

**Recommended Policy for Compliance by Recorders of Deeds With
Safe at Home Program**

Revised 2016

In 2007, the State of Missouri adopted statutes and emergency rules for the implementation of a program commonly known as the “Safe at Home” program. The program is designed to allow victims of domestic violence, rape, sexual assault, stalking, and human trafficking, or any other future groups added in statute, to use designated addresses administered by the Missouri Secretary of State in an effort to conceal the participant’s actual home address. The Recorders’ Association of Missouri (RAM) has evaluated the statutes and rules and has been in communication with the secretary of State’s Office in an attempt to adopt general guidelines for Missouri Recorders to follow with respect to this program.

For obvious reasons, public records must be handled in a way intended to allow Safe At Home program participants to continue to conceal their actual home address from members of the public to the greatest extent possible. Specifically, Section 589.669, RSMo states as follows:

“Upon demonstration of a program participant’s certification in the program, state and local agencies and the courts shall accept the designated address as a program participant’s address when creating a new public record unless the secretary has determined that:

(1) The agency has a bona fide statutory or administrative requirement for the use of the program participant’s address or mailing address, such that it is unable to fulfill its statutory duties and obligations without the address; and

(2) The program participant’s address or mailing address shall be used only for those statutory and administrative purposes.”

Program participants demonstrate their certification in the program by presenting a card (or copy thereof) issued by the Secretary of State identifying the individual as a program participant. Therefore, when a document is submitted to a Recorder for recording, and a program participation card (or copy thereof) is presented to the Recorder with the document, the Recorder may not reject the document simply because the document contains the address of the Secretary of State rather than the participant’s actual home or similar address.

Unfortunately, compliance with the program can be complicated by the vast array of circumstances which may accompany the presentation of a document which is impacted by this program. RAM has worked with the Secretary of State to formulate the following recommended policies for compliance with Section 589.660, RSMo under those varied circumstances.

1. *How should a recorder index a document that is presented with a program certification card?*

All documents must be indexed as shown and recorded under the grantor(s) and grantee(s) as shown on the document, even if one of the parties is a participant of the program. In the event the grantor or grantee is a trust, the Recorder should only index under the name of the trust provided.

2. *What if a document is presented with a program certification card (or copy thereof) but the Recorder notices or is otherwise made aware that the document contains the actual address of the participant rather than the designated address used by the Secretary of State?*

The address currently utilized by the Secretary of State as the designated address for program participants is P.O. Box 1409, Jefferson City, Missouri 65102. Section 589.660, RSMo would simply require that Recorders “accept” a document with the common or designated address of the Secretary of State. It is the responsibility of the participant to assure that the document contains that designated address rather than the participant’s actual address. Therefore, Recorders must still record the document as presented (even if the document contains the actual address of a known participant). When reviewing documents for recording, the Recorder cannot redact information from or make changes to any document, but may take the opportunity to discuss comments with the participant or the presenter. As an example, a number of lending institutions will not remove the physical address from their lien prior to recording. This why it is important for the participant to consider the content of recorded documents prior to the time those documents become recorded.

NOTWITHSTANDING THE ABOVE, RECORDERS MUST NOT INDEPENDENTLY AND BY THE RECORDER’S OWN ACTION ASSIGN A STREET OR SIMILAR ADDRESS TO A PERSON OR PROPERTY WHEN A DOCUMENT IS PRESENTED FOR RECORDING AND THE DOCUMENT IS ACCOMPANIED BY CERTIFICATION SHOWING THAT A PARTY TO THE DOCUMENT IS A PARTICIPANT IN THE SAFE AT HOME PROGRAM.

3. *Does the Recorder have a duty to verify if any person identified on a document is a participant in the Safe at Home program?*

Ordinarily, documents presented to a Recorder are not presented by a party to the document. Most often, they are presented by third parties who may or may not have received the proper proof of certification or participation in the program from a party to a document. Recorders do not have a duty to verify whether any party to a recorded document is a participant in the Safe at Home program. The Recorder may accept for recording any document (regardless of whether a Safe at Home program

card is presented with the document) which contains the commonly known designated address for the Secretary of State. However, if a Recorder desires to verify an individual's participation in the Safe at Home program, the Recorder may direct those inquiries to the Safe at Home toll free number (866)509-1409.

4. If a document is presented to a Recorder for recording, and a Safe at Home program certification card (or copy thereof) is presented with the document, is the certification card part of the public record?

The Safe at Home program certification card is not itself part of the public record, however, when the recorded instrument is copied for delivery to other state or local agencies (such as the county's Assessor's office), the Recorder should deliver a copy of the card with the copy of the document. While not a statutory or other legal requirement, RAM supports the concept of the program and believes that Recorders should adopt a policy which increases the likelihood that the objectives of the program are being furthered by the manner in which Recorders handle public records. Notwithstanding the above, the office of the Assessor and other similarly situated governmental agencies are responsible for their own compliance with Section 589.660, RSMo. Furthermore, program participants must independently assume responsibility for assuring that all governmental agencies which maintain address records have been presented with proof of the individual's certification as a participant in the program.

5. How should Recorders respond to requests from the Secretary of State or participant to restrict access to a recorded record?

The record of the document held in the custody of a Recorder must generally be maintained as a public record that is searchable and viewable in the same manner as other documents. However, when restricted access is requested by the Secretary of State or participant, the Recorder should make a reasonable effort to restrict internet access to the record. In that instance, the participant should sign and deliver a written form requesting that specific documents identified by book and page or other unique identifier be redacted or restricted from internet access (both for indexing and image access). In addition, Recorders who have systems that allow documents to be flagged for security levels, should make a reasonable effort to do so to avoid providing information over the telephone or by other electronic means. In all other respect, Missouri law provides that recorded documents remain in the custody of the Recorder and may be searched, retrieved and copied in the Recorder's office, and the Recorder is not permitted to restrict that form of access to records, even when those records involve a participant in the Safe at Home program. Moreover, there is no provision of the law that would allow a Recorder to redact or withhold documents from a customer who is purchasing bulk records from the Recorder. [Note: Recorders who have systems that allow security authorization levels should make a reasonable effort to implement those to reduce unauthorized access.]

6. *How should Recorders handle inquiries from the Secretary of State or program participants who wish to find out what information about the participant is contained within the Recorder's records?*

Obviously, the Secretary of State and participant are permitted to access any records maintained by the Recorder, but the Recorder is not permitted to conduct a search of the records to identify the requested information. Therefore, the Recorder should suggest that the Secretary of State or participant have a record search done by a title insurance company in the proposed county to determine any documents that may affect the participant.

Conclusion: The office of the Secretary of State was very willing to work with Recorders to assure that the Safe at Home program is administered in such a way that program participants are protected, but that each affected governmental agency is also still permitted to carry out its other statutory responsibilities and purposes. Of course, the administration of this program and its application will likely raise more questions in the future. Furthermore, there is no guarantee that courts will interpret the Safe at Home statutes and rules consistent with the recommendations developed by RAM and the Secretary of State. Therefore, Recorders should always seek independent counsel with respect to the application of these statutes and rules to individual circumstances. Recorders should also feel free to contact the Safe at Home division of the Secretary of State if other questions arise concerning the impact of this program on the records maintained by Recorders.