

RULE ADOPTIONS

CHILDREN AND FAMILIES

(a)

DIVISION ON WOMEN

Address Confidentiality Program

Readoption with Amendments: N.J.A.C. 3A:71

Adopted Repeals: N.J.A.C. 3A:71-4.3, 5.3, and 6.2

Proposed: January 16, 2024, at 56 N.J.R. 99(a).

Adopted: May 9, 2024, by Christine Norbut Beyer, M.S.W.,

Commissioner, Department of Children and Families.

Filed: May 9, 2024, as R.2024 d.054, **without change**.

Authority: N.J.S.A. 47:4-4 and 52:27D-43.9a.

Effective Dates: May 9, 2024, Readoption;

June 3, 2024, Amendments and Repeals.

Expiration Date: May 9, 2031.

Summary of Public Comments and Agency Responses:

The official comment period ended on March 16, 2024. During the comment period, the Department of Children and Families (Department) received two written comments from:

1. Nicolas Larken, Rachel Shoemaker, and Julia Raphael of If/When/How: Lawyering for Reproductive Justice, University of Pennsylvania Carey Law School (IWH); and

2. Kaitlyn Wojtowicz, Senior Vice President of Public Affairs, Planned Parenthood Action Fund of New Jersey (PPAFNJ).

1. COMMENT: Both commenters expressed support for the expansion of the Address Confidentiality Program (ACP) to include additional categories of qualified persons. Both IWH and PPAFNJ encourage the inclusion of reproductive health service providers and patients as individuals who may be eligible for address confidentiality services. The commenters emphasize the need for the extra protections afforded by the ACP as a result of the heightened safety risks to both providers and patients of reproductive health services.

IWH further expresses support for the broad definitions used to define the terms “reproductive health service provider” and “reproductive health services.” In particular, IWH encourages the inclusion of employees, volunteers, and contractors, in addition to, physicians in the definition of reproductive health service provider, and further commends the Department for including medical, surgical, counseling, or referral services related to both pregnancy and the termination of pregnancy in the definition of reproductive health services.

IWH also supports the expansion of the ACP to include victims of sexual assault and stalking, as well as the inclusion of family members of reproductive health service patients and providers, and family members of individuals who are victims of domestic violence, sexual assault, or stalking.

RESPONSE: The Department thanks the commenters for their support.

2. COMMENT: IWH expresses concern that requiring victims to report any act or acts of sexual assault and stalking to a law enforcement agency or court may prevent many otherwise eligible individuals from receiving much needed address confidentiality services. IWH points to data and published estimates of victimization reporting rates to suggest that acts of sexual assault and stalking are often not reported to law enforcement. Based on this concern, IWH urges the Department to consider softening the reporting requirement.

RESPONSE: The Department acknowledges IWH’s concerns, however, the Department declines to make the requested change. N.J.A.C. 3A:71-3.1 sets forth the ACP’s application requirements and provides that a completed application form must include “a sworn statement that any act or acts of domestic violence, stalking, or sexual abuse that form the underlying basis for the applicant’s ACP eligibility has been reported to a law enforcement agency and/or court.” The sworn statement is necessary to ensure that applicants are able to meet the statutorily defined criteria of “sexual assault,” “domestic violence,” and/or “stalking” pursuant to

N.J.S.A. 47:4-3. As the requested change is established by the ACP’s enabling statute, N.J.S.A. 47:1 et seq., the change cannot be made in the current rulemaking.

Federal Standards Statement

The rules readopted with amendments and repeals are not subject to Federal standards or requirements, and a Federal standards analysis is not required for this rulemaking.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 3A:71.

Full text of the adopted amendments follows:

SUBCHAPTER 1. PURPOSE AND SCOPE

3A:71-1.1 Purpose and scope

(a) The purpose of this program is to establish uniform Statewide procedures for maintaining the confidentiality of address information of victims of domestic violence, stalking, sexual assault, and reproductive health service patients and providers, as provided for at N.J.S.A. 47:4-1 et seq., in the records of State and local government agencies.

(b) The provisions of this chapter shall be applicable to victims of domestic violence, stalking, sexual assault, and reproductive health service patients and providers, who are certified by the Director of the Division on Women as eligible to participate in the Address Confidentiality Program (ACP) and State and local government agencies or nonprofit agencies authorized to assist program participants with ACP applications.

SUBCHAPTER 2. DEFINITIONS

3A:71-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

“Application assistant” means an employee of a State or local government agency, private entity, or a nonprofit program who meets the minimum training requirements of 40 hours of domestic violence, stalking, or sexual violence training, or is designated by the Director to assist individuals in the completion of program participation applications.

...

“Director” means the Director of the Division on Women in the Department of Children and Families, or the Director’s designee.

...

“Program manager” means the agency employee designated by the Director with responsibility for developing and administering the Address Confidentiality Program in accordance with the provisions at N.J.S.A. 47:4-1 et seq.

“Program participant” means a qualified person certified by the Director as eligible to participate in the Address Confidentiality Program established by this chapter.

“Public agency” means an office, department, division, bureau, board, commission, or other statutory unit of State or local government or any functional subdivision of that agency, which a program participant may request the use of the alternate address designated by the Director as the program participant’s address pursuant to N.J.S.A. 47:4-6 et seq.

...

“Qualified person” means a reproductive health service patient or provider, a victim of domestic violence, sexual assault, or stalking, or a person who has applied for an order pursuant to N.J.S.A. 2C:14-13 et seq., or a family member.

“Reproductive health service provider” means a physician, employee, volunteer, or contractor of the provider, hospital, clinic, physician’s office, or facility that provides reproductive health services.

“Reproductive health services” means medical, surgical, counseling, or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of pregnancy.

“Sexual assault” means an act of sexual assault as defined at N.J.S.A. 2C:14-2, if the act has been reported to a law enforcement agency or court.

“Stalking” means an act defined in section 1 at P.L. 1992, c. 209 (N.J.S.A. 2C:12-10), if the act has been reported to a law enforcement agency or court.

“Substitute mailing address” means a mailing address designated by the Director, which is not the program participant’s residential address as documented on the participant’s application but is an alternative address to which mail is to be mailed.

SUBCHAPTER 3. APPLICATION AND CERTIFICATION PROCESS

3A:71-3.1 Requirements for participation in the ACP

(a) Each applicant filing for participation in the ACP must be 18 years of age or over, an emancipated minor, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person.

(b) Each applicant shall complete an application, which may be obtained from a local domestic violence program, sexual violence agency, or other agencies, as designated by the Division on Women. Information about how to contact the aforementioned programs can be obtained by contacting the New Jersey Address Confidentiality Program at 1-877-218-9133.

1. The application form shall require the provision of the following:

i.-ii. (No change.)

iii. A sworn statement that any act or acts of domestic violence, stalking, or sexual abuse that form the underlying basis for the applicant’s ACP eligibility has been reported to a law enforcement agency and/or court or that the applicant has applied for an order pursuant to N.J.S.A. 2C:14-13 et seq.;

iv. (No change.)

v. A sworn statement that the applicant fears further violent acts and that the applicant has relocated or will be relocating to a location that is not known in the public record;

vi.-vii. (No change.)

viii. The applicant’s designation of the Director as the applicant’s agent for service of process and for receipt of mail;

ix.-xi. (No change.)

2. (No change in text.)

3A:71-3.2 Certification

(a) An applicant who has filed a completed application form shall be certified as a program participant and issued an ACP authorization card. The authorization card shall contain the program participant’s name, authorization code, substitute mailing address, certification expiration date, birth date, and the applicant’s signature.

(b) A program participant’s certification shall be valid for four years following the date the authorization card is issued unless the certification is withdrawn, terminated, or invalidated before that date, in accordance with N.J.A.C. 3A:71-5.

(c)-(d) (No change.)

SUBCHAPTER 4. RECERTIFICATION

3A:71-4.1 Requirements for recertification

(a) A program participant may renew their program participation by submitting a completed recertification packet to the ACP program manager by mail.

(b) The certification renewal packet shall include a recertification form. The recertification form shall require the provision of the following:

1. (No change.)

2. The applicant’s statement that the applicant fears further violent acts and that the applicant has relocated to a location that is not known in the public record;

3. The applicant’s current or updated residential address, mailing address, work address, or school address, for which confidentiality is being requested;

4. (No change.)

5. The applicant’s designation of the Director as the applicant’s agent for service of process and for receipt of mail;

6.-7. (No change.)

8. The recertification packet date.

3A:71-4.2 Recertification

(a) Upon the program manager’s receipt of the completed recertification packet, the program manager shall:

1. (No change.)

2. Issue to the program participant a new authorization card.

3A:71-4.3 (Reserved)

SUBCHAPTER 5. CERTIFICATION WITHDRAWAL, INVALIDATION, EXPIRATION, AND TERMINATION

3A:71-5.1 Withdrawal

A program participant may withdraw from the ACP by submitting written notification of withdrawal to the program manager. Certification shall be withdrawn on the date of the program manager’s receipt of this notification.

3A:71-5.2 Termination

(a) The program manager may terminate a program participant’s certification and invalidate the program participant’s authorization card if:

1. (No change.)

2. Any information provided in the program participant’s application is false;

3-4. (No change.)

(b) The program manager shall notify the program participant of the termination from the ACP by a method most likely to result in contact with the program participant. Such methods may include, but shall not be limited to, telephone contact with the program participant or telephone and/or mail contact with the program participant’s designated contact person.

(c) (No change.)

3A:71-5.3 (Reserved)

SUBCHAPTER 6. APPEAL OF CERTIFICATION TERMINATION

3A:71-6.1 Filing procedures

A program participant may appeal their termination from the ACP by submitting a written explanation disputing the grounds for termination to the Director within 20 business days of receipt of notice of termination from the program. The written explanation shall be accompanied by all information and documentation which supports the appeal.

3A:71-6.2 (Reserved)

3A:71-6.3 Director’s decision

(a) The Director or the Director’s designee shall review all submissions and render a decision based on the written record within 20 business days of receipt of the appeal.

(b) The Director’s decision shall be final.

(c) Where the Director has upheld the certification termination, the program participant will be permitted to remain in the program for 10 business days after notification of the Director’s decision has been received.

SUBCHAPTER 7. PROGRAM PARTICIPANT PRIVILEGES

3A:71-7.1 Request for confidentiality

(a) A program participant may request that a public agency keep the participant’s residential, work, and school address confidential when creating a new record or updating an existing record.

(b) A program participant may request that the program participant’s name and address information be kept confidential to the extent permitted at N.J.S.A. 47:4-6.

(c) The program participant shall show the authorization card to public agency personnel in order to verify program participation and to require the public agency’s use of the designated address noted on the card in lieu of the program participant’s actual location.

3A:71-7.2 Public agency requirements

(a) When a program participant makes a request noted at N.J.A.C. 3A:71-7.1(a) or (b), the public agency shall maintain the confidentiality of all applications or records and ensure that they are accessible only to authorized personnel, except as provided at N.J.A.C. 3A:71-8 and 9.

(b) When verifying that an individual is an ACP program participant, authorized personnel may make a file photocopy of the program participant's authorization card.

1. The authorization card shall be returned to the program participant immediately upon completion of the photocopying; and

2. The photocopy shall be kept with the confidential records of the program participant during the time the records are filed and maintained by the public agency.

(c) A public agency shall use the designated mailing address requested by the program participant and verified by the ACP authorization card unless the public agency has received a written exemption determination from the Director pursuant to the provisions at N.J.A.C. 3A:71-10.

SUBCHAPTER 8. DISCLOSURE OF INFORMATION

3A:71-8.1 Disclosure

No record or related information maintained pursuant to the ACP shall be disclosed by the program manager or public agencies without the expressed written authorization of the program participant or by court order unless release of the record or information is otherwise provided for by this chapter.

SUBCHAPTER 9. INFORMATION RELEASE TO LAW ENFORCEMENT AGENCIES OR UPON COURT ORDER

3A:71-9.1 Release to law enforcement agencies generally

(a) Information about a program participant may be released to a law enforcement agency if:

1. The program participant provides written authorization;

2. (No change.)

3. The law enforcement agency making the request has a bona fide requirement to have access to a program participant's actual address which meets the requirements at N.J.A.C. 3A:71-9.2.

3A:71-9.2 Request for release of records to law enforcement agencies

(a) A request for the release of information concerning a program participant to a law enforcement agency may be honored only if the law enforcement agency submits by mail, a written request on official letterhead to the Director or the Director's designee at ACP, PO Box 717, Trenton, NJ 08625-0717, which contains:

1.-4. (No change.)

3A:71-9.3 Emergency release of records

The program manager may disclose an application, record, or other information about a program participant to a law enforcement agency if the program manager determines that an emergency situation exists, and that the safety or health of a program participant is imperiled by withholding this information.

SUBCHAPTER 10. AGENCY EXEMPTION REQUESTS

3A:71-10.1 Requirements of request for exemption

(a) A public agency requesting an exemption from the provisions of this chapter shall provide a written request to the Director which includes the following:

1. Identification of the statute which demonstrates the public agency's bona fide requirement and authority for the use of the actual address of an individual;

2.-3. (No change.)

4. Identification of the individuals who will have access to the record and how the public agency will maintain confidentiality of the address;

5. An explanation of how the public agency's acceptance of a substitute address will prevent the agency from meeting its obligations under the statute or rule identified at (a)1 above; and

6. An explanation of how the disclosed confidential address of the program participant will be used only for the statutory purpose specified

at (a)1 above and the public agency's confirmation that the disclosed address will not be further disclosed or made available in any way to any other person or agency.

3A:71-10.2 Exemption determination

(a) The Director's decision to grant or withhold a requested exemption shall be based on, but not limited to, an evaluation of the information provided pursuant to N.J.A.C. 3A:71-10.1. The decision shall be rendered within 20 days receipt of the public agency's request for exemption.

(b) If the Director determines that a public agency has a bona fide statutory requirement for the use of a program participant's actual address information and that the actual address information will be used only for those statutory purposes, the Director may issue a written exemption determination to the public agency.

(c) A decision granting the request for exemption shall include:

1. A statement as to the public agency's obligation to maintain the confidentiality of a program participant's address information;

2. (No change.)

3. The term during which the exemption is authorized for the public agency where the public agency is making procedural changes that would allow it to accept the substitute address;

4. (No change.)

5. Designation of an address information disposition date after which the public agency may no longer maintain a record of the address information.

(d) A Director's denial of a public agency's exemption request shall be made, in writing, and include a statement of the specific reasons for the denial. When a program participant requests use of the substitute address in a record, and the public agency has received an exemption determination for that record, the public agency shall immediately provide a copy of the Director's written decision to the program participant. The public agency shall notify the ACP's program manager of the applicant's request for use of the substitute address and its decision to deny the request.

3A:71-10.3 Appeal of denial of request for exemption

(a) A public agency may appeal the denial of its request for exemption by providing additional data and information evidencing the steps that have been or are being taken to resolve the basis for the Director's denial determination.

(b) During the review, evaluation, and appeal of a public agency's exemption request, the public agency shall accept the use of a program participant's substitute address.

SUBCHAPTER 11. PROTECTED VOTER RECORDS

3A:71-11.2 Processing of protected voter records

Voter records of program participants shall be processed in accordance with the procedures adopted by the county elections superintendent that ensure the confidentiality of the addresses of all ACP program participants.

(a)

DIVISION ON WOMEN

Notice of Readoption

Displaced Homemaker Programs

Readoption: N.J.A.C. 3A:70

Authority: N.J.S.A. 52:27D-43.24c and 52:27D-43.9a.

Authorized By: Christine Norbut Beyer, M.S.W., Commissioner,
Department of Children and Families.

Effective Date: May 1, 2024.

New Expiration Date: May 1, 2031.

Take notice that pursuant to N.J.S.A. 52:14B-5.1.c, the rules at N.J.A.C. 3A:70 were scheduled to expire on May 31, 2024. The purpose of the Displaced Homemaker Trust Fund is to provide a funding source to support programs for displaced homemakers. Subchapter 1 governs the disbursement of grants-in-aid from the Displaced Homemaker Trust Fund