



OFFICE OF THE SECRETARY OF STATE

Statement of Need and Reasonableness

Proposed Permanent Rules Governing Safe at Home, Minnesota Rules, Chapter 8290

INTRODUCTION

The Secretary of State is responsible for administering the Safe at Home address confidentiality program, established by Minnesota Statutes, chapter 5B. Safe at Home was launched in 2007 to protect victims of stalking, domestic violence, sexual assault, and others who fear for their safety, such as members of law enforcement or the judiciary. The Safe at Home program is designed to prevent violent offenders from using publicly accessible data to locate their victims and cause further harm. The program does this by allowing participants to use post office box as their legal address.

In order to apply to participate in the Safe at Home program, an individual must meet with an application assistant. Application assistants are victim advocates who are employed by community-based organizations and voluntarily partner with the Safe at Home program, and each application assistant is trained by the Safe at Home program staff. Application assistants meet one-on-one with potential applicants to discuss the individual's situation and reach a consensus that applying to Safe at Home is an appropriate safety step for the individual to take. During this process, the application assistant helps the individual understand the program and guides the individual through the application process. The application assistant must sign the application before the individual can submit the application to the Safe at Home program.

Once an individual has completed the application, the Safe at Home Office accepts and processes the application, certifying the applicant as a program participant. Once the applicant has been certified as a participant, Safe at Home gives participants a legal substitute address (a post office box) to use in place of their physical address; this address can be used whenever an address is required. First class mail sent to the substitute address is forwarded by the Office of the Secretary of State to the participant's actual address, and all participants designate the Office of the Secretary of State as their agent for legal service of process.

The Safe at Home program also assists participants with interactions with third parties if problems arise while giving the Safe at Home address to others. This includes work with third party stakeholders, such as utility companies, banks, and schools, to ensure legal compliance and to ensure their business practices accommodate the safety needs of Safe at Home participants. Because the Safe at Home program is relatively small, the Office often needs to engage with private entities, governments, and other organizations to help them understand their obligations under the Safe at Home statutes and rules.

Over thirty states have similar Address Confidentiality Programs. Minnesota currently has over 1,700 individuals in the Safe at Home program, representing over 700 households. This participation has doubled in the past two years and includes many families with children.

As the program has grown, so has the complexity of issues facing participants and the Office. Many of these new and complex issues are a result of the program's success, for example participants that have been in the program for an extended period of time have developed stability and security such that they can put down roots in the community, including purchasing property. Program participants that were children at the time of entering the program have matured into adults, and need to decide whether to remain within the program or leave the program as an adult. As the program has grown, the Office has gained experience in administering the program and has identified circumstances and situations not covered by the current rules.

In light of these experiences, the Office is proposing modifications to the rules. The rules have not been amended since 2009, and the Office believes that the changes to the rules proposed here are needed and reasonable in order to make changes in response to the experience gained by seven years of program operation, and to reflect recent statutory changes.

The Secretary asked his staff, the public, and program stakeholders to provide feedback on the current rules in order to improve the rules. The secretary's staff used these suggestions and the legislative requirements to draft the proposed rules.

ALTERNATIVE FORMAT

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or audio file. To make a request, contact Julie Strother at Office of the Secretary of State, 180 State Office Building, 100 Rev. Dr. Martin Luther King, Jr. Boulevard, Saint Paul MN 55155, Julie.strother@state.mn.us, 651-201-1326 (phone), 651-215-0682 (fax). TTY users may call the Minnesota Relay Service at 1-800-627-3529.

STATUTORY AUTHORITY

The Secretary's statutory authority to adopt rules to govern the Safe at Home program is set forth in Minnesota Statutes, section 5B.08, which provides:

Enactment of this section satisfies the requirements of section 14.388, subdivision 1 for the enactment of rules to facilitate the administration of this chapter by state and local agencies.

Minn. Stat. § 5B.08 (2014).

REGULATORY ANALYSIS

Minnesota Statutes, section 14.131, sets out seven factors for a regulatory analysis that must be included in the SONAR. Paragraphs (1) through (7) below quote these factors and give the Office's response.

"(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule[.]"

The Secretary of State's Office will benefit from the proposed rules because they provide additional procedures in order to guide the operation of the Safe at Home address confidentiality program.

Participants in Safe at Home will benefit from the proposed changes to rules because they provide clarity as to the processes for applying to the program, how the program works, the circumstances under which a participant can be cancelled from the program, the processes for renewing certification, obtaining the age of majority, and for withdrawing from the program. In addition, the proposed changes benefit program participants because the changes recognize the increased processing time for mail by the United States Postal Service, which helps ensure that a program

participant would not be canceled for untimely response due to the delay in delivery of mail.

Application Assistants at community-based programs will benefit from the proposed rule changes because the rules provide clarity as to the application process and additional guidance.

Stakeholders who interact with participants will benefit from the proposed rule changes because they provide clarity as to how the program works.

"(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues[.]"

The Secretary of State's Office is the primary entity that will bear the costs of the proposed rule changes, as the Office bears the cost of administering the program generally. However, since the proposed rule changes are either clarifying or a result of statutory changes, the proposed rules will not result in measurable increases in cost to the Office.

Not adopting the rules, on the other hand, could lead to increased costs to the Office. Without the additional structure and clarity that the proposed rule changes provide, the Office will have to spend additional time and resources reaching out to participants when participants act on a misunderstanding of the rules. Further, the proposed rule changes will reduce the incidence of cancellations based on a delay in the delivery of United States Mail. There is measurable expense related to the re-enrollment of participants who were canceled due to missing a response deadline as a result in the delay of mail delivery.

To the best of the knowledge and belief of the Office of the Secretary of State, the proposed rule changes will not cause any other state agency to incur any costs above and beyond the costs already required by complying with the statute.

To the best of the knowledge and belief of the Office of the Secretary of State, there will be no impact on state or local revenues.

"(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule[.]"

This factor is discussed in the rule-by-rule section of the analysis. In addition, the Office considered methods used by other states administering their address confidentiality programs.

"(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule[.]"

This factor is discussed in the rule-by-rule section of the analysis.

"(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals[.]"

Since the majority of the proposed rule changes are either clarifying or a result of statutory changes, the proposed rules will not result in measurable increases in cost to the Office of the Secretary of State. The Office is not aware of any other costs that any public or private entity will incur to comply with the proposed rules that are not necessary to comply with the underlying statute or existing rules.

"(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals[.]"

The majority of costs or consequences of not adopting the proposed rules would be borne by the program participants and the Safe at Home Office. Many of the proposed changes are clarifying or internal process changes as a result of the Office's experience working with participants and the program, and not making these changes would allow the confusion to continue and participants to continue to make common errors or omissions. Not making these changes would result in more program participants being cancelled and having to reapply and increase Safe at Home staff time to reach out to participants to correct errors or omissions.

"(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference[.]"

There are no differences between the proposed amendments and federal regulations.

"(8) an assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule, where 'cumulative effect' means the impact that results from incremental impact of the proposed rule, in addition to other rules, regardless of what state or federal agency has adopted the

other rules. Cumulative effects can result from individually minor but collectively significant rules adopted over a period of time.”

These amendments will have no impact on other federal and state regulations related to the purpose of these rules.

COMMISSIONER OF MANAGEMENT AND BUDGET REVIEW

As required by Minnesota Statutes, section 14.131, the Department has consulted with the Commissioner of Minnesota Management and Budget. The Office sent copies of the draft rules and draft SONAR on October 29, 2014. On November 7, 2014, the Office sent the Minnesota Management and Budget the rules as approved as to form by the Revisor for publication in the State Register. The Office will submit a copy of the correspondence and any response received from Minnesota Management and Budget at the hearing or with the documents the Office submits for the Administrative Law Judge’s review.

COST OF COMPLYING FOR SMALL BUSINESS OR CITY

As required by Minnesota Statutes, section 14.127, the Office has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small city or any small business. Because the proposed changes to the rules are either a direct reflection of statutory changes, or are internal programmatic changes, the Office has determined that there will be no additional costs to a small city or business in order to comply with these rules. Thus the Office has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small city or small business.

PERFORMANCE-BASED RULES

Minnesota Statutes, sections 14.002 and 14.131 require that the SONAR describe how the agency, in developing the rules, considered and implemented performance-based standards that emphasize superior achievement in meeting the agency's regulatory objectives and maximum flexibility for the regulated party and the agency in meeting those goals.

Secretary Ritchie and his staff have taken the further step of searching for, and finding, ways to structure Safe at Home, as governed by the rules, to provide superior achievement and the cost-effective delivery of services. Moreover, the Office has worked with stakeholders to identify areas for improvement.

For example, the Office considered the possibility of accepting certain information via electronic submissions. However, because of the sensitive nature of the program, the security concerns related to electronic communications, and because of the need to gather a hand-written signature in many instances, the Office decided against allowing electronic communications.

ADDITIONAL NOTICE

Minnesota Statutes, section 14.131, also requires a description of the agency's efforts to provide additional notification under section 14.14, subdivision 1a, to persons or classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.

Here is: (1) a description of our proposed Additional Notice Plan and (2) an explanation of why the Office believes the Additional Notice Plan complies with Minnesota Statutes, section 14.131, i.e., why our Additional Notice Plan constitutes good faith efforts to seek information by other methods designed to reach persons or classes of persons who might be significantly affected by the proposal.

The Additional Notice Plan requires sending a copy of the Proposed Permanent Rules Governing Safe at Home, the Statement of Need and Reasonableness for those Proposed Rules, the Notice of Hearing, and a transmittal letter to the following persons by electronic mail wherever possible and by United States mail where electronic mail addresses are unavailable.

Secretary of State Elect Steve Simon

All members of the following legislative committees with policy oversight in this area:

- House Civil Law Committee
- House Elections Committee
- Senate Judiciary Committee
- Senate Rules and Administration Committee, Subcommittee on Elections

Chairs and Ranking Minority Members of the following legislative committees with fiscal oversight in this area:

- House State Government Finance Division
- House Ways and Means Committee
- Senate State Government Budget Division
- Senate Finance Committee

House and Senate Leadership from the Majority and Minority Caucuses

Governor Mark Dayton

Victim Advocacy Groups, including:

- Minnesota Coalition for Battered Women
- Sheila Wellstone Institute
- Battered Women's Legal Advocacy Project
- Minnesota Coalition Against Sexual Assault

The Business and Banking Community, including:

- Minnesota Business Partnership
- Minnesota Chamber of Commerce
- National Federation of Independent Business – Minnesota
- Independent Community Bankers
- Minnesota Bankers Association
- Minnesota Credit Unions
- Wells Fargo
- TCF
- US Bank

Utility Companies and Landlords, and those who regulate them, including:

- Xcel Energy
- Department of Commerce
- Centerpoint Energy
- West Central Minnesota Community Action
- Connexus Energy
- Minnesota Rural Association
- Dakota Electric Association
- Minnesota Community Action Partnership
- Minnesota Municipal Utilities Association
- Century Link
- Minnesota Telecom Alliance
- Onvoy
- Comcast
- Minnesota Cable Community Association
- Minnesota Multi Housing Association

State and Local Agencies (and their Associations) with which Participants are Most Likely to Interact, including:

- Department of Human Services
- Department of Public Safety, Driver and Vehicle Services Division
- Department of Revenue
- Department of Transportation
- Minnesota Inter-County Association
- Association of Minnesota Counties
- Minnesota Association of County Officers
- County Recorders
- League of Minnesota Cities

School Associations, including:

- Minnesota Association of School Administrators
- Minnesota Catholic Schools
- Minnesota Nonpublic School Accrediting Association
- Minnesota Independent School Forum
- Education Minnesota

Law Enforcement, County Attorneys, and Corrections Associations, including:

- Minnesota Sheriffs' Association
- Minnesota Police & Peace Officers Association
- Minnesota Board of Peace Officer Standards & Training
- Minnesota Chiefs of Police Association
- Department of Public Safety, Bureau of Criminal Apprehension
- Minnesota County Attorney Association
- Minnesota Legal Services Advocacy Project

State Courts

Department of Corrections

Department of Administration, IPAD

United States Postal Service

Former Secretaries of State:

- Mary Kiffmeyer
- Joan Anderson Growe
- Arlen Erdahl

Chairs of the Minnesota's political parties:

- Democratic-Farmer-Labor
- Republican
- Independence
- Green
- Libertarian
- Constitution

The following election attorneys:

- Eric Magnuson
- Fritz Knaak
- Reid LeBeau
- Tony Trimble
- Charles Nauen
- Alan Weinblatt

Representatives of the following public-interest groups:

- ACLU
- Center of the American Experiment
- Citizens for Election Integrity Minnesota
- Common Cause
- League of Women Voters
- Minnesota Citizens Concerned for Life
- Minnesota Council of Nonprofits
- Minnesota Public Interest Research Group
- Minnesota Voter's Alliance
- Minnesota Majority
- Minnesota Taxpayers League
- TakeAction Minnesota

The Office of the Secretary of State believes that this Additional Notice Plan complies with the statute because the notice materials described above provide the principal representatives of the affected parties with ample notice and opportunity to provide suggestions, proposals and comments regarding the rules governing Safe at Home.

The listed persons and organizations receiving the Additional Notice together represent the vast majority of persons interested in these rules. They frequently comment on (or make) public policy. They represent several parties and a number of different positions on the spectrum of political thought, and will adequately represent the views of a diverse group of Minnesota citizens, which is a central purpose of the rulemaking process. They represent:

- Victim advocates who represent those who serve as application assistants and have experience working with the populations most likely to become program participants;
- State and local agencies with which participants interact;
- Schools;
- Law Enforcement;
- Courts;
- US Postal Service;
- Private entities who are most likely to interact with Safe at Home participants;
- Policymakers, especially in the Legislature, who have oversight of this subject matter area;
- Political parties;
- Professional elections administrators;
- Former Secretaries of State;
- Local governments that actually implement elections;
- Lawyers with expertise in elections matters; and

- Public-Policy groups representing a spectrum of populations and views held within the general public.

The scope of persons to receive notice and the Additional Notice Plan for the Request for Comments were reviewed by the Office of Administrative Hearings and approved in a letter dated July 31, 2014 by Administrative Law Judge Barbara Neilson. The Additional Notice Plan listed above was approved in a letter dated November 10, 2014, by Administrative Law Judge Barbara L. Neilson.

Our Notice Plan also includes giving notice as required by statute. The Office will send the rules and Notice of Intent to Adopt to everyone who has registered to be on the Office's rulemaking mailing list under Minnesota Statutes, section 14.14, subdivision 1a. The Office will also give notice to the Legislature per Minnesota Statutes, section 14.116.

LIST OF WITNESSES

If a public hearing is requested, the Office anticipates having the following witnesses testify in support of the need for and reasonableness of the rules:

- Beth Fraser, Deputy Secretary of State
- Dianna Umidon, Office of Secretary of State, Safe at Home Director
- Julie Strother, Office of Secretary of State, Government Relations Director

RULE-BY-RULE ANALYSIS

8290.0100 DEFINITIONS.

The proposed change to **Minn. R. 8290.0100, subp. 2**, is needed and reasonable to clarify that the “actual address” can be one specified on a change of address, renewal or certification continuance, in addition to one specified on the original application. The current definition only considers the addresses provided on the original application to be the “actual address.” Many Safe at Home participants move, change schools, or change places of employment while in the program. In order to remain a participant, the participant must send the Office a notice of change of address under Minn. R. 8290.0700, subp. 1. This provides the Office with notice of the new “actual address” that needs to be protected.

A participant’s change of address may also coincide with a renewal period or certification continuance, and the new address that needs to be protected may

appear on the renewal application under Minn. R. 8290.1100 or certification continuance under Minn. R. 8290.0600. Reflecting the additional places where the program participant can specify their “actual address” in need of protection is needed and reasonable to effect the goal of the Safe at Home program of protecting the participant’s physical location information.

The proposed changes to **Minn. R. 8290.0100, subp. 8**, adds “offense” to the description of persons subject to criminal justice system management. This definition was always intended to include all non-civil violations of the law. However, not all non-civil violations of the law are considered a “crime.” Thus it is needed and reasonable to clarify that criminal justice system management includes those who have been convicted of a crime or offense. For example, juvenile offenses are not always referred to as “crimes,” and many traffic offenses are petty misdemeanors. A petty misdemeanor is “a petty offense which is prohibited by statute, which does not constitute a crime and for which a sentence of a fine of not more than \$300 may be imposed.” Minn. Stat. § 609.02, subd. 4a (2014). This “crime or offense” language is mirrored in Minnesota Statutes, such as Minn. Stat. §§ 29.205, 192A.0851, 253B.02, and 609.485. Adding “offense” to the descriptions of persons subject to criminal justice system management is needed and reasonable to make clear to participants that the definition includes such offenses as speeding or other petty misdemeanors, as well as juvenile offenses.

Finally, it is needed and reasonable to remove the language regarding the supervision’s residency-related conditions to provide clarity in the rules and to reflect changes to the language where this defined term is used in the rules. Under Minn. R. 8290.0400, subp. 6, program participants need only provide their actual address to criminal justice system management if it is court ordered or if the court has included conditions related to the program participant’s actual address as part of the criminal justice system management’s supervision. Previously, the rules defined “criminal justice system management” to be limited to those situations where residency related conditions were part of the participant’s supervision. So, where later in the rules a participant is obligated to provide their actual address when under criminal justice system management, that was by definition limited to only criminal justice system management with “residency-related conditions.” Because probation officers and others often read Minn. R. 8290.0400, subp. 6, without referencing the definition section, there was confusion about when a participant was required to provide his or her actual address to criminal justice system management.

Removing the language about residency-related conditions from the definition and adding language to the rule parts discussing when disclosure is required does not change when a participant is required to disclose his or her actual address. A participant is still required to provide his or her actual address when the supervision contains conditions related to the actual address (whether it be a home, work, or school address). Removing the language limiting the definition of the term to only apply when there are conditions related to the actual address and moving it to the rule parts where disclosure is required is needed and reasonable to provide clarity and address reported confusion when reading the rules.

The proposed changes to **Minn. R. 8290.0100, subp. 11**, are needed and reasonable to reflect the changes made to the Safe at Home program by 2013 Minnesota Laws, Chapter 76. The first change clarifies that an individual is only eligible for the program if they reside in Minnesota. This is a requirement under Minn. Stat. § 5B.02, and adding this requirement to the rule part is needed and reasonable in order to provide clarity to applicants and application assistants who look to the rules for guidance.

The additional proposed change to subp. 11, paragraph B, clarifies that an individual is eligible for the program if they reside in the same household as someone that otherwise qualifies for the program. This is an option under Minn. Stat. § 5B.02, and was added by 2013 Minnesota Laws, Chapter 76. Incorporating this language into the rule part is needed and reasonable in order to provide clarity to applicants and application assistants who look to the rules for guidance and in order to be consistent with Minnesota Statutes.

The proposed changes to **Minn. R. 8290.0100, subp. 12**, merely updates the statutory reference to ensure the correct statutory citation. Minnesota statutes, section 5B.05, subdivision 1(8), requires “a statement from the eligible person that gives the Secretary of State consent to confirm the eligible person’s participation in Safe at Home to a third party who provides the program participant’s first and last name and Safe at Home lot number listed on the program participant's card.” As this is the correct statutory cross-reference, it is needed and reasonable to correct this cross-reference.

The proposed change to **Minn. R. 8290.0100, subp. 13**, is needed and reasonable to reflect a statutory change. The definition of “mail” in the rules mirrors the definition of “mail” in Minn. Stat. § 5B.02. In 2013, the definition of “mail” was amended in statute to specify that packages or parcels from a “state or county government agency” delivered by the United States Postal Service may be considered “mail.”

2013 Minn. Laws, ch. 76 § 1. This means that, while the Safe at Home program generally does not forward parcels, the program will forward those parcels sent through the United States Postal Service that are from a state or county government agency (but not, for example, from a town, city or school district). It is needed and reasonable to incorporate the changes made to the statutory definition of mail to the definition of mail in the rules.

The proposed changes to **Minn. R. 8290.0100, subp. 14**, are needed and reasonable to clarify that, in the rare instance that the United States Postal Service does not provide mail delivery service to a program participant's residence, a program participant cannot receive the mail Safe at Home forwards to them at a private mail box service and instead must use a post office box administered by the United States Postal Service. The program is designed so that the Office forwards mail, if at all possible, to the program participant's residential address. This rule provides a limited exception for circumstances where the United States Postal Service does not provide mail delivery.

The Office considered in these limited circumstances allowing a participant to use any mailbox service or a relative's home, but declined that alternative due to security and safety concerns.

The program uses mail delivery as one method for verifying that the participant continues to reside at the physical address provided to Safe at Home by the participant. While this goal cannot be completely achieved through a post office box administered by the United States Postal Service, postal boxes issued to customers in instances of no United States Postal Service mail delivery are tied directly to a residence. Postal boxes issued by private companies are not.

Also, private postal box companies do not have the same regulations for mail forwarding that the United States Postal Service has. Mail forwarding through a private mail box service is often done manually with no regulatory guidance. In contrast, the United States Postal Service mail forwarding services must abide by ancillary endorsements such as "Return Service Requested," which is marked on all Safe at Home mail sent to a participant. By using these standards and processes Safe at Home receives all undeliverable mail, which results in the identification of participants who have moved from one residence to another but have failed to inform the Office.

Finally, mail received at a private postal box company is delivered by the United States Postal Service. Having one more entity through which mail must be channeled would further delay a participant receiving his or her mail, which occasionally is time

sensitive. For these reasons, the Office has determined it is needed and reasonable to limit the alternative locations that receive mail to only those post office boxes serviced by the United States Postal Service.

This proposed rule change also proposes striking the word “actual” from “actual residential address.” Because “actual address” is a defined term and because the actual address includes residential address in its definition, it is needed and reasonable to remove “actual” from this rule part to avoid confusion. Removing actual does not change the requirement that mail be sent to the residential address of a program participant.

8290.0200 APPLICATION.

An individual who wants to enroll in Safe at Home must meet one-on-one with an application assistant to discuss the individual’s safety concerns. A Safe at Home Application Assistant is a victim advocate who has been specially trained to assist eligible individuals enroll in Safe at Home. The application assistant explains generally how Safe at Home works, and together the individual and the application assistant determine whether enrolling in Safe at Home is a good safety step for the individual to take. If they decide that joining Safe at Home is appropriate, the application assistant helps the applicant with the Safe at Home application paperwork. Because the application process has functioned well since the rules were first adopted and because large changes to the application process would require updating or retraining all application assistants, the Office is proposing only very minor changes to the rules governing the application.

The proposed change to **Minn. R. 8290.0200, subp. 1, Paragraph C**, is needed and reasonable to clarify that an application need only list those minor children living at the home, or residential address, and not any other address included in the definition of “actual address.” Under the rules “actual address” is defined to include both residential street address, school address, and work address. See Minn. R. 8290.0200, subp. 2. Similarly, under Minnesota Statutes “address” is defined to include both residential street address, school address, and work address. Since a child would only reside at the residential address, it is reasonable and necessary to use only “residential address” instead of the overly broad “actual address.”

The proposed change to **Minn. R. 8290.0200, subp. 1, Paragraph D(2)**, revises the rule language to comport with the statutory language defining who is an “eligible person.” See Minn. Stat. § 5B.02 (2014). This definition was changed by the legislature, 2013 Minnesota Laws, Chapter 76, and incorporating this language into

the rule part is needed and reasonable in order to be consistent with Minnesota Statutes.

The proposed change to **Minn. R. 8290.0200, subp. 1, Paragraph I**, is needed and reasonable to clarify the information that is collected on the application is the information that the Department of Transportation and Department of Public Safety need. The Department of Transportation and Department of Public Safety need this information because when a program participant registers his or her vehicle, the participant provides his or her designated address on the registration. This makes it appear that all vehicles registered under the designated address are kept in Ramsey County. In order to provide the information needed by the Department of Transportation and Department of Public Safety to properly distribute state aid, the Office needs to collect and report summary data on the number of vehicles registered to the designated address, and the actual counties where those vehicles will be kept.

Changing this language ensures that the Office is collecting the actual number of cars registered to the designated address, and does not collect information on cars that may be owned by the participant but not registered at the designated address because they are kept and driven by another person not living with the participant (such as a child in college or those co-owned with an abuser and in the abuser's possession). For these reasons, and following consultation with both the Department of Transportation and the Department of Public Safety, the Office believes these changes are needed and reasonable.

The proposed change to **Minn. R. 8290.0200, subp. 1, Paragraph K**, is needed and reasonable to expand the scope of criminal justice related organizations that need notice of the individual's program participation and to comport with the current practice of the Office. Currently, it is the practice of the Office to send this notification to court administration and probation, if applicable, in addition to any relevant prosecuting authority. Both Minnesota Courts Administration and probation authorities have expressed an interest in and a need for this information. While it has been the practice of the Office to provide notice to these additional entities, it is needed and reasonable to add these notifications to the rules to ensure that a participant is on notice that these are sent to the additional entities and to prompt the applicant to provide the Office with the information necessary to identify the appropriate court administration and appropriate probation authority.

The proposed change to **Minn. R. 8290.0200, subp. 1, Paragraph L**, is needed and reasonable for the same reasons as the proposed change to definition of criminal justice system management in Minn. R. 8290.0100, subp. 8, is needed and reasonable. By removing the reference to residency-related conditions from the definition of “criminal justice system management,” and moving the language to the statement that a program participant is required to sign addresses confusion that has been reported by both program participants and criminal justice system management. Further, by changing the language from “residency-related conditions” to “conditions related to the actual address,” the Office is acknowledging that criminal justice system management may need not just the program participant’s residential address, but that there could be conditions related to the school and work address that would require disclosure. For these reasons, and the reasons identified in relation to the proposed change to Minn. R. 8290.0100, subp. 8, this change is needed and reasonable.

The proposed addition of **Minn. R. 8290.0200, subp. 1, Paragraph N**, is needed and reasonable in light of the proposed changes Minn. R. 8290.0400, subp. 5. As discussed below in relation to the proposed change to Minn. R. 8290.0400, subp. 5, it was not practical or needed to ask a program participant to sign a statement that they understand the consequences of having the Office hold their mail every time the program participant requests a mail hold. By including the statement in the application, a program participant is provided notice that they are responsible for the consequences of delayed delivery, but are not required to send the Office a signed statement acknowledging liability for any consequences due to delay in delivery every time the participant requests a mail hold. For these reasons, and the reasons discussed below in relation to the proposed change to Minn. R. 8290.0400, subp. 5, this change is needed and reasonable.

The proposed changes to **Minn. R. 8290.0200, subp. 5**, are needed and reasonable for the same reason that the addition of “adjudicative authority” and “probation authority” are needed and reasonable in to Minn. R. 8290.0200, subp. 1, Paragraph K.

8290.0300 CERTIFICATION OF PROGRAM PARTICIPANT.

Once an individual completes the application with the assistance of an application assistant, the application is transmitted to the Office for processing. If the application is complete and the individual meets all of the legal requirements for participation in the Safe at Home program, the Office certifies the applicant as a program participant. The Office is proposing relatively minor changes to the rules governing the certification of a program participant upon receipt of the application. The changes

proposed reflected needed clarification in the rules and address the program's need to accommodate the growth of the program since the rules were originally adopted.

The proposed change to **Minn. R. 8290.0300, subp. 1**, is needed and reasonable because the term "actual address" can encompass both a school or work address, in addition to the residential address. A minor child would not reside at a school or work address, and changing the language to specify "residential address" is more accurate and ensures that program applicants will not be confused by the use of the expansive term "actual address." For these reasons, and the reasons identified in relation to the change in Minn. R. 8290.0200, subp. 1, Paragraph C, this change is needed and reasonable.

The proposed change to **Minn. R. 8290.0300, subp. 3**, expands the time the Office of Secretary of State has to process an initial Safe at Home application. This is needed and reasonable in order to accommodate the growth of the program and the corresponding demand on the Safe at Home program administration. Since the initial rules were adopted, the program has grown from under 400 active participants to over 1,700 active participants. While most applications can be processed and the corresponding materials mailed within one day, the processing can be delayed when the Office receives multiple applications in one day. However most applications, if at all possible, are processed the same business day they are received by the Office.

With the growth of the Safe at Home program, it is not uncommon for the Office to receive as many as 12 applications per week, and each application can take up to 90 minutes to process. If additional information is needed from the applicant before an application can be fully processed, the processing can take even longer. With the Office's very small staff, only a few of whom are qualified to process applications and have additional duties beyond processing applications, the Office needs the flexibility of three processing days to accommodate a large influx of applications or days when staff are sick and the Office's capacity is reduced. Because of the increase volume in applications, the Office has determined that it is needed and reasonable to extend the time to process a new application.

In discussing the need to expand the time for processing applications, the Office first considered expanding the time to process from two to five days, as nothing in Minnesota Statutes prescribes the time to process applications. Ultimately, the Office rejected five days as too long in light of the need to balance the reasonable capacity of the Office against the needs of applicants to have an application processed in as timely a manner as possible. The Office also considered removing the time limitation from the rules altogether as many other states with address

confidentiality programs do not have self-imposed processing deadlines. Again, the Office rejected this in light of the need of applicants to have certainty in their expectations. The Office recognizes that applicants are applying to the Safe at Home program because they are in extreme fear for their safety, and the Office strives to process applications in an expeditious manner and providing clarity in the processing timing.

The Office also considered simply rejecting those applications that needed additional information to be processed. But because that would require the applicant to meet again with the application assistant, putting a burden on both the applicant and the application assistant, the Office rejected this alternative. The Office rejected this alternative in part because, though the process places some burden on the office, the Office has still been able to process applications in a more expeditious manner than other states with similar established address confidentiality programs.

In light of the increased number of applications processed by the Office and the capacity of the Office, and after considering alternative options, the Office has determined it is needed and reasonable to change the time to process an application from a two to three-day requirement to process an application.

The proposed change to **Minn. R. 8290.0300, subp. 4**, removes the references to “telephone” and “electronic mail.” In removing these references, the overall requirement that the Office verify the identity of the applicant or program participant before discussing data remains in place. By removing these two types of communications, the rule part now places the requirement to verify identity to all forms of communication. The Office does not release information to a program participant without verifying his or her identity, regardless of the method of communication. Removing these specified methods of communication is needed and reasonable to ensure that the verification requirement applies to any data release to a participant, regardless of the method of communication.

The first proposed change to **Minn. R. 8290.0300, subp. 5**, adding “probation authority” and “adjudicative authority,” is needed and reasonable for the same reason that the addition of “adjudicative authority” and “probation authority” are needed and reasonable in to Minn. R. 8290.0200, subp. 1, Paragraph K, and 8290.0200, subp. 5.

The final change to Minn. R. 8290.0300, subp. 5, is needed and reasonable because it strikes language that can cause confusion and streamlines the process for both applicants and the Safe at Home staff. The timeline on which notifications to other parties must be provided to the Office of the Secretary of State is actually a

combination of the time referenced here in this subpart and the time outlined in the cancellation section, Minn. R. 8290.0900. Having the timeframe split like this can cause confusion because a person who only reads one of the relevant rule parts could mistakenly believe that an applicant has only a portion of the time that the current rule actually allows. The Office considered the option of including the timeframe in both rule parts, but ultimately rejected this idea because the Office was worried that this structure would similarly cause confusion about whether the times outline were repetitive or cumulative.

Striking this language is also needed and reasonable because it streamlines the application process for those who are the subject of pending or ongoing criminal legal action. Under both the current and the proposed rule, applicants in this situation are encouraged to submit letters with their application so that the appropriate authority can be notified how to contact them.

Under the current rule, the new participant may have her mail forwarded to her for five business days. At that point, if Safe at Home has not received the required letter, the participant is sent a warning that they will be cancelled if it is not received in another five business days. After another five business days have passed, if the letter has not been received, Safe at Home cancels the new participant. To be reinstated the participant needs to meet with an application assistant for a second time and resubmit an application.

After administering the program for seven years, the Office has learned that the process outlined above can be improved upon. Forwarding mail to a new participant and providing them with the full benefits of the program when they are required to still submit additional materials sends a mixed message about the importance of completing the application process. Instead, the proposed rule institutes an alternative process that still allows a new participant to be certified without delay and to begin notifying others of their new designated address. However, the warning would be sent to the new participant with their certification and their Safe at Home card, and they would not receive additional mail from Safe at Home until they have complied with the requirement to provide the letters to notify the appropriate authority of how to contact them about pending or ongoing criminal legal action. If the participant fails to provide the required letters by the deadline, her participation would be cancelled.

The proposed rule is needed and reasonable because it streamlines the process for the Safe at Home staff, provides clarity to applicants and new participants about the

importance of complying with this rule part, and clarity about the time requirements for anyone reading just part of the rules.

8290.0400 DESIGNATED ADDRESS.

One of the core functions of the Safe at Home program is the processing of mail sent to a participant's designated address. Safe at Home gives participants a legal substitute designated address (a post office box and unique lot number) to use in place of their physical address. First class mail sent to the substitute address is forwarded to the participant's residential address by the Office of the Secretary of State. Under the current rules, the Office can provide a mail hold service similar to a mail hold by the United States Postal Service. The Office is proposing limited changes to the mail hold process to make the mail hold process more analogous to the United States Postal Service mail hold, and to reflect the changes to the application in Minn. R. 8290.0200 regarding mail holds.

The first proposed change to **Minn. R. 8290.0400, subp. 5**, removes the language that requires that a participant's mail-hold request contain "a statement that the participant understands that the participant is personally responsible for any consequences of the delay in mail." There is nothing in statute that requires such language, and participants frequently request a mail hold without including this statement. Under the proposed rule change in Minn. R. 8290.0200, subp. 1, Paragraph N, the participant accepts responsibility for any delay in receiving mail due to requesting a mail hold at the time of application.

In requesting a mail hold under the current rules, participants regularly do not provide a statement accepting responsibility for the hold. This leaves the Office in a position of either holding delivery of the mail without the statement required by the rules, or sending the participant mail with knowledge that the participant is not there to receive it. Sending mail to an unattended residential mailbox is a safety risk. By moving the acceptance of responsibility for the consequences of a hold to the application, the Office avoids this common situation.

In addition, removing this language makes the Safe at Home mail hold language similar to the requirements in the federal mail hold process – the United States Postal Service does not require such a statement affirmatively accepting consequences for a hold. Instead a federal hold only requires that a person provide a start and end date for the hold, and that the person filling out the request is the person receiving mail at the identified address.

For these reasons, the removal of this requirement for a signed acknowledgment of responsibility at the time of the mail hold request is needed and reasonable.

The next proposed change to Minn. R. 8290.0400, subp. 5, clarifies that there are additional documents that the Office has on file that would be appropriate to use to compare against a program participant's signature when verifying a mail hold. These additional documents that could be used for a signature match include a renewal, certification continuance, notification of a name change, and other documents on file with the Office (including Real Property Notices, signed releases, etc.). It is reasonable and needed to expand the documents that the Office can use for a signature match because there are many different documents in the possession of the Office that contain the program participant's verified signature. For example, notification of name change would have the new signature (as opposed to the original application, which would no longer match), but would only be accepted if the program participant provided their old signature as well. See Minn. R. 8290.0700, subp. 1. Further, a certification continuance provides the only signature for those children who remain in the program after attaining the age of majority.

Finally, the Office is aware from its experience with voting records that signatures change over time, and it is needed and reasonable to expand the documents that can be used to verify a mail hold so that a more current signature can be used for the signature verification.

The final proposed change to Minn. R. 8290.0400, subp. 5, modifies the language regarding the effective date of a mail hold to make clear that a participant can indicate an alternative effective date for the mail hold, but that any alternative date must be a date in the future. Participants have occasionally specified a date on their mail hold notice that pre-dates the date the Office received their requested mail hold. The Office of Secretary of State can only hold mail received concurrently or following the receipt of a mail hold. The addition of this language is needed to prevent further confusion, and is reasonable because it merely clarifies that mail can only be held prospectively.

The proposed change to **Minn. R. 8290.0400, subp. 6, paragraph C**, specifies that a program participant need only provide their actual address to criminal justice system management if there are specific conditions related to the actual address as part of their supervision. This is needed and reasonable for the reasons that the definition change in Minn. R. 8290.0100, subp. 8, is needed and reasonable. Criminal justice system management frequently read this rule part, without reading the definition

section that limited the application of the rule part to only those criminal justice system management situations where there are residency-related conditions.

Further, this overall limitation is consistent with the statutory mandate governing the use of the designated address:

When a program participant presents the address designated by the secretary of state to any person, that address must be accepted as the address of the program participant. The person may not require the program participant to submit any address that could be used to physically locate the participant either as a substitute or in addition to the designated address, or as a condition of receiving a service or benefit, unless the service or benefit would be impossible to provide without knowledge of the program participant's physical location.

Minn. Stat. § 5B.05(a) (2014). Government entities are specifically subject to the requirements of section 5B.05. *See* Minn. Stat. § 13.045 (2014) (“a government entity must accept the address designated by the secretary of state as a program participant’s address, and is subject to the requirements contained in section 5B.05.”).

When criminal justice system management does not have specific conditions related to the participant’s actual address, there is no need for disclosure of the actual address of the Safe at Home participant. The designated address is the participant’s legal address for all purposes – including legal service of process – and must be accepted under section 5B.05. If a participant’s actual address is later determined to be needed but is not a specific requirement of the criminal justice system management, such as in the terms of probation, a court can amend the terms of probation. Further, there is a provision in both the rules and statute if the Bureau of Criminal Apprehension needs emergency access to a participant’s actual address. *See* Minn. Stat. § 5B.07, subd. 2 (2014); Minn. R. 8290.0400, subp. 7.

This language change is needed and reasonable to reflect the requirements of Minn. Stat. § 5B.05, the proposed changes to the definition of criminal justice system management, and balances the needs of criminal justice management and the statutorily mandated limits on the disclosure of a Safe at Home participant’s residential address.

8290.0500 SERVICE OF PROCESS.

The Office is the designated agent for all Safe at Home participants for the purposes of legal service of process. The Office accepts service by mail or in person at the Office's State Office Building location. In order to accept service, the Office must verify that the individual named in the service is an active participant. Minnesota Law permits the Office to confirm program participation to a third party only if the third party provides the program participants first and last name, and Safe at Home lot number. See Minn. Stat. § 5B.03, subd. 1(8) (2014). In accepting service, the Office first confirms that the participant is an active program participant using the name and lot number. Although service of process is a small part of the Safe at Home program, it is an important function. The program is designed so that the participants are physically difficult to locate, but very easy to legally contact for the purposes of legal process.

Based on the experience of the Office since the inception of the program, and based on feedback from process servers and other interested parties regarding the need for additional clarity in the rules governing service of process, the Office is proposing the following changes.

The proposed change to **Minn. R. 8290.0500, subp. 1**, clarifies that the Secretary of State is not an agent for any former program participant whose participation ended because of cancellation or withdrawal (the only two methods of exiting the program). While this would seem to be self-explanatory, it is needed to add this language to the rule to clarify for process servers and participants that the Office is not the agent for former participants, and only the agent for active program participants.

The first proposed change to **Minn. R. 8290.0500, subp. 2**, governing service by mail, provides clarifying language to indicate that any legal process must be sent to the participant at his or her designated address, and must include the participant's first and last name. This language is needed and reasonable because it clarifies that the service of process is effective only if it is directed to the participant at the Safe at Home designated address in conjunction with the participant's name. The current language implies that legal service of process can be completed by merely by mailing the designated address of a program participant. But without the program participant's name in connection with the program participant's lot number, the Safe at Home program cannot ensure that it is accepting service on behalf of the correct and active program participant.

The Safe at Home program has several participants with the same first and last name, and occasionally receives mail containing a transposed or incorrect lot number. Having both the name and the lot number is necessary, as all Safe at Home participants share the same Post Office Box. A full and complete Safe at Home address looks like:

Participant's Name
Lot #####
PO Box 17370
Saint Paul, MN 55117-0370

The requirement that valid service include both the participant's name and lot number ensures that the service of process is provided to the correct participant. This change is needed and reasonable to ensure that the rules are explicit as to what is required to accept service.

The next proposed change to Minn. R. 8290.0500, subp. 2, clarifies that the Office does not forward any service of process to participants who have an ongoing mail hold. It does not make sense, nor would it be secure, to send service of process to a participant who has requested a mail hold. A participant requests a mail hold because they will not be at their mailing address to receive mail. Adding this language makes it clear to those serving process through the Safe at Home program that the Office will send service of process by the next day, unless there is a mail hold. This does not change the date on which the service is effective and this would be the same result if the participant used the United States Postal Service for a mail hold. For these reasons, it is needed and reasonable to specify the delay in mailing process to those with an ongoing mail hold.

The final proposed changes to Minn. R. 8290.0500, subp. 2, also clarify that the Office will not forward service of process immediately if the participant is in pending cancellation status due to undeliverable mail. It is not uncommon for a program participant to have to leave their residence with little or no notice because of a safety issue. In those cases, there is often a delay between when the participant moves from their residence and when the Office receives the notification of a change of address because the participant had no advance notice of the need to move residences.

Because of the experience of the Office and because, regardless of when the service is forwarded to the participant, the service is effective at the time it is served on the Office, it is needed and reasonable to provide the Office with an additional business day to attempt to contact the participant through alternative means and identify a

new address to forward the service of process. If the Office is unable to contact the program participant and obtain a more accurate address, it is reasonable to forward the service to the last known address of the participant. This is similar to what the Office does in its role in service of legal process in relation to registered business. In the Office's business service division, the Office will accept legal process for those businesses registered with the Office and will forward it on even if the Office has received returned mail from the address on file. Service is effective regardless of whether the service is returned as undeliverable.

The changes to **Minn. R. 8290.0500, subp. 3**, governing service in person, are needed and reasonable for the same reasons that the changes to Minn. R. 8290.0500, subp. 2, are needed and reasonable.

Finally, the deletion from **Minn. R. 8290.0500, subp. 4**, of the requirement that the Office of the Secretary of State provide a unique identifying service number for a mailing is needed and reasonable in light of the experience of the Office and the other internal procedures governing the acceptance and transmittal of legal service of process. Since the adoption of the original rules governing the Safe at Home program, it has become clear that this requirement is unnecessary and serves no purpose. The rules already require that the Secretary of State keep a record of the service in the program participant's file, and the adding of a unique identifier has provided no useful purpose since the inception of the program. Deleting this requirement is needed and reasonable because it otherwise provides no purpose and deleting the requirement will save time and resources of the program.

8290.0600 ATTAINING THE AGE OF MAJORITY.

More than half of the over 1,700 current program participants are minor children. In many cases, but not all, these children are part of the program because the parent is the individual with the immediate safety need. In a smaller number of cases, the minor child is the individual with the safety need. Under the current rules, when these minor children reach the age of majority, they continue as part of the program until the expiration date of the adult program participant's certification. This automatic continuation with no program intervention causes several issues. First, the Office of Secretary of State has not been designated as the agent for the purpose of legal service on the now adult program participant. Second, the Office does not have a signature from the now adult program participant, which would be needed if the program participant wanted to change any information under Minn. R. 8290.0700. Finally, the Office does not have any of the affirmative statements of understanding

and responsibility that are contained in Minn. R. 8290.0200 (application) or Minn. R. 8290.1100 (renewal).

In addition, under the current process the automatic continuation may result in program participants who do not realize they are program participants, and leaves the Office without the information needed to properly administer the program. Because of this, the proposed changes to Minn. R. 8290.0600 would establish a process for children reaching the age of majority in the program to affirmatively decide to continue in the program. New adults would be given a 30-day window of time upon reaching the age of majority to make a decision to continue as a program participant, and if they chose to continue in the program, would provide the Office with the same information that is contained in the renewal form under Minn. R. 8290.1100. For these reasons, and the reasons stated in more detail in relation to each specific change below, the Office believes that there is a need to change the process upon obtaining the age of majority, and that the process outlined in the rules is reasonable.

The proposed new language in **Minn. R. 8290.0600, subp. 1**, creates a process where, when a child program participant reaches the age of majority, the Office is required to notify the now adult program participant that they have the option of continuing as a participant in Safe at Home. The Office considered sending this notice to the child program participant prior to reaching the age of majority, but determined that it was appropriate to wait until the child had reached “legal age” as an adult before requiring the individual to be responsible for the consequences of responding or failing to respond to a notice. *See* Minn. Stat. § 645.451 (2014) (defining “minor,” “adult” and “legal age”).

The proposed new rule language informs new adults about their obligation to return a certification continuance within 30 days in order to remain in the Safe at Home program, and of the program’s process and obligations if the new adult chooses not to submit a certification continuance. The obligations are the same obligations as any program participant who chooses to withdraw from the program. *See* Minn. R. 8290.1000. If a new adult does not return the certification continuance within 30 days, the proposed new process requires the Office to place the new adult in pending cancellation status. This process provides the new adult with additional notice of the need to return the certification continuance form, and provides an additional ten business days for the new adult to return the form. This notice clearly states that the new adult’s program participation will be canceled if the certification continuance is not returned within ten business days.

The new language in subp. 1 is needed to clarify the process for remaining in the program upon obtaining the age of majority, and that the process outlined above is reasonable because it provides ample notice to the new adult about the option to continue in the program as an adult program participant.

The proposed addition of new **8290.0600, subp. 1a**, is needed and reasonable because a participant attaining the age of majority would not previously have been provided information on registering to vote and voting through the Safe at Home program. Voter information lists for most voters are public information as long as the information is used for purposes relating to elections. See Minn. Stat. § 201.091 (2014). In order to protect the residential address of Safe at Home participants, the Office administers absentee balloting for Safe at Home program participants who are eligible voters. The process of voting through Safe at Home outlined in Minn. R. 8290.1300 is a central part of the Safe at Home program. It is reasonable and needed to provide notification to a new adult program participant of the opportunity to vote using the procedures established by law and rule to protect Safe at Home participants' actual address.

The proposed addition of new **Minn. R. 8290.0600, subp. 1b**, is needed and reasonable because it ensures that a new adult choosing to continue as a participant provides all of the needed information to the Office. By requiring that the certification continuance contain the same information as in an application (with the exception of the signature of an application assistant) and in a renewal, the Office captures all needed information and ensures that the Office has the same information on all adult program participants.

8290.0700 CHANGES IN PROGRAM PARTICIPANT INFORMATION.

While in the program, many participants move, get married, change their name, change their telephone or other contact information. These are all changes that the program participant must notify the Office regarding, and the Office must update its files on the program participant accordingly. But before the Office can update a program participant's information, the Office must confirm the identity of the program participant requesting the change. The Office is proposing relatively minor changes to the rules governing this verification process, primarily clarifying that documents other than the original application can be used to verify a program participant's signature and adding additional types of information changes that require program participants to notify the Office.

The proposed change to **Minn. R. 8290.0700, subp. 1**, adds legal name to the list of changes that require a signed, written notification by the participant to the Safe at Home program. Adding the legal name change requirement is needed and reasonable to clarify that the Office of the Secretary of State must be notified in writing – just as it is with address changes – when a program participant engages in a legal name change.

The first proposed change to **Minn. R. 8290.0700, subp. 3**, makes clear that the Office only needs notification of a legal name change. If a program participant wishes to change the name that they are commonly referred to in public, or change the practice of being referred to by a middle name, the change does not have a binding legal effect and the Office would not need this information to effectively administer the program. Therefore, clarifying that the Safe at Home program only needs notification of a legal name change is needed and reasonable.

The next proposed change to **Minn. R. 8290.0700, subp. 3**, expands the documentation that can be used to demonstrate a legal name change. This new language is needed and reasonable because it includes in the rule part those other legal documents that can be used to effect a name change. For example, wedding certificates can be used to effect a legal name change. Expanding the documentation of a legal name change beyond a court order is needed and reasonable to reflect the greater spectrum of documents that can be used to effect a legal name change.

The final proposed change to **Minn. R. 8290.0700, subp. 3**, adds a requirement that a participant provide a new signature in conjunction with their notification of a legal name change. This is needed and reasonable to ensure that the Office can follow the necessary signature verification procedures for any subsequent changes to the program participant's records. For example, if a program participant were to change his or her address subsequent to a legal name change, the program participant would need to provide a signature verifying that address change. If the signature does not match a signature on file, then the Secretary of State cannot make the changes to the participant's record and the participant would be in danger of cancellation for failure to update his or her records. Providing an updated signature upon the completion of a legal name change allows the Office to use the new signature for verifying future changes, and this addition is needed and reasonable to ensure that the participant is on notice that they need to provide a new signature.

Finally, the change to **Minn. R. 8290.0700, subp. 4**, is needed and reasonable for the reasons that the proposed change in **Minn. R. 8290.0400, subp. 5**, is needed and reasonable.

8290.0900 FAILURE TO NOTIFY THE SECRETARY OF STATE OF CHANGES IN INFORMATION; CANCELLATION.

Once an individual is an active Safe at Home participant, there are two ways in which the program participant can leave the program: voluntary withdrawal or cancellation (which includes program expiration). When a program participant voluntarily withdraws from the program, the program participant's termination is effective on the date of withdrawal, and the program participant gets the benefit of mail forwarding for up to 30 days. See Minn. R. 8290.1000.

Cancellation, on the other hand, is a termination initiated by the Office. The cancellation process, both under the current rules and the proposed rule amendments, includes warning of pending cancellation and an opportunity for program participants to correct the error or omission that would result in the cancellation. Unlike withdrawal, cancellation is effective immediately if the participant does not correct the error or omission by the deadline, and upon cancellation the Office returns to the sender all mail addressed to the program participant. Based on the experience of the Office, and feedback from participants and stakeholders, the Office proposes the following changes to the cancellation process.

The first proposed change is to **Minn. R. 8290.0900, subp. 1**. The proposed changes expand and clarify the circumstances under which a program participant would receive warning that they are pending cancellation. The purpose of this rule subpart is to identify the circumstances under which a program participant could be canceled from the program, and provide notice to the program participant of the opportunity to correct any information that resulted in the pending cancellation status.

The first proposed change to the rule subpart is to restructure the rule part, breaking the circumstances that could result in a warning of pending cancellation into four categories. Three of the categories were previously in the rule, and a fourth was added to recognize the changes to Minn. R. 8290.0600 regarding the process for remaining in the program upon obtaining the age of majority.

The proposed change to Minn. R. 8290.0900, subp 1 (creating Minn. R. 8290.0900, subp. 1, paragraph A) is merely an expansion on the requirement that a program participant "provide the secretary of state with written notice of change of address." This language is part of the current rule, and the proposed rule changes would strike this language in the later part of the rule, move the requirement to new Minn. R. 8290.0900, subp. 1, paragraph A, and add additional information that the program participant is required to update under Minn. R. 8290.0700, subp. 1. The program

participants are required to update our Office when this information changes, and it is reasonable and necessary to clarify that failure to update all contact information will result in a cancellation warning. This change is also consistent with Minn. Stat. § 5B.04, which allows the Office to cancel a participant for failure to notify the Office of a change in information.

The next change to Minn. R. 8290.0900, subp. 1 (creating Minn. R. 8290.0900, subp. 1, paragraph B) is small, and merely clarifies that a participant will only receive a warning that they are pending cancellation if mail is returned as undeliverable. While the United States Postal Service should return all undeliverable mail to the Office, the Office cannot confirm that mail is undeliverable unless it is returned to our Office. This language merely clarifies that the warning of pending cancellation will not be issued until the Office receives mail returned as undeliverable from the United States Postal Service.

The next proposed changes to Minn. R. 8290.0900, subp. 1 (creating Minn. R. 8290.0900, subp. 1, paragraph C) are also small. The first proposed change is a change in the cross reference from Minn. R. 8290.0300 to Minn. R. 8290.0200. This is needed and reasonable because Minn. R. 8290.0200, subp. 5, contains the procedures for notifying prosecuting authorities, adjudicative authorities, and probation authorities. Although Minn. R. 8290.0300, subp. 5, also concerns these notices, Minn. R. 8290.0300, subp. 5, references Minn. R. 8290.0200, subp. 5, which contains the actual obligation on the program participant. In contrast Minn. R. 8290.0300, subp. 5, specifically addresses the obligations of the Office.

It is also needed and reasonable to add “if required” to this rule part because these notices are only required for a very limited number of program participants. Finally, it is needed and reasonable to strike “within five business days” and replace that language with “at the time” in order to be consistent with the procedure set out in Minn. R. 8290.0300, subp. 5.

The next proposed changes to Minn. R. 8290.0900, subp. 1 (creating Minn. R. 8290.0900, subp. 1, paragraph D), recognizes the changes to Minn. R. 8290.0600 regarding the process for remaining in the program upon obtaining the age of majority. If a program participant reaches the age of 18 and does not complete the continuation of certification under Minn. R. 8290.0600 within 30 days, the participant would receive a warning that he or she is pending cancellation unless the continuation of certification is completed. This is needed and reasonable to provide notice to the new adult program participant and for the reasons outlined in the discussion of the changes to Minn. R. 8290.0600, above.

The final proposed change to Minn. R. 8290.0900, subp. 1, expands the time to respond to the cancellation warning from five to ten days. This extension of the time to respond to the notice of pending cancellation is needed and reasonable to reflect the increased processing time for first class mail delivery through the United States Postal Service. Since the inception of the Safe at Home program in 2007, the United States Postal Service has undergone significant changes in order to accommodate budget shortfalls. These changes have resulted in an increased processing and delivery time-period for first class mail. See “Cuts By Postal Service Will Slow First Class Mail” <http://www.nytimes.com/2011/12/06/business/cuts-by-postal-service-will-slow-first-class-mail.html?pagewanted=all&r=0> ; and “Cost Cuts Would Slow First-Class Mail” <http://online.wsj.com/news/articles/SB10001424053111903927204576572571491624628>

The Office considered other time periods between five and ten days, but concluded that ten days provided the necessary balance to ensure that the Safe at Home program receives materials in a timely fashion while presenting participants with sufficient time to receive and respond to materials. This change is needed and reasonable because it provides participants with sufficient time to respond to a warning of pending cancellation, but also balances the need of the Office to receive a response in as timely a manner as possible.

The next proposed change is to **Minn. R. 8290.0900, subp. 1a**, by clarifying that the Office may cancel a program participant if they are no longer eligible for the program. If a program participant moves out of state and is no longer a Minnesota resident, or no longer fears for their safety, then the Office under current law cannot keep the individual as an active participant. It is needed and reasonable to provide this language within the rule part to ensure that a program participant and application assistants understand that, in addition to other reasons for cancellation, a participant becoming ineligible under the statutory requirements is an additional reason for cancellation.

In addition, it is needed and reasonable to provide the program participant who is now ineligible with the opportunity to withdraw pursuant to Minn. R. 8290.1000. The withdrawal process provides an opportunity to have mail forwarded to the withdrawing program participant for up to 30 days and, in return, requires the withdrawing program participant to affirmatively acknowledge that the former program participant takes responsibility to notify all persons of the new mailing address, to inform the Office of all of the minor children that will be withdrawn from the program, and requires the withdrawing participant to return any Safe at Home

cards in his or her possession. Because this process provides more notice to the Office, to the withdrawing program participant, and to the public, it is needed and reasonable to provide those who are ineligible an opportunity to voluntarily withdraw as an alternative to cancellation.

Finally, the proposed addition of new **Minn. R. 8290.0900, subp. 1b**, is needed and reasonable to clarify the process when a participant is in pending cancellation status. The new rule subpart states that, once a program participant has received a warning of pending cancellation under Minn. R. 8290.0900, subp. 1, or an opportunity to withdraw due to ineligibility under Minn. R. 8290.0900, subp. 1a, the program participant is in pending cancellation status. The status remains for ten business days, and provides the participant the opportunity to correct the omission or failure to comply with Minn. R. 8290.0200, .0700, and .1000. If the program participant does not comply within the ten day window, the program participant's participation is canceled.

It is also needed and reasonable to include in the rule the Office's current practice of holding the program participant's mail while the program participant is in pending cancellation status. The Office developed this practice because program participants were not responding to the notice of pending cancellation because they did not understand the urgency of the need to provide the Office with the updated information. Only when the program participant was cancelled and they were no longer receiving mail did the program participant understand the urgency. The program participant would then have to reapply to the program in order to resume mail service. This placed a burden on the program participant because they would have to meet again with an application assistant, placed a burden on application assistants, and placed a burden on the Office in processing the reapplication.

Since the Office started withholding mail when program participants were in pending cancellation status, many more program participants have been correcting the information needed prior to cancellation. In light of the experience of the Office and to reduce the burden on participants, application assistants and the Office, it is needed and reasonable to formalize this practice in the rules. Further, as the rule states, nothing prevents the Office from forwarding legal service pursuant to Minn. R. 8290.0500, as the individual is still an active program participant while in pending cancellation status.

This cancellation process, and the ten business day period of pending cancellation, is needed and reasonable to provide notice to the program participant of their pending cancellation, opportunity for the program participant to correct an error, and a date

certain that the Office can cancel a program participant if the program participant has not fulfilled his or her obligations under the program rules.

Please note that the ten business day timeline proposed here mirrors the timeframe in the current rule for participants who are required to submit notices under Minn. R. 8290.0300, subp. 5. Under the current rule they have five business days in Minn. R. 8290.0300, subp. 5, after which they receive a warning under this subpart that they must comply within another five business days or be cancelled. The proposed rule is needed and reasonable because it clarifies for all that new participants in this situation have ten business days in total to comply.

The last change to this rule part, **Minn. R. 8290.0900, subp. 2**, merely removes now redundant language. This deletion is needed and reasonable because, with the addition of the new “pending cancellation status” in subp. 1a, the language proposed to be stricken is redundant.

8290.1000 WITHDRAWAL OF PROGRAM CERTIFICATION.

For various reasons, program participants may decide that they no longer need to participate in the Safe at Home program. The current rules provide a process for voluntary withdrawal from the Safe at Home program. Although not required by statute, the Office provides those former participants that withdraw the benefit of mail forwarding up to 30 days. This mail forwarding service provides a benefit to those withdrawing program participants, and the withdrawal process provides a more streamlined process – in comparison to the cancellation process – for exiting the Safe at Home program. Following the seven years of experience administering the Safe at Home program, the Office is proposing changes to further streamline the withdrawal process and clarify both the obligations of the Office and of the withdrawing program participant.

The first proposed change to the withdrawal process is to **Minn. R. 8290.1000, subp. 1, paragraph A**, removing the requirement that a withdrawing participant provide a statement that the program participant’s Safe at Home cards have been lost if the withdrawing participant does not return the Safe at Home cards. Frequently, the Office does not receive a signed statement that the program participant’s Safe at Home card has been misplaced.

The Office concluded that this statement is not needed. If someone were to attempt to use a Safe at Home card after the program participant has withdrawn, the Office would not forward the mail delivered to the designated address. In addition, anyone who is being asked to accept the designated address can call the Safe at Home Office

and confirm that the participant reflected on the Safe at Home card is an active participant. If the participant has withdrawn from the program, the Office would inform any caller that there is no active program participant with that name and lot number.

The Office considered alternatives to removing the statement requirement, including placing someone in pending cancellation status if they did not provide this statement. However, pending cancellation status has significant additional procedural processes and, in practicality, would merely delay the individual's withdrawal from the program. Because these alternatives would be more inefficient and because of the other programmatic safeguards in place, the Office declined these alternatives.

Because withdrawing program participants regularly fail to provide this statement and because there are alternative safeguards in place to prevent misuse of inactive Safe at Home cards, this change is needed and reasonable.

The proposed change to **Minn. R. 8290.1000, subp. 1, paragraph C**, merely removes redundant language. Because the removal of this language does not change the effect of this rule part – that a program participant shall list the names of any minors in the program with the adult program participant on the withdrawal request who are also being withdrawn – this change is needed and reasonable.

The first proposed change to **Minn. R. 8290.1000, subp. 1, paragraph D**, creates a presumption that mail will be forwarded for a period of 30 days following a program participant's withdrawal. This change is needed and reasonable because the current rule states that a program participant may specify a period of up to 30 days, but program participants often fail to designate a period for mail forwarding. The proposed changes to the rule still maintain the program participant's ability to designate a time period for mail forwarding up to 30 days, but creates a default of 30 days if the program participant fails to designate a time period as part of the withdrawal request. Because the Office needs a default period if the program participant fails to designate a period of time for forwarding, and because 30 days is the maximum that a program participant can designate under the current rules, the Office believes this change is needed and reasonable.

The next proposed change to Minn. R. 8290.1000, subp. 1, paragraph D, prevents the Office from forwarding mail outside of the United States. This change is needed because financial burden of forwarding mail outside of the United States. Nothing in statute requires that the Office forward mail following the program participant's withdrawal, but the Office provides this service as a courtesy to the former program participant and this 30-day mail forwarding period is common among other states

with address confidentially programs. However, because the Office does not charge for participation in the Safe at Home program, and because the Office does not have the resources to spend additional funds on postage outside of the United States, this change is needed and reasonable.

The proposed change to **Minn. R. 8290.1000, subp. 2**, are needed and reasonable for the same reasons that the changes to Minn. R. 8290.0400, subp. 5, are needed and reasonable.

The proposed change to **Minn. R. 8290.1000, subp. 3**, is needed and reasonable to clarify that a participant cannot select a withdrawal date that pre-dates the withdrawal request. Allowing this would be nonsensical and problematic. For example, the Office is the legal agent for all active participants, and a participant cannot retroactively remove this designation.

The proposed change to **Minn. R. 8290.1000, subp. 4**, is needed and reasonable to clarify that the Office will not forward mail marked "service of process" after a program participant has withdrawn from the program. Once a participant withdraws from the program the Office is no longer the legal agent for the former program participant. If the Office were to forward on service of process after the program participant has withdrawn from the program, the person serving the legal process would never know that the service was not effective upon receipt by the Office. It is therefore needed and reasonable to clarify that the Office will not accept or forward legal service after withdrawal for a former program participant.

8290.1100 RENEWAL OF PROGRAM CERTIFICATION.

The first proposed change is to **Minn. R. 8290.1100, subp. 2**, governing the information needed in a renewal application. The length of program participation is four years, but a program participant may renew their program participation at the end of every four year period. The proposed changes to the rule part do not make any substantive changes to the renewal process but instead simply removes redundant language.

Because the information needed to renew program certification is the same as the information to apply for the Safe at Home program in the first instance, this rule part initially contained nearly identical language to Minn. R. 8290.0200, subp. 1. The Office believes it is reasonable to remove this redundant language and instead provide a cross reference to Minn. R. 8290.0200, subp. 1. The only difference between the initial application and renewal process under current rules is that a

renewal did not require the signature of an application assistant. The proposed language maintains that difference.

For these reasons, the addition of the cross reference to Minn. R. 8290.0200, subp. 1, the language removing the requirement of the application assistant signature and the deletion of Minn. R. 8290.1100, subp. 2, paragraphs A through M, are needed and reasonable.

The next proposed change is to **Minn. R. 8290.1100, subp. 7**. Because the time to process a renewal is the same as an original application, this change is needed and reasonable for the same reason that the change to Minn. R. 8290.0300, subp. 3, is needed and reasonable.

8290.1300 VOTING BY PROGRAM PARTICIPANT.

To a great extent, changes to the voting process for Safe at Home participants were made in a previous rulemaking procedure so that they would be effective prior to the 2014 state general election. In administering the voting procedures in the 2014 state general election, the Office has realized that the rules are silent on what should happen in cases in which a program participant changes their address after a ballot has been requested on their behalf and/or sent to them. Ballots go out to participants as early as 46 days before the election. This is a subject that should be covered by the Rules, and the proposed rule changes codify the procedures being used in the 2014 election.

The proposed changes to Minn. R. 8290.1300 are needed and reasonable to provide direction to Safe at Home staff in cases in which a program participant moves after a ballot has been requested for them. Subpart 7 addresses what happens to unvoted ballots in the possession of the Safe at Home program and Subpart 10e provides direction when the Safe at Home participant notifies the Office of a move after the ballot has been sent to them as well as situations in which the program participant notifies the Office after a voted ballot has already been forwarded to the county auditor.

The change to section **Minn. R. 8290.1300, subp. 7**, broadens the categories of unvoted ballots that would be returned to county auditors to include all circumstances under which the Safe at Home staff would have unvoted ballots in their possession. This proposal is needed and reasonable because the Safe at Home program should simply serve as a conduit for participants to receive their ballots. The proposed rule ensures that unused ballots are returned to the appropriate county auditor.

The proposed addition of **Minn. R. 8290.1300, subp. 10e**, provides direction to the Office in cases in which a program participant notifies the Safe at Home program staff that they have moved after a ballot was sent to them. It directs the Office to mark the ballot as spoiled on the voter's record, notify the participant not to return the ballot and that the Office is requesting a replacement ballot for the program participant, and that the replacement ballot must be labeled as such. The requirement that the Office request a new ballot for the participant is consistent with the procedures for all other absentee voters whose ballots are rejected more than five days before the election. See Minn. Stat. § 203B.121, subd. 2(c)(3) (2014).

The language in proposed Minn. R. 8290.1300, subp. 10e, also requires the Office to notify the county if the Office has already sent the ballot to the county that otherwise would have been accepted. This is needed and reasonable because program participants, like all voters, may only vote where they reside and a ballot should not be counted if there is time to spoil the ballot and send a program participant another ballot that corresponds to the participant's new residence.

The proposal is needed and reasonable because it reflects the standard that applies to all voters – that one must register and vote from the address at which one resides on Election Day. The proposal is also reasonable because it provides notice to the program participant and facilitates their participation by immediately requesting a new ballot on their behalf.

The proposed change to **Minn. R. 8290.1300, subp. 13**, is needed and reasonable because it ensures that all ballots requested by Safe at Home staff are accounted for in the Office's records.

8290.1400 SUMMARY DATA.

The proposed change to **Minn. R. 8290.1400**, is needed and reasonable for the same reasons that the change to Minn. R. 8290.0200, subp. 1, paragraph I, is needed and reasonable.

8290.1500 APPLICATION ASSISTANT ACCREDITATION.

The first proposed change to **Minn. R. 8290.1300, subp. 1**, is needed to clarify that that Safe at Home works with community-based programs to select "potential" application assistants. At the time the community-based program is selecting someone, they are not yet an application assistant and will not become one until they have completed the required Safe at Home Application Assistant training. This change is needed to reflect this process.

The second proposed change to Minn. R. 8290.1300, subp. 1, is a small change to reflect that an application assistant explains to an applicant “a” program participant’s responsibilities. At the time of the application, the individual is not yet a program participant, and therefore not “the” program participant. This change is needed and reasonable to reflect that the application assistant is providing information on the responsibilities of a program participant generally.

CONCLUSION

Based on the foregoing, the proposed rules are both needed and reasonable.

11/12/14



MARK RITCHIE
Secretary of State