

OFFICE OF THE STATE COURT ADMINISTRATOR



TO: Parental Responsibility Evaluators
FROM: Office of the State Court Administrator
DATE: December 1, 2022
RE: Practice Guideline – Address Confidentiality Program Act;
CJD 21-02 Standard 3

Steven Vasconcellos
State Court Administrator

Terri Morrison
Judicial Legal Counsel

DIRECTORS

Brenidy Rice
Court Services

Marty Galvin
Financial Services

Amy Burne
Human Resources

Glenn Tapia
Probation Services

ACTING DIRECTOR

Jason Bergbower
*Information Technology
Services*

Practice Guideline – Address Confidentiality Program Act §24-30-2101 et seq Discussion

The PRE must be knowledgeable of the Address Confidentiality Program Act set forth in §24-30-2111, C. R. S. The PRE and parties shall seek further guidance from the court to resolve any conflicts or confusion that involves the disclosure of any information protected by the Address Confidentiality Program.

Section 24-30-2111, C. R. S., which protects the address of a participant in the address confidentiality program, trumps the requirement in §14-10-127(3), C. R. S. for the PRE to provide the names and addresses of all persons whom the evaluator has consulted during the evaluation when their file is requested. Without an order of the court releasing a protected person's address, the PRE shall not include the address of an individual participating in the Address Confidentiality Program in the report or when the file is requested. If the PRE includes protected information without an order of court, the PRE is in violation of Standard 3 of CJD 21-02 and the PRE will be subject to sanctions up to and including removal from the statewide PRE roster.

It is not uncommon for a participant in the Address Confidentiality Program to provide their physical address to the PRE for the purpose of the home visit. The PRE should make it common practice to inquire as to whether a party to a case is part of the Address Confidentiality Program at the outset of the evaluation. If a party is a participant in the Address Confidentiality Program, the PRE shall keep a separate file with the party's address and contact information, so as not to disclose this information by mistake if the file is requested.

Chief Justice Directive 21-02

Standard 3. The PRE serves as an investigative arm of the court.

The PRE serves as an investigative arm of the court. The PRE must gather information, formulate recommendations, and report to the court concerning the disputed issues relating to the allocation of parental responsibilities for the child and to assist in determining the best interests of the child, as set forth in the order of appointment. The parties may conduct direct or cross-examination of the PRE if the PRE testifies.

Statutes

Pursuant to §14-10-127(3), C. R. S., the evaluator shall mail the report to the court and to counsel and to any party not represented by counsel at least twenty-one days prior to the hearing. The evaluator shall make available to counsel and to any party not represented by counsel his or her file of underlying data and reports, complete texts of diagnostic reports made to the evaluator pursuant to the provisions of subsections (2), (5), and (6) of this section, and the **names and addresses** of all persons whom the evaluator has consulted. Any party to the proceeding may call the evaluator and any person with whom the evaluator has consulted for cross-examination. No party may waive his or her right of cross-examination prior to the hearing.

§24-30-2102(3), C. R. S: The general assembly further declares that private entities, including but not limited to private businesses, can help protect program participants by seeking to prevent the disclosure of unique identifying information that could jeopardize the safety of program participants. The general assembly recognizes that a legitimate need for private entities to request and have access to an individual's actual address often exists and that the opportunity exists for private entities to partner with state and local governmental agencies in the effort to protect the safety of program participants.

§24-30-2111, C. R. S. Disclosure of address or unique identifying information in criminal and civil proceedings:

A person shall not be compelled to disclose a program participant's actual address or any unique identifying information related to the participant's residence, work, or school during the discovery phase of or during a proceeding before a court of competent jurisdiction or administrative tribunal unless the court or administrative tribunal finds, based upon a preponderance of the evidence, that the disclosure is required in the interests of justice and that the potential harm to the program participant is substantially outweighed by the public interest in the disclosure and that no other alternative would satisfy that necessity. A court or administrative tribunal may seal the portion of any record that contains a program participant's actual address. Nothing in this section prevents a state or local government agency, in its discretion, from using a program participant's actual address in any document or record filed with a court or administrative tribunal if, at the time of filing, the document or record is not a public record.