change in their name, address or telephone, if applicant provided false information on the program application, or mail is return as undeliverable. Participation expires four years from date of certification, unless participant renews their application. If a participant is cancelled from the ACP program, it is their responsibility to notify entities of their new address.

State and Local Government Agencies

ACP participants will be able to use the ACP address when creating new government records or changing records with state and local agencies that were created up to 90 days prior to enrollment. When an ACP participant presents their ACP card, state and local agencies must accept the ACP address as their lawful address of record (actual address) and cannot require their true address. ACP staff is currently meeting with the various state departments and municipalities that will be impacted by the implementation of the Address Confidentiality Program.

Record Redaction

Further, upon an ACP participant's request, law enforcement shall redact the participant's actual address information from any agency record created up to 90 days prior to the enrollment date. [ARS §41-166 (O)]

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Information Specific to Criminal Justice Agencies, Courts, and Probation

ACP Mandated Responsibilities to the Courts

ACP is mandated to provide immediate notification to the court when applicant is certified as an ACP participant. Pursuant to ARS §41-165(C), if at the time of application, if an applicant or co-applicant is subject to a court order related to dissolution or marriage proceedings, child support, or allocation of parental responsibilities or parenting time, ACP shall notify the court who issued the order, the participant is a certified to be in the program and their ACP substitute address. ACP is also obligated to provide the same notification to the court having jurisdiction if an applicant is involved in a court action pertaining to dissolution of marriage proceedings, child support, or allocation of parental responsibilities or parenting time.

Policy Making

It is of the utmost importance for the Address Confidentiality to work in a collaborative relationship with the courts, law enforcement, probation, and other criminal justice agencies, as its impact on ACP participants is great. We suggest developing internal policies or procedures that best meet the needs of your agency while accommodating the ACP laws, such as the request processes and justifications for disclosing an ACP participant's actual address. The ACP staff can assist with this process in an advisory capacity, and are available to discuss unique situations as they occur on a case by case basis. Once again, it is our goal to collaborate, with agencies through the implementation of ACP and the duration of the program..

Request for Disclosure

ACP shall not disclose the ACP participant's actual address *except in cases of a criminal proceeding or investigation or court order* [ARS §41-165]. In the event a state or local government agency is in need of a participant's actual address or telephone, ACP will have a request for disclosure process. ACP will have two types of disclosure: Emergency and Non-Emergency Disclosures. Below is the process for both:

Emergency Disclosure

Only court, clerk of the court, criminal justice official or agency and probation department may seek an emergency disclosure related to a criminal proceeding, investigation or other court proceeding. These specific agencies will have **24 hour access** to the Director of ACP or the director's designee to allow for a prompt and expedited process.

To expedite the process for law enforcement and court personnel, ACP will need the following information:

- 1) A local or state government entity or agency seeking an ACP participant's actual address for authorized use must complete **in writing, on agency letterhead**, the following procedures for Request for Disclosure:
 - a. ACP participant name (and ACP apartment number if known), and;
 - b. Statement of explanation, setting forth the reason that the government entity needs the ACP participant's confidential actual address and reason why the government entity cannot meet its statutory or administrative obligations without the disclosure, and;

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- c. Statement of facts showing how they have attempted other methods to locate ACP participant or the ACP participant's address OR why they believe other methods reasonably appear to be unlikely to succeed, and;
- d. Statement of government entity has adopted procedures that the government entity will take to protect the confidentiality of the ACP participant's actual address, and;
- e. Printed name, title and badge number (if applicable) and signature of person seeking disclosure **and** printed name, title and badge number (if applicable) and signature of their immediate or acting supervisor, *plus* phone numbers for both.

(If emergency disclosure is requested from a criminal justice official or agency that an ACP participant has identified on their application as their perpetrator, ACP will ask for additional information from person seeking disclosure)

AND

- 2) Submit an Emergency Disclosure of Participant Information Form (see attached sample).

ACP is looking to have a template of the emergency disclosure and the supplement form on the Secretary of State's website to help ease the request of emergency disclosure process. Disclosure can be made via fax or email (with signature, not e-signature). This process has not been finalized. When it is, there will be clear instructions for agencies on how to seek an emergency disclosure.

Non-Emergency Disclosure

A local or state government entity or agency seeking an ACP participant's actual address or telephone for authorized use must complete **in writing, on agency letterhead**, the following procedures for Request for Disclosure:

- a. ACP participant name (and ACP apartment number if known), and;
- b. Statement of explanation, setting forth the reason that the government entity needs the ACP participant's confidential actual address and reason why the government entity cannot meet its statutory or administrative obligations without the disclosure, and;
- c. Statement of facts showing how they have attempted other methods to locate ACP participant or the ACP participant's address OR why they believe other methods reasonably appear to be unlikely to succeed, and;
- d. Statement of government entity has adopted procedures that the government entity will take to protect the confidentiality of the ACP participant's actual address, and;
- e. Printed name, title and signature of person seeking disclosure **and** printed name, title and signature of their immediate or acting supervisor, *plus* phone numbers for both.

A non-emergency request is made during normal business hours and can be requested via email or fax. When a non-emergency disclosure request is made to ACP Director (or the designee), the Director (or designee) may provide notification to the ACP participant of the request for disclosure of the actual address or telephone number, and be afforded the opportunity to be heard about the request before ACP grants or denies the request for disclosure.

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Adopted Procedures

Pursuant to ARS §41-167(H)1-4 a state or local government entity whose request of disclosure is granted shall have adopted procedures of how the agency will protect the ACP participant's confidential, actual address or telephone once it has been disclosed by ACP. The following are guidelines to assist agencies in their development of adopted procedures.

- 1) How will your agency limit use of ACP participant's actual address outside of intended use in request of disclosure statement (statutory or administrative need)?
- 2) How will your agency limit access of the actual address, to those outside of intended purpose stated in request of disclosure statement?
- 3) How will your agency cease to use and dispose of ACP participants actual address once expired and/ or is no longer needed?
- 4) What other ways will your agency maintain the confidential actual address outside of mentioned above?

ACP encourages all state or local agencies that in the future, may need to seek a request for disclosure for an ACP participant's actual address or telephone number from the Address Confidentiality Program, create their adopted procedures ahead of needed time and provide a copy of procedures to ACP on their agency letterhead to have on file. By having a copy of adopted procedures ahead of time, it will help expedite the request.

Court Order

If ACP is ordered by a court to release an ACP participant's actual address or telephone number, it will do so immediately per ARS §41-165(A) 1.

Grant or Denial of Request for Disclosure

If a person or agency requesting the disclosure of an ACP participant's confidential, actual address or telephone number meets the statutory obligation and completes the criteria in the disclosure the ACP Director (or designee) the request will be granted. If not all criteria is provided and/or there is no statutory obligation in the Request for Disclosure section, the ACP Director can deny the request (ARS §41-167(F)1-4). If Director denies an agency request for disclosure, the state or local entity may file written exceptions with ACP no more than 15 days after written notice of denial was provided.

9-1-1

Participants who initiate an emergency response to their actual address by calling 9-1-1 from a landline are voluntarily releasing their actual address. Since 9-1-1 call information is dispersed to various law enforcement databases, it would be unrealistic to assure participants that all 9-1-1 general information can be effectively redacted. Participants should not avoid calling 9-1-1 in the event of a real emergency, but should realize that their confidentiality may be compromised.

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Service of Process, Legal documents by First Class, Registered, or Certified Mail

The Address Confidentiality Program statute [ARS §41-162 (C)] provides the following language:

“Notwithstanding any other law and except as provided by court rule, a program participant may be served by registered mail or by certified mail, return receipt requested, addressed to the program participant at the program participant’s substitute address with any process, notice or demand required or permitted by law to be served on the program participant. This subsection does not prescribe the only means, or necessarily the required means, of serving a program participant in this state.”

ACP staff is working with the appropriate agencies on this process currently.

Service of Process in Person

****pending****Please see Request for Emergency Disclosure process.

DRAFT

Betty McEntire
Executive Director
Address Confidentiality Program
602-926-3931 or bmcentire@azsos.gov

Lucy Mason
Assistant Director
Address Confidentiality Program
602-926-3934 or lmason@azsos.gov

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Emergency Disclosure of Participant Information

ARS §41-167 (N)... "An official or agency receiving information pursuant to this subsection shall certify to the secretary of state that the official or agency has a system in place to protect the confidentiality of a program participant's actual address from the public and from personnel who are not involved in the trial, hearing, proceeding or investigation."

I, _____ am seeking the emergency disclosure of actual address or phone number information for the following ACP participant:

Participant Name _____ ACP Apt # _____
(if known)

I certify that the requested information is required pursuant to a:

- Trial
- Hearing
- Investigation
- Other proceeding _____
(Type of proceeding)

AND

- I certify that the information will be protected from the public and personnel who are not involved in the trial, hearing, proceeding, or investigation.

Signature of Person Seeking Disclosure (Title &/or Badge # if applicable)

_____, 20____.
Date

Signature of Supervisor (Title &/or Badge # if applicable)

_____, 20____.
Date