



HOUSING RIGHTS OF DOMESTIC VIOLENCE SURVIVORS

A STATE AND LOCAL LAW COMPENDIUM

October 2015

Dear Advocates:

The following is a compendium of state and local laws that affect domestic violence survivors' housing rights. This compendium is designed to serve as a starting point for advocates conducting research on housing protections that their state and local laws offer domestic violence survivors. Advocates should review provisions affecting domestic violence survivors' housing rights on a case-by-case basis to ensure their validity and enforceability in each jurisdiction. For purposes of brevity, in some instances, statutes are excerpted to include only the information that is relevant to domestic violence and housing.

Since we began publishing this compendium in 2010, we have seen a major increase in state and local jurisdictions enacting and implementing a variety of housing protections for domestic violence survivors. These laws are often the result of efforts by domestic violence and housing advocacy communities to address obstacles that survivors face in accessing and maintaining housing. The most common types of safeguards include laws that (1) provide an eviction defense where the landlord tries to evict the victim due to the abuse, including a crime or lease violation committed by the perpetrator at the rental unit; (2) permit early lease termination without further obligation to pay rent where tenants provide landlords with documentation of domestic violence; (3) require landlords to change locks where tenants have provided documentation of domestic violence; (4) obligate the abuser to pay for or provide housing for survivors; and (5) offer address or documentation confidentiality for survivors.

This compendium includes laws that were enacted as of April 2015. Because many states are in the process of adopting and amending domestic violence and housing laws, advocates should carefully review their state and local laws and pending legislation to obtain the most current information. We encourage advocates to send comments, corrections, and updates.

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This publication is intended to be used to provide background information only and is not intended to provide legal advice or the complete statutory provisions. Specific questions regarding legal issues and compliance with federal and state laws and regulations should be referred to legal counsel.

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MARYLAND

Maryland has enacted the following laws regarding survivors' housing rights:

- Protective orders requiring the restrained party to vacate the home immediately and awarding temporary use and possession of the home to the protected party.
MD. CODE ANN., FAM. LAW §§ 4-504.1, 4-505, 4-506.
- Early lease termination. MD. CODE ANN., REAL PROP. §§ 8-5A-02 through 8-5A-04.
- Eviction defense for victims of domestic violence and sexual assault.
MD. CODE ANN., REAL PROP. § 8-5A-05.
- Lock changes for victims of domestic violence and sexual assault.
MD. CODE ANN., REAL PROP. § 8-5A-06.
- Address confidentiality program. MD. CODE ANN., FAM. LAW §§ 4-519 *et seq.*

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Interim protective orders

MD. CODE ANN., FAM. LAW § 4-504.1

[Editor's note: Section effective through December 31, 2016.]

When petition filed with commissioner

(a) A petition under this subtitle may be filed with a commissioner when neither the office of the clerk of the circuit court nor the Office of the District Court Clerk is open for business.

Issuance of interim protective order

(b) If a petition is filed with a commissioner and the commissioner finds that there are reasonable grounds to believe that the respondent has abused a person eligible for relief, the commissioner may issue an interim protective order to protect a person eligible for relief.

Scope of interim protective order

(c) An interim protective order may:

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(3) order the respondent to refrain from entering the residence of a person eligible for relief;

(4) if a person eligible for relief and the respondent are residing together at the time of the alleged abuse:

(i) order the respondent to vacate the home immediately;

(ii) award to a person eligible for relief custody of any child of the person eligible for relief and respondent then residing in the home; and

(iii) subject to the limits as to a nonspouse specified in § 4-505(a)(2)(iv) of this subtitle, award temporary use and possession of the home to the person eligible for relief;

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(6) in a case alleging abuse of a vulnerable adult, subject to the limits as to a nonspouse specified in § 4-505(a)(2)(iv) of this subtitle, award temporary use and possession of the home to an adult living in the home;

(7) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief;

(8) order the respondent to remain away from the residence of any family member of a person eligible for relief; or

(9) award temporary possession of any pet of the person eligible for relief or the respondent.

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Temporary protective orders

[Editor’s note: Section effective through December 31, 2016.]

MD. CODE ANN., FAM. LAW § 4-505

In general

(a)(1) If, after a hearing on a petition, whether ex parte or otherwise, a judge finds that there are reasonable grounds to believe that a person eligible for relief has been abused, the judge may enter a temporary protective order to protect any person eligible for relief from abuse.

(2) The temporary protective order may order any or all of the following relief:

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(iii) order the respondent to refrain from entering the residence of a person eligible for relief;

(iv) where the person eligible for relief and the respondent are residing together at the time of the alleged abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief or in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the home or the person eligible for relief has resided in the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;

(v) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;

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(ix) award temporary possession of any pet of the person eligible for relief or the respondent.

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Final protective orders

MD. CODE ANN., FAM. LAW § 4-506

Hearing

(a) A respondent under § 4-505 of this subtitle shall have an opportunity to be heard on the question of whether the judge should issue a final protective order.

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Issuance of final protective order

(c)(1) If the respondent appears before the court at a protective order hearing or has been served with an interim or temporary protective order, or the court otherwise has personal jurisdiction over the respondent, the judge:

- (i) may proceed with the final protective order hearing; and
- (ii) if the judge finds by a preponderance of the evidence that the alleged abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse.

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Scope of final protective order

(d) The final protective order may include any or all of the following relief:

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- (3) order the respondent to refrain from entering the residence of any person eligible for relief;
- (4) where the person eligible for relief and the respondent are residing together at the time of the abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief or, in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the home or the person eligible for relief has shared the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;
- (5) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;

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- (9) award emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty of support under this article, including an immediate and continuing withholding order on all earnings of the respondent in the amount of the ordered emergency family maintenance in accordance with the procedures specified in Title 10, Subtitle 1, Part III of this article;

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Vacation of home by respondent

(h) In determining whether to order the respondent to vacate the home under § 4-505(a)(2)(iv) of this subtitle or subsection (d)(4) of this section, the judge shall consider the following factors:

- (1) the housing needs of any minor child living in the home;
- (2) the duration of the relationship between the respondent and any person eligible for relief;
- (3) title to the home;
- (4) pendency and type of criminal charges against the respondent;
- (5) the history and severity of abuse in the relationship between the respondent and any person eligible for relief;
- (6) the existence of alternative housing for the respondent and any person eligible for relief; and
- (7) the financial resources of the respondent and the person eligible for relief.

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Definitions

MD. CODE ANN., REAL PROP. § 8-5A-01

In general

(a) In this subtitle the following words have the meanings indicated.

Legal occupant

(b) “Legal occupant” means an occupant who resides on the premises with the actual knowledge and permission of the landlord.

Offender

(c) “Offender” means a person who commits an act of domestic violence or commits a sexual assault offense.

Peace order

(d) “Peace order” means an enforceable final peace order.

Protective order

(e) “Protective order” means an enforceable final protective order.

Victim of domestic violence

(f) “Victim of domestic violence” means a person who is:

- (1) A victim of domestic abuse, as defined in § 4-501 of the Family Law Article; and
- (2) A person eligible for relief, as defined in § 4-501 of the Family Law Article.

Victim of sexual assault

(g) “Victim of sexual assault” means a person who is a victim of:

- (1) A sexual crime under Title 3, Subtitle 3 of the Criminal Law Article;
- (2) Child sexual abuse under § 3-602 of the Criminal Law Article; or
- (3) Sexual abuse of a vulnerable adult under § 3-604 of the Criminal Law Article.

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Termination of residential lease by victims of domestic violence or sexual assault

MD. CODE ANN., REAL PROP. § 8-5A-02

In general

(a) Subject to the requirements of subsections (b) and (c) of this section, a tenant may terminate the tenant's future liability under a residential lease if the tenant or legal occupant is:

- (1) A victim of domestic violence; or
- (2) A victim of sexual assault.

Written notice and 30 days to vacate leased premises

(b) If a tenant or legal occupant is a victim of domestic violence or a victim of sexual assault, the tenant may provide to the landlord the written notice required under § 8-5A-03 or § 8-5A-04 of this subtitle and, if the written notice is provided, the tenant shall have 30 days to vacate the leased premises from the date of providing the written notice.

Responsibility for rent

(c) A tenant who vacates leased premises under this section is responsible for rent only for the 30 days following the tenant providing notice of an intent to vacate.

Failure to vacate premises within 30 days

(d) If a tenant does not vacate the leased premises within 30 days of providing to the landlord the written notice required under § 8-5A-03 or § 8-5A-04 of this subtitle, the landlord is, at the landlord’s option and with written notice to the tenant, entitled to:

- (1) All legal remedies against a tenant holding over available under § 8-402 of this title; or
- (2) Deem the tenant’s notice of an intent to vacate to have been rescinded and the terms of the original lease to be in full force and effect.

Future liability of respondents

(e) The termination of a tenant’s future liability under a residential lease under this section does not terminate or in any other way impact the future liability of a tenant who is the respondent in the action that results in:

- (1) A protective order issued for the benefit of the victim tenant or victim legal occupant under § 4-506 of the Family Law Article; or
- (2) A peace order issued for the benefit of the victim tenant or victim legal occupant for which the underlying act was sexual assault under § 3-1505 of the Courts Article.

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Notice of intent to vacate premises as domestic violence victim

MD. CODE ANN., REAL PROP. § 8-5A-03

In general

(a) If a tenant or legal occupant is a victim of domestic violence, the tenant may terminate the tenant’s future liability under a residential lease under § 8-5A-02 of this subtitle if the tenant provides the landlord with written notice by first-class mail or hand delivery of an intent to

vacate the premises and notice of the tenant’s or legal occupant’s status as a victim of domestic violence.

Copy of protective order included with notice

(b) The notice provided under subsection (a) of this section shall include a copy of a protective order issued for the benefit of the tenant or legal occupant under § 4-506 of the Family Law Article.

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Notice of intent to vacate premises as sexual assault victim

MD. CODE ANN., REAL PROP. § 8-5A-04

In general

(a) If a tenant or legal occupant is a victim of sexual assault, the tenant may terminate the tenant's future liability under a residential lease under § 8-5A-02 of this subtitle if the tenant provides the landlord with written notice by first-class mail or hand delivery of an intent to vacate the leased premises, including the tenant’s or legal occupant’s status as a victim of sexual assault.

Copy of protective or peace orders included with notice

(b) The notice provided under subsection (a) of this section shall include:

(1) A copy of a protective order issued for the benefit of the tenant or legal occupant under § 4-506 of the Family Law Article; or

(2) A copy of a peace order issued for the benefit of the tenant or legal occupant for which the underlying act was sexual assault under § 3-1505 of the Courts Article.

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Actions for possession of property against victims of domestic abuse or sexual assault

MD. CODE ANN., REAL PROP. § 8-5A-05

Application of section

(a) This section applies to an action for possession of property under § 8-402.1 of this title against a tenant or legal occupant who is a victim of domestic violence or a victim of sexual assault in which the basis for the alleged breach is an act or acts of domestic violence or sexual assault.

Domestic violence or sexual assault raised as defense in action for possession of property

(b)(1) A tenant is deemed to have raised a rebuttable presumption that the alleged breach of the lease does not warrant an eviction if the tenant provides to the court:

(i) A copy of a protective order issued for the benefit of the tenant or legal occupant under § 4-506 of the Family Law Article; or

(ii) A copy of a peace order issued for the benefit of the tenant or legal occupant for which the underlying act was sexual assault under § 3-1505 of the Courts Article.

(2) If domestic violence or sexual assault is raised as a defense in an action for possession of property under § 8-402.1 of this title, the court, in its discretion, may enter a judgment in favor of a tenant who does not provide the evidence described in paragraph (1) of this subsection.

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Request to change locks of premises

MD. CODE ANN., REAL PROP. § 8-5A-06

Written request to change locks

(a) A person who is a victim of domestic violence or a victim of sexual assault and who is a tenant under a residential lease may provide to the landlord a written request to change the locks of the leased premises if the protective order or peace order issued for the benefit of the tenant or legal occupant requires the respondent to refrain from entering or to vacate the residence of the tenant or legal occupant.

Contents of request

(b) The written request provided under subsection (a) of this section shall include:

(1) A copy of a protective order issued for the benefit of the tenant or legal occupant under § 4-506 of the Family Law Article; or

(2) A copy of a peace order issued for the benefit of the tenant or legal occupant for which the underlying act was sexual assault under § 3-1505 of the Courts Article.

Landlord or tenant changing locks the next business day

(c)(1) The landlord shall change the locks on the leased premises by the close of the next business day after receiving a written request under subsection (a) of this section.

(2) If the landlord fails to change the locks as required under paragraph (1) of this subsection, the tenant:

(i) May have the locks changed by a certified locksmith on the leased premises without permission from the landlord; and

(ii) Shall give a duplicate key to the landlord or the landlord’s agent by the close of the next business day after the lock change.

New keys provided to tenant

(d) If a landlord changes the locks on a tenant’s leased premises under subsection (c) of this section, the landlord:

(1) Shall provide a copy of the new key to the tenant who made the request for the change of locks at a mutually agreed time not to exceed 48 hours following the lock change; and

(2) May charge a fee to the tenant not exceeding the reasonable cost of changing the locks.

Fee due within 45 days

(e)(1) If a landlord charges a fee to the tenant for changing the locks on a tenant’s leased premises under subsection (d) of this section, the tenant shall pay the fee within 45 days of the date the locks are changed.

(2) If a tenant does not pay a fee as required under paragraph (1) of this subsection, the landlord may:

(i) Charge the fee as additional rent; or

(ii) Withhold the amount of the fee from the tenant’s security deposit.

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Address Confidentiality Program: Definitions

MD. CODE ANN., FAM. LAW § 4-519

In general

(a) In this Part IV of this subtitle the following words have the meanings indicated.

Actual address

(b) “Actual address” means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a Program participant under this part.

Disabled person

(c) “Disabled person” has the meaning stated in § 13-101 of the Estates and Trusts Article.

Program

(d) “Program” means the Address Confidentiality Program.

Program participant

(e) “Program participant” means a person designated as a Program participant under this part.

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Address Confidentiality Program: Purpose

MD. CODE ANN., FAM. LAW § 4-520

The purpose of this part is to enable:

- (1) State and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence;
- (2) interagency cooperation in providing address confidentiality for victims of domestic violence; and
- (3) State and local agencies to accept a Program participant's use of an address designated by the Office of the Secretary of State as a substitute address.

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Address Confidentiality Program: Establishment of Program

MD. CODE ANN., FAM. LAW § 4-521

The Secretary of State shall establish and administer an Address Confidentiality Program for victims of domestic violence.

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Address Confidentiality Program: Eligibility; application

MD. CODE ANN., FAM. LAW § 4-522

Eligible individuals

(a) Any of the following individuals may apply to participate in the Program:

- (1) an individual acting on the individual's own behalf;
- (2) a parent or guardian acting on behalf of a minor who resides with the parent or guardian; or
- (3) a guardian acting on behalf of a disabled person.

Application form

(b) An application to participate in the Program shall be in the form required by the Secretary of State and shall contain:

- (1) a statement that:

- (i) the applicant is a victim of domestic violence; and
- (ii) the applicant fears for the applicant's safety or the safety of the applicant's child;
- (2) evidence that the applicant is a victim of domestic violence, including:
 - (i) certified law enforcement, court, or other federal or State agency records or files;
 - (ii) documentation from a domestic violence program; or
 - (iii) documentation from a religious, medical, or other professional from whom the applicant has sought assistance or treatment as a victim of domestic violence;
- (3) a statement that disclosure of the applicant's actual address would endanger the applicant's safety or the safety of the applicant's child;
- (4) a knowing and voluntary designation of the Secretary of State as agent for purposes of service of process and receipt of first-class, certified, or registered mail;
- (5) the mailing address and telephone number where the applicant may be contacted by the Secretary of State;
- (6) the actual address that the applicant requests not be disclosed by the Secretary of State because it would increase the risk of domestic violence;
- (7) a statement as to whether there is any existing court order or pending court action involving the applicant and related to divorce proceedings, child support, child custody, or child visitation, and the court that issued the order or has jurisdiction over the action;
- (8) a sworn statement by the applicant that to the best of the applicant's knowledge all of the information contained in the application is true;
- (9) the signature of the applicant and the date on which the applicant signed the application; and
- (10) a voluntary release and waiver of all future claims against the State for any claim that may arise from participation in the Program except for a claim based on gross negligence.

Review of application; designation as Program participant

(c)(1)(i) On the filing of a properly completed application and release, the Secretary of State shall:

- 1. review the application and release; and

2. if the application and release are properly completed and accurate, designate the applicant as a Program participant.

(ii) An applicant shall be a participant for 4 years from the date of filing unless the participation is canceled or withdrawn prior to the end of the 4-year period.

(2) A Program participant may withdraw from participation by filing a signed, notarized request for withdrawal with the Secretary of State.

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Address Confidentiality Program: False statements or information

MD. CODE ANN., FAM. LAW § 4-523

Denial of participation

(a) If an applicant falsely attests in an application that disclosure of the applicant's actual address would endanger the applicant's safety or the safety of the applicant's child or knowingly provides false information when applying for participation or renewal of participation in the Program, the applicant shall no longer be allowed to participate in the Program.

Prohibited

(b) A person may not knowingly make a false attestation or knowingly provide false information in an application in violation of subsection (a) of this section.

Penalty

(c) A person who violates subsection (b) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$500 or both.

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Address Confidentiality Program: Change of name, address, or telephone number

MD. CODE ANN., FAM. LAW § 4-524

Legal name change

(a) If a Program participant obtains a legal name change, the Program participant shall notify the Secretary of State within 30 days and provide the Secretary of State with a certified copy of any judgment or order evidencing the change or any other documentation the Secretary of State considers to be sufficient evidence of the change.

Address or telephone number change

(b) If a Program participant makes a change in address or telephone number from an address or telephone number listed on the Program participant's application, the Program participant shall notify the Secretary of State at least 7 days before the change occurs.

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Address Confidentiality Program: Cancellation of participation

MD. CODE ANN., FAM. LAW § 4-525

In general

(a) The Secretary of State shall cancel the participation of a Program participant if:

(1) the Program participant fails to notify the Secretary of State of any legal name change or change in address or telephone number in the manner required by § 4-524 of this part;

(2) the Program participant files a request for withdrawal of participation under § 4-522(c)(2) of this part;

(3) the Program participant submits false information in applying for participation in the Program in violation of § 4-523 of this part; or

(4) the Secretary of State forwards mail to the Program participant and the mail is returned as undeliverable.

Notice of cancellation

(b) The Secretary of State shall send notice of any cancellation of participation in the Program to the participant and shall set forth the reason for cancellation.

Appeal

(c) A Program participant may appeal any cancellation decision by filing an appeal with the Secretary of State within 30 days after the date of the notice of cancellation in accordance with procedures developed by the Secretary of State.

Notification to persons using substitute address

(d) An individual who ceases to be a Program participant is responsible for notifying any person who uses the substitute address designated by the Secretary of State that the substitute address is no longer valid.

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Address Confidentiality Program: State and local agencies; substitute address

MD. CODE ANN., FAM. LAW § 4-526

Request to use substitute address

(a) A Program participant may make a request to any State or local agency to use the substitute address designated by the Secretary of State as the Program participant's address.

Use of substitute address

(b) Subject to subsection (c) of this section, when a Program participant has made a request to a State or local agency under subsection (a) of this section, the State or local agency shall use the substitute address designated by the Secretary of State as a Program participant's address.

Waiver

(c)(1) A State or local agency that has a bona fide statutory or administrative requirement for using a Program participant's actual address may apply to the Secretary of State for a waiver from the requirements of the Program.

(2) If the Secretary of State approves the waiver, the State or local agency shall use the Program participant's actual address only for the required statutory or administrative purposes.

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Address Confidentiality Program: Local boards of elections

MD. CODE ANN., FAM. LAW § 4-527

Use of actual address

(a)(1) Each local board of elections shall use a Program participant's actual address for all election-related purposes.

(2) A Program participant may not use the substitute address designated by the Secretary of State as the Program participant's address for voter registration purposes.

Disclosure of actual address

(b) A local board of elections may not make a Program participant's address contained in voter registration records available for public inspection or copying, except:

(1) on request by a law enforcement agency for law enforcement purposes; and

(2) as directed by a court order to disclose the address.

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Address Confidentiality Program: Disclosure of actual address and telephone number

MD. CODE ANN., FAM. LAW § 4-528

Public records

(a) Except as otherwise provided by this part, a Program participant's actual address and telephone number maintained by the Secretary of State or a State or local agency is not a public record within the meaning of § 4-101 of the General Provisions Article.

Disclosure

(b) The Secretary of State may not disclose a Program participant's actual address or telephone number or substitute address, except as provided in subsection (c) of this section and:

(1)(i) on request by a law enforcement agency for law enforcement purposes; and

(ii) as directed by a court order; or

(2) on request by a State or local agency to verify a Program participant's participation in the Program or substitute address for use under § 4-526 of this part.

Notice to court

(c) The Secretary of State shall notify the appropriate court of a Program participant's participation in the Program and of the substitute address designated by the Secretary of State if the Program participant:

(1) is subject to a court order or administrative order;

(2) is involved in a court action or administrative action; or

(3) is a witness or a party in a civil or criminal proceeding.

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Address Confidentiality Program: Obtaining or disclosing actual address or telephone number without authorization

MD. CODE ANN., FAM. LAW § 4-529

Obtaining actual address or telephone number

(a) A person may not knowingly and intentionally obtain a Program participant's actual address or telephone number from the Secretary of State or any agency without authorization to obtain the information.

Disclosing actual address or telephone number

(b)(1) This subsection applies only when an employee of the Secretary of State:

(i) obtains a Program participant's actual address or telephone number during the course of the employee's official duties; and

(ii) at the time of disclosure, has specific knowledge that the actual address or telephone number belongs to a Program participant.

(2) An employee of the Secretary of State or any agency may not knowingly and intentionally disclose a Program participant's actual address or telephone number to another person unless the disclosure is authorized by law.

Penalty

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$2,500.

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Address Confidentiality Program: Regulations

MD. CODE ANN., FAM. LAW § 4-530

The Secretary of State shall adopt regulations to carry out the provisions of this part.

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