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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

ELECT 23-2022

CHAPTER 165
SECRETARY OF STATE
ELECTIONS DIVISION

FILED

08/15/2022 2:04 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Defines Elections Worker and requires exemption for residential address disclosure under HB 4144 (2022).

EFFECTIVE DATE: 08/16/2022 THROUGH 02/10/2023

AGENCY APPROVED DATE: 08/15/2022

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NEED FOR THE RULE(S):

In enacting HB4144 (2022) the Legislative Assembly directed the Secretary of State to adopt a rule. This rule is needed to define electors qualified for residential address exemption in certain elections public records.

JUSTIFICATION OF TEMPORARY FILING:

The Secretary of State finds that the failure to act promptly will result in serious prejudice to the public interest of protecting elections workers as authorized in HB 4144. Defining the term Elections Worker is required to implement provisions of the law in a timely manner prior to the November 2022 General Election.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

HB4144 (2022) available online at oregonlegislature.gov or from the Secretary of State Elections Division.

AMEND: 165-005-0130

RULE TITLE: Residence Address Disclosure Exemptions

RULE SUMMARY: HB 4144 (2022) created a provision codified in ORS Chapter 247 allowing for the exemption of residence addresses in voter registration records of Elections Workers, as defined. The law requires the Secretary of State to define Elections Workers by rule.

RULE TEXT:

- (1) The purpose of this rule is to define when elections officials shall exempt the residence address of an elector from disclosure as a public record.
- (2) The terms used in this rule shall have the same meaning as defined in ORS Chapters 246 through 260, commonly referred to as "Oregon Election Laws."
- (3) The Elections Division shall maintain an electronic process by which an elector may request that a county elections official not disclose their residence address because they are an election worker as described in section (9) of this rule.
 - (a) The Elections Division shall verify whether an elector who makes requests through the portal is an election worker,

and may re-verify periodically.

(b) The Elections Division shall periodically update voter registration records to indicate which electors are verified election workers whose residence addresses are exempt from disclosure and to provide the verified election workers' substitute mailing addresses.

(c) County elections officials may not disclose the residence address of an election worker designated by the Elections Division under this subsection (3) except in compliance with a court order, a request by a law enforcement agency, or with the consent of the elector. County elections officials shall use the substitute address of such election workers for purposes of mailing a ballot to an elector under 254.470.

(4) An elector may request that a county elections official not disclose the residence address of the elector if

(a) the personal safety of the elector, or the personal safety of a family member residing with the elector, is in danger if the residence address remains available for public inspection, or

(b) the elector is an election worker identified by the Secretary of State, a county clerk or county elections official, or another public body as defined in ORS 174.109, as described in section (9) of this rule.

(5) If the elector demonstrates to the satisfaction of the county elections official that the elector meets the criteria in subsection (3)(a) or (3)(b) of this rule, then the county elections official shall not disclose that information except in compliance with a court order, a request by a law enforcement agency, or with the consent of the elector.

(6) An exemption from disclosure granted under this rule shall include the residence address on the elector's voter registration record, registration lists produced in accordance with ORS 247.940 and 247.945, poll books, and any other material produced or maintained by the county elections official which is available for public inspection that may reveal the requestor's residence address. The elector's mailing address may be used in place of the exempt residence address.

(7) A request under section (4) of this rule shall be submitted to the county elections official. The exemption request shall be submitted on form SEL 550 Application to Exempt Residence Address from Disclosure. The request shall be in writing, signed by the elector, and shall include:

(a) The name of the elector requesting exemption;

(b) A non-exempt mailing address for the elector; and

(c) Evidence sufficient to establish to the satisfaction of the county elections official that that the elector meets the criteria in section (4)(a) or (4)(b) of this rule.

(8) An elector may demonstrate that disclosure of the elector's residence address would constitute a danger to the personal safety of the elector, or of a family member residing with the elector, by submitting evidence to the county elections official. Such evidence may include copies of the following documents:

(a) An affidavit, medical records, police reports or court records showing that the elector, or a family member residing with the elector, has been a victim of domestic violence;

(b) A citation or an order issued under ORS 133.055 for the protection of the elector, or a family member residing with the elector;

(c) An affidavit or police report showing that a law enforcement officer has been contacted concerning domestic violence, other physical abuse, or threatening or harassing letters or telephone calls directed at the elector, or a family member residing with the elector;

(d) A temporary restraining order or other no-contact order to protect the elector, or a family member residing with the elector, from future physical abuse;

(e) Court records showing that criminal or civil legal proceedings have been filed regarding physical protection for the elector, or a family member residing with the elector;

(f) A citation or a court's stalking protective order pursuant to ORS 163.735 or 163.738, obtained for the protection of the elector, or a family member residing with the elector;

(g) An affidavit or police report showing that the elector, or a family member residing with the elector, has been a victim of a person convicted of the crime of stalking or of violating a court's stalking protective order;

(h) A conditional release agreement issued under ORS 135.250–135.260 providing protection for the elector, or a family member residing with the elector;

- (i) A protective order issued pursuant to ORS 135.873 or 135.970 protecting the identity or place of residence of the elector, or a family member residing with the elector;
 - (j) An affidavit from a district attorney, or deputy district attorney, stating that the elector, or a family member residing with the elector, is scheduled to testify or has testified as a witness at a criminal trial, grand jury hearing or preliminary hearing, and that such testimony places the personal safety of the witness in danger;
 - (k) A court order stating that the elector, or a family member residing with the elector, is or has been a party, juror, judge, attorney or involved in some other capacity in a trial, grand jury proceeding or other court proceeding, and that such involvement places the personal safety of that elector in danger; or
 - (l) Any other documentary evidence that establishes to the satisfaction of the county elections official that disclosure of the elector's residence address would constitute a danger to the personal safety of the elector, or a family member residing with the elector.
- (9) An elector may demonstrate by attestation that the elector is an election worker identified by the Secretary of State, a county clerk or county elections official, or another public body as defined in ORS 174.109. Such attestation must be sufficient to demonstrate to the satisfaction of the Secretary of State or the county elections official that the elector meets the criteria in this section (9).
- (a) For purposes of this rule, an "election worker" is an individual employed full-time, part-time or as a volunteer who is serving the State of Oregon or any other public body, as defined in ORS 174.109, as an elected official, appointed official, employee or agent, and whose official duties include carrying out any duty, function or power set forth in Oregon Election Laws.
- (b) Election workers include, but are not limited to, the following:
- (A) County clerks;
 - (B) Employees hired by state, county, or local elections officials to perform any duty, function or power set forth in Oregon Election Laws or assist in such work;
 - (C) Volunteers appointed by state, county, or local elections officials to perform any duty, function or power set forth in Oregon Election Laws, or to assist in such work;
 - (D) Employees of vendors under contract with state, county, or local elections officials to perform any duty, function or power set forth in Oregon Election Laws, or to assist in such work, including providing or maintaining voting machines and vote tally systems or printing official ballots;
 - (E) The Secretary of State;
 - (F) Employees of the Secretary of State's Election Division and other employees of the Secretary of State who assist in their work; and
 - (G) Employees of the federal government or employees of vendors under contract with the federal government who administer federal elections laws or otherwise assist state, county, or local officials in performing any duty, function or power set forth in Oregon Election Laws.
- (c) The Secretary of State, a county clerk or county elections official, or another public body as defined in ORS 174.109 identifies an elector as an election worker as follows:
- (A) by issuing a certificate of election to the elector for the office of Secretary of State or county clerk under ORS 254.545(5) or ORS 254.555(1)(c);
 - (B) by hiring or appointing the elector to carry out any duty, function or power set forth in Oregon Election Laws;
 - (C) by contracting with the elector or the elector's employer to carry out any duty, function or power set forth in Oregon Election Laws; or
 - (D) by administrative rule.
- (10) A county elections official who receives a request under this rule will promptly review the request and notify the elector, in writing, whether the evidence submitted is sufficient to demonstrate to the satisfaction of the county elections official that the elector is an election worker identified by the Secretary of State, a county clerk or county elections official, or another public body as defined in ORS 174.109, or that the personal safety of the elector, or a family member residing with the elector, would be in danger if the residence address remains available for public

inspection. The county elections official may request that the elector submit additional information concerning the request.

(11) If a county elections official grants the request to exempt the residence address of an elector from disclosure as a public record, the county elections official must include a statement in its notice to the elector that: the exemption will remain effective until the elector requests termination of the exemption or the elector is required to update the elector's voter registration.

(12) If the elector is required to update the elector's voter registration, the elector may apply for another exemption from disclosure. At the time of updating, if no SEL 550 Application To Exempt Residence Address From Disclosure As A Public Record accompanies the voter registration card or if such application is incomplete, the county elections official must send notice, by certified mail return receipt requested, to the elector that states:

(a) Currently the elector's address is non-disclosed; and

(b) If an updated SEL 550 Application To Exempt Residence Address From Disclosure As A Public Record is not received within 10 business days of receipt of the notice, the elector's residence address will not be exempt from disclosure as a public record.

(13) An elector who has requested inclusion on the Election Division's list or requested that a county elections official not disclose his or her residence address may revoke the request by notifying, in writing, the official to which the request was made that the elector is no longer an election worker or that the disclosure no longer constitutes a danger to personal safety. The notification must be signed by the person who submitted the original request for nondisclosure of the residence address.

(14) Form SEL 550 may be used by a public safety officer, as defined by ORS 181.610, to request that the person's home address, home telephone number and electronic mail address be exempted from disclosure pursuant to 192.501. A public safety officer making such a request is not required to provide information described in paragraph (6)(c).

(15) Form SEL 550 shall be used by a participant or parent or guardian of a participant in the Address Confidentiality Program to request that the elector's residence address be exempted from disclosure pursuant to ORS 192.842. The form shall be completed by the participant and include:

(a) The name of the elector requesting exemption;

(b) The substitute address provided by the Address Confidentiality Program; and

(c) A copy of the Address Confidentiality Program Authorization Card.

(16) A request under section (15) of this rule is not required to be signed and a copy of the Address Confidentiality Program Authorization Card is the only evidentiary documentation required.

(17) If a participant or parent or guardian of a participant in the Address Confidentiality Program is required to update the elector's voter registration due to a change in residence address, only an updated voter registration card is required to be completed.

(18) If a participant or parent or guardian of a participant in the Address Confidentiality Program is required to update the elector's voter registration due to a name change section (12) of this rule applies. If an updated SEL 550 is received in response to the notice in section (12) of this rule it must be accompanied by a copy of the Address Confidentiality Program Authorization Card.

(19) Pursuant to ORS 192.842 the county elections official may not disclose the elector's residence address, and the county elections official shall use the substitute address of the program participant for purposes of mailing a ballot to an elector under 254.470.

STATUTORY/OTHER AUTHORITY: ORS 246.150, 247.969, OAR 165-005-0130, HB 4144 (2022)

STATUTES/OTHER IMPLEMENTED: ORS 247.965, 192.501, HB 4144 (2022)