

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2079

By Committee on Judiciary

1-20

1 AN ACT concerning state officers; relating to certain powers, duties and
2 functions of the secretary of state and the attorney general; **charitable**
3 **organizations; increasing the fees for certain charitable**
4 **organizations; creating the charitable organizations fee fund;**
5 **relating to** the address confidentiality program; transferring duties to
6 the attorney general; amending K.S.A. 17-1759, 17-1763, 17-1764, 17-
7 1765, 17-1766, 17-1769, 17-1771, 17-1772, 46-236, 75-451, 75-452,
8 75-453, 75-454, 75-455, 75-456, 75-457 and 75-458 and K.S.A. 2020
9 **Supp. 17-1762 and** repealing the existing sections.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 **New Section 1. There is hereby created in the state treasury the**
13 **charitable organizations fee fund. The attorney general shall remit all**
14 **moneys received pursuant to the charitable organizations and**
15 **solicitations act to the state treasurer in accordance with the**
16 **provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt**
17 **of each such remittance, the state treasurer shall deposit the entire**
18 **amount in the state treasury to the credit of the charitable**
19 **organizations fee fund. Moneys in the charitable organizations fee**
20 **fund shall be used by the attorney general to carry out the provisions**
21 **and purposes of the charitable organizations and solicitations act. All**
22 **expenditures from the charitable organizations fee fund shall be made**
23 **in accordance with appropriation acts upon warrants of the director**
24 **of accounts and reports issued pursuant to vouchers approved by the**
25 **attorney general or a person designated by the attorney general.**

26 **New Sec. 2. The attorney general shall have the legal custody of**
27 **all records, memoranda, writings, entries, prints, representations or**
28 **combinations thereof of any act, transaction, occurrence or event of**
29 **the secretary of state relating to the charitable organizations and**
30 **solicitations act.**

31 **Sec. 3. K.S.A. 17-1759 is hereby amended to read as follows: 17-**
32 **1759. ~~This act K.S.A. 17-1759 through 17-1776, and amendments thereto~~**
33 **and section 2, and amendments thereto, shall be known and may be cited**
34 **as the "charitable organizations and solicitations act."**

35 **Sec. 4. K.S.A. 2020 Supp. 17-1762 is hereby amended to read as**
36 **follows: 17-1762. The following persons shall not be required to**

1 register with the ~~secretary of state~~ *attorney general*:

2 (a) State educational institutions under the control and
3 supervision of the state board of regents, unified school districts,
4 educational interlocals, educational cooperatives, area vocational-
5 technical schools, all educational institutions that are accredited by a
6 regional accrediting association or by an organization affiliated with
7 the national commission of accrediting, any foundation having an
8 established identity with any of the aforementioned educational
9 institutions, any other educational institution confining its solicitation
10 of contributions to the student body, alumni, faculty and trustees of
11 such institution, and their families, or a library established under the
12 laws of this state, provided that the annual financial report of such
13 institution or library shall be filed with the attorney general;

14 (b) fraternal, patriotic, social, educational, alumni organizations
15 and historical societies when solicitation of contributions is confined to
16 their membership. This exemption shall be extended to any subsidiary
17 of a parent or superior organization exempted by this subsection
18 where such solicitation is confined to the membership of the
19 subsidiary, parent or superior organization;

20 (c) persons requesting any contributions for the relief or benefit
21 of any individual, specified by name at the time of the solicitation, if
22 the contributions collected are turned over to the named beneficiary,
23 first deducting reasonable expenses for costs of banquets, or social
24 gatherings, if any, provided all ~~fund raising~~ *fundraising* functions are
25 carried on by persons who are unpaid, directly or indirectly, for such
26 services;

27 (d) any charitable organization ~~which~~ *that* does not intend to
28 solicit and receive and does not actually receive contributions in excess
29 of \$10,000 during such organization's tax period, as defined by K.S.A.
30 17-7501, and amendments thereto, if all of such organization's ~~fund-~~
31 ~~raising~~ *fundraising* functions are carried on by persons who are unpaid
32 for such services. ~~However,~~ If the gross contributions received by such
33 charitable organization during any such tax period is in excess of
34 \$10,000, such organization, within 30 days after the end of such tax
35 period, shall register with the ~~secretary of state~~ *attorney general* as
36 provided in K.S.A. 17-1763, and amendments thereto;

37 (e) any incorporated community chest, united fund, united way
38 or any charitable organization receiving an allocation from an
39 incorporated community chest, united fund or united way;

40 (f) a bona fide organization of volunteer firemen, or a bona fide
41 auxiliary or affiliate of such organization, if all ~~fund raising~~ *fundraising*
42 activities are carried on by members of such organization or an
43 affiliate thereof and such members receive no compensation, directly

1 or indirectly, therefor;

2 (g) any charitable organization operating a nursery for infants
3 awaiting adoption if all ~~fund-raising~~ *fundraising* activities are carried
4 on by members of such an organization or an affiliate thereof and
5 such members receive no compensation, directly or indirectly,
6 therefor;

7 (h) any corporation established by the federal congress that is
8 required by federal law to submit annual reports of such corporation's
9 activities to congress containing itemized accounts of all receipts and
10 expenditures after being duly audited by the department of defense or
11 other federal department;

12 (i) any girls' club ~~which~~ *that* is affiliated with the girls' club of
13 America, a corporation chartered by congress, if such an affiliate
14 properly files the reports required by the girls' club of America and
15 that the girls' club of America files with the government of the United
16 States the reports required by such federal charter;

17 (j) any boys' club ~~which~~ *that* is affiliated with the boys' club of
18 America, a corporation chartered by congress, if such an affiliate
19 properly files the reports required by the boys' club of America and
20 that the boys' club of America files with the government of the United
21 States the reports required by such federal charter;

22 (k) any corporation, trust or organization incorporated or
23 established for religious purposes, or established for charitable,
24 hospital or educational purposes and engaged in effectuating one or
25 more of such purposes, that is affiliated with, operated by or
26 supervised or controlled by a corporation, trust or organization
27 incorporated or established for religious purposes, or to any other
28 religious agency or organization which serves religion by the
29 preservation of religious rights and freedom from persecution or
30 prejudice or by fostering religion, including the moral and ethical
31 aspects of a particular religious faith;

32 (l) the boy scouts of America and the girl scouts of America,
33 including any regional or local organization affiliated therewith;

34 (m) the young men's christian association and the young women's
35 christian association, including any regional or local organization
36 affiliated therewith;

37 (n) any licensed medical care facility ~~which~~ *that* is organized as a
38 nonprofit corporation under the laws of this state;

39 (o) any licensed community mental health center or licensed
40 mental health clinic;

41 (p) any licensed community center for people with intellectual
42 disability and its affiliates as determined by the Kansas department
43 for aging and disability services;

1 (q) any charitable organization of employees of a corporation
2 whose principal gifts are made to an incorporated community chest,
3 united fund or united way, and whose solicitation is limited to such
4 employees;

5 (r) any community foundation or community trust to which
6 deductible contributions can be made by individuals, corporations,
7 public charities and private foundations, as well as other charitable
8 organizations and governmental agencies for the overall purposes of
9 the foundation or to particular charitable and endowment funds
10 established under agreement with the foundation or trust for the
11 charitable benefit of the people of a specific geographic area and
12 ~~which that~~ is a nonprofit organization exempt from federal income
13 taxation pursuant to section 501(a) of the internal revenue code of
14 1986, as in effect on the effective date of this act, by reason of
15 qualification under section 501(c)(3) of the internal revenue code of
16 1986, as in effect on the effective date of this act, and ~~which that~~ is
17 deemed a publicly supported organization and not a private
18 foundation within the meaning of section 509(a)(1) of the internal
19 revenue code of 1986, as in effect on the effective date of this act;

20 (s) any charitable organization ~~which that~~ does not intend to or
21 does not actually solicit or receive contributions from more than 100
22 persons;

23 (t) any charitable organization the funds of which are used to
24 support an activity of a municipality of this state;

25 (u) the junior league, including any local community organization
26 affiliated therewith; and

27 (v) any charitable organization that is an animal shelter licensed
28 pursuant to K.S.A. 47-1701 et seq., and amendments thereto.

29 Sec. 5. K.S.A. 17-1763 is hereby amended to read as follows: 17-
30 1763. (a) Except for charitable organizations exempt under K.S.A. 17-
31 1762, and amendments thereto, no charitable organization shall solicit
32 funds in this state, nor employ a professional fund raiser to solicit
33 funds in this state, for any charitable purpose, unless such
34 organization has filed ~~with the office of the secretary of state of the state~~
35 ~~of Kansas~~; a registered statement *with the attorney general* prior to
36 solicitation.

37 (b) ~~The secretary of state~~ *attorney general* shall prescribe
38 registration forms ~~which that~~ shall be signed and sworn to by two
39 authorized officers of the organization, including the chief fiscal
40 officer, and ~~which~~ shall include the following information about such
41 organization's activities in this state:

42 (1) The name of the organization and the name or names under
43 which it intends to solicit;

- 1 **(2) the purpose for which such organization was organized;**
- 2 **(3) the principal mailing address and street address of the**
3 **organization and the mailing addresses and street addresses of any**
4 **offices in this state;**
- 5 **(4) the names and mailing addresses and street addresses of any**
6 **subsidiary or subordinate chapters, branches or affiliates in this state;**
- 7 **(5) the place where and the date when the organization was**
8 **legally established, the form in which such organization is organized**
9 **and a reference to any determination of such organization's tax-**
10 **exempt status, if any, under the federal internal revenue code of 1986;**
- 11 **(6) the names and mailing addresses and street addresses of the**
12 **officers, directors, trustees and principal salaried employees of the**
13 **organization;**
- 14 **(7) the name and mailing address and street address of the person**
15 **having custody of such organization's financial records;**
- 16 **(8) the names of the individuals or officers of the organization**
17 **who will have responsibility for the custody of the contributions;**
- 18 **(9) the names of the individuals or officers of the organization**
19 **who will have responsibility for the distribution of the contributions;**
- 20 **(10) the names of the individuals or officers of the organization**
21 **who will have responsibility for the conduct of solicitation activities;**
- 22 **(11) the general purposes for which the organization intends to**
23 **solicit contributions;**
- 24 **(12) a statement indicating whether the organization intends to**
25 **solicit contributions directly or have such solicitation done on such**
26 **organization's behalf by others and naming any professional fund**
27 **raiser the organization intends to use;**
- 28 **(13) a statement indicating whether the organization is**
29 **authorized by any other governmental authority to solicit**
30 **contributions and whether such organization is or has ever been**
31 **enjoined by any court from soliciting contributions;**
- 32 **(14) the cost of ~~fund-raising~~ fundraising incurred or anticipated to**
33 **be incurred by the organization, including a statement of such costs as**
34 **a percentage of contributions received; and**
- 35 **(15) a copy of the federal income tax return of the charitable**
36 **organization, if the charitable organization is required to file such;**
37 **otherwise a financial statement covering complete disclosure of the**
38 **fiscal activities of the organization during the preceding year. The**
39 **financial statement shall be submitted on forms approved by the**
40 **~~secretary of state~~ attorney general, signed and sworn by at least two**
41 **authorized officers of the organization, including the chief fiscal**
42 **officer. Such financial statement shall include a balance sheet and**
43 **statement of income and expense, clearly setting forth the following:**

1 Gross receipts and gross income from all sources, broken down into
2 total receipts and income from each separate solicitation project or
3 source; cost of administration; cost of solicitation; cost of programs
4 designed to inform or educate the public; funds or properties
5 transferred out of this state, with explanation as to recipient and
6 purpose; and total net amount disbursed or dedicated for each major
7 purpose, charitable or otherwise.

8 (c) A charitable organization that received contributions in excess
9 of \$500,000 during the organization's most recently completed fiscal
10 year shall file, in addition to the federal income tax returns or the
11 statement required by subsection (b), an audited financial statement
12 for the charitable organization's most recently completed fiscal year,
13 prepared in accordance with generally accepted accounting principles,
14 and the opinion of an independent certified public accountant on the
15 financial statement.

16 (d) Upon receipt of ~~any such a~~ proper registration and payment of
17 applicable fees, ~~the secretary of state attorney general~~ shall issue a
18 charitable solicitation license and identification number. All
19 certificates of registration and identification numbers issued to
20 charitable organizations shall expire on the last day of the sixth month
21 following the month in which the fiscal year of the charitable
22 organization ends.

23 (e) Every charitable organization required to register with the
24 secretary of state attorney general shall pay a fee of ~~\$20~~ \$25 with each
25 registration.

26 (f) (1) ~~The secretary of state attorney general~~ may adopt rules and
27 regulations necessary for the administration of ~~this~~ the charitable
28 organizations and solicitations act.

29 (2) All rules and regulations, orders, directives and standards of the
30 secretary of state relating to the charitable organizations and solicitations
31 act that are in effect on June 30, 2021, shall be deemed to be the rules and
32 regulations, orders, directives and standards of the attorney general and
33 shall continue to be effective until amended, revoked or nullified pursuant
34 to law.

35 Sec. 6. K.S.A. 17-1764 is hereby amended to read as follows: 17-
36 1764. (a) No person shall act as a professional fund raiser for a
37 charitable organization or for any religious organization as described
38 in ~~subsection (k) of K.S.A. 17-1762(k)~~, and amendments thereto, before
39 such person has registered with the secretary of state attorney general or
40 after the expiration or cancellation of such registration or any renewal
41 of such registration.

42 (b) ~~Applications~~ An application for registration and reregistration or
43 renewal shall be in writing and under oath in the form prescribed by

1 ~~the secretary of state attorney general. Registration or reregistration shall~~
2 **be in effect for a period of one year, or a part thereof, expiring on June**
3 **30, and may be renewed upon written application, under oath, in the form**
4 ~~prescribed by the secretary of state for additional one-year~~ *one-year*
5 **periods.**

6 (c) ~~Every professional fund raiser required to register pursuant to~~
7 ~~this act with the attorney general shall:~~

8 (1) *Pay a fee of \$25 with each registration or renewal; and*

9 (2) **file an annual written report with the secretary of state attorney**
10 **general containing such information as the secretary attorney general**
11 **may require by rule and regulation rules and regulations adopted**
12 **pursuant to K.S.A. 17-1763, and amendments thereto.**

13 **Sec. 7. K.S.A. 17-1765 is hereby amended to read as follows: 17-**
14 **1765. (a) No person shall act as a professional solicitor in the employ**
15 **of a professional fund raiser before such person has registered with**
16 ~~the secretary of state attorney general or after the expiration or~~
17 **cancellation of such registration or any renewal of such registration.**

18 (b) ~~An application for registration or reregistration renewal shall be~~
19 **in writing, and under oath and in the form prescribed by the secretary**
20 **of state. Upon receipt of any such registration, the secretary of state shall**
21 **issue a professional solicitor's license and identification number attorney**
22 **general. Such registration or reregistration Registration shall be in effect**
23 **for a period of one year, or a part thereof, expiring on June 30, and**
24 **may be renewed upon written application, under oath, in the form**
25 ~~prescribed by the secretary of state for an additional one-year period for~~
26 *additional one-year periods.*

27 (c) *Upon receipt of a proper registration or renewal and payment of*
28 *applicable fees, the attorney general shall issue a professional solicitor's*
29 *license and identification number.*

30 (d) *Every professional solicitor required to register with the attorney*
31 *general shall pay a fee of \$25 with each registration or renewal.*

32 **Sec. 8. K.S.A. 17-1766 is hereby amended to read as follows: 17-**
33 **1766. All solicitations by professional solicitors shall contain the**
34 **following disclosures at the point of solicitation:**

35 (a) **The name, address and telephone number of the charitable**
36 **organization;**

37 (b) **the registration number, obtained pursuant to K.S.A. 17-1763,**
38 **and amendments thereto, for the charitable organization;**

39 (c) **if the solicitation is made by a person acting as a professional**
40 **solicitor, the registration number obtained pursuant to K.S.A. 17-**
41 **1765, and amendments thereto; and**

42 (d) **that an annual financial report required by K.S.A. 17-1763,**
43 **and amendments thereto, for the preceding fiscal year is on file with the**

1 ~~secretary of state~~ *attorney general*.

2 **Sec. 9. K.S.A. 17-1769 is hereby amended to read as follows: 17-**
3 **1769. The following acts and practices are hereby declared unlawful as**
4 **applied to the planning, conduct or execution of any solicitation or**
5 **charitable purpose:**

6 **(a) Operating in violation of, or failing to comply with, any of the**
7 **requirements of ~~this~~ *the charitable organizations and solicitations act*;**

8 **(b) utilizing any deceptive acts or practices whether or not any**
9 **person has in fact been misled. Deceptive acts or practices include, but**
10 **are not limited to, the following:**

11 **(1) The intentional use in any solicitation of exaggeration,**
12 **innuendo or ambiguity as to a material fact; and**

13 **(2) the intentional failure to state a material fact, or the**
14 **intentional concealment, suppression or omission of a material fact in**
15 **any solicitation;**

16 **(c) utilizing any unconscionable acts or practices. An**
17 **unconscionable act or practice violates ~~this~~ *the charitable organizations***
18 ***and solicitations act* whether it occurs before, during or after the**
19 **solicitation.**

20 **(1) The unconscionability of an act or practice is a question for**
21 **the court.**

22 **(2) In determining whether an act or practice is unconscionable,**
23 **the court shall consider circumstances ~~which~~ *that* the charitable**
24 **organization or fund raiser knew or had reason to know including, but**
25 **not limited to, the following:**

26 **(A) Taking advantage of a person's inability to reasonably protect**
27 **such person's interests because of the person's physical infirmity,**
28 **ignorance, illiteracy, inability to understand the language of a**
29 **solicitation or similar factor; and**

30 **(B) using undue pressure in soliciting;**

31 **(d) utilizing any representation that implies the contribution is**
32 **for or on behalf of a charitable organization or utilizing any emblem,**
33 **device or printed matter belonging to or associated with a charitable**
34 **organization, without obtaining authorization in writing from the**
35 **charitable organization;**

36 **(e) utilizing a name, symbol or statement so closely related or**
37 **similar to that used by another charitable organization that the use**
38 **thereof would tend to confuse or mislead a solicited person, whether or**
39 **not any person has in fact been misled;**

40 **(f) misrepresenting or misleading any person in any manner to**
41 **believe that the person on whose behalf a solicitation or charitable**
42 **purpose is being conducted is a charitable organization;**

43 **(g) using donations for purposes other than those stated in an**

1 organization's articles of incorporation or current registration
2 statements filed with the ~~secretary of state~~ *attorney general*;

3 (h) using donations for purposes other than those stated in
4 solicitations;

5 (i) using donations for other than charitable purposes;

6 (j) misrepresenting or misleading any person in any matter, to
7 believe that any other person or governmental unit sponsors, endorses
8 or approves such solicitation or charitable purpose when such other
9 person has not given consent in writing to the use of such person's
10 name for these purposes; and

11 (k) utilizing or exploiting the fact of registrations so as to lead any
12 person to believe that such registration in any manner constitutes an
13 endorsement or approval by the state.

14 Sec. 10. K.S.A. 17-1771 is hereby amended to read as follows: 17-
15 1771. Registration under ~~this the charitable organizations and~~
16 *solicitations act* shall not be deemed to constitute an endorsement by
17 the state of Kansas of any registering charitable organization,
18 professional fund raiser or professional solicitor. It shall be unlawful
19 for any charitable organization, professional fund raiser or
20 professional solicitor to represent, directly or indirectly, by advertising
21 or any other manner, that such charitable organization, professional
22 fund raiser or professional solicitor has registered or otherwise
23 complied with the provisions of ~~this the charitable organizations and~~
24 *solicitations act*, for the purpose of solicitation and collection of funds
25 for charitable purposes. The ~~secretary of state~~ *attorney general* shall
26 cancel the registration of any organization, professional fund raiser or
27 professional solicitor that violates the provisions of this section.

28 Sec. 11. K.S.A. 17-1772 is hereby amended to read as follows: 17-
29 1772. (a) The ~~secretary of state~~ *attorney general* may enter into
30 reciprocal agreements relating to the *charitable organizations and*
31 *solicitations act* with a like authority of any other state or states for the
32 purpose of exchanging information made available to the ~~secretary of~~
33 *state attorney general* or to such other like authority.

34 (b) All reciprocal agreements entered into by the *secretary of state*
35 relating to the *charitable organizations and solicitations act* that are in
36 effect on June 30, 2021, shall be deemed to be reciprocal agreements
37 entered into by the *attorney general* and shall continue to be effective until
38 amended, revoked or nullified pursuant to law.

39 Sec. 12. K.S.A. 46-236 is hereby amended to read as follows: 46-
40 236. (a) No state officer or employee, candidate for state office or state
41 officer elect shall solicit any economic opportunity, gift, loan, gratuity,
42 special discount, favor, hospitality, or service from any person known
43 to have a special interest, under circumstances where such officer,

1 employee, candidate or state officer elect knows or should know that a
2 major purpose of the donor in granting the same could be to influence
3 the performance of the official duties or prospective official duties of
4 such officer, employee, candidate or state officer elect.

5 (b) Except when a particular course of official action is to be
6 followed as a condition thereon, this section shall not apply to: (1) Any
7 contribution reported in compliance with the campaign finance act;
8 (2) a commercially reasonable loan or other commercial transaction in
9 the ordinary course of business; (3) any solicitation for the benefit of
10 any charitable organization ~~which is required to file a registration~~
11 ~~statement with the secretary of state~~ *attorney general* pursuant to K.S.A.
12 17-1761, and amendments thereto, or ~~which is exempted from filing~~
13 such statement pursuant to K.S.A. 17-1762, and amendments thereto,
14 or for the benefit of any educational institution or such institution's
15 endowment association, if such association has qualified as a nonprofit
16 organization under ~~paragraph (3) of subsection (c) of section 501(c)(3)~~
17 of the internal revenue code of 1986, as amended; (4) any solicitation
18 for the benefit of any national nonprofit, nonpartisan organization
19 established for the purpose of serving, informing, educating and
20 strengthening state legislatures in all states of the nation; or (5) any
21 solicitation for the benefit of any national, nonprofit organization
22 established for the purpose of serving, informing and educating
23 elected executive branch officials in all states of the nation.

24 ~~Section 1.~~ Sec. 13. K.S.A. 75-451 is hereby amended to read as
25 follows: 75-451. The legislature finds that persons attempting to escape
26 from actual or threatened domestic violence, sexual assault, human
27 trafficking or stalking frequently establish new addresses in order to
28 prevent their assailants or probable assailants from finding them. The
29 purpose of K.S.A. 75-451 ~~to through 75-458, inclusive,~~ and amendments
30 thereto, is to enable state and local agencies to respond to requests for
31 public records without disclosing the location of a victim of domestic
32 violence, sexual assault, human trafficking or stalking, to enable
33 interagency cooperation with the ~~secretary of state~~ *attorney general* in
34 providing address confidentiality for victims of domestic violence, sexual
35 assault, human trafficking or stalking, and to enable state and local
36 agencies to accept a program participant's use of an address designated by
37 the ~~secretary of state~~ *attorney general* as a substitute mailing address.

38 ~~Sec. 2.~~ 14. K.S.A. 75-452 is hereby amended to read as follows: 75-
39 452. The following words and phrases when used in K.S.A. 75-451 ~~to~~
40 ~~through 75-458, inclusive,~~ and amendments thereto, shall ~~have the~~
41 ~~meanings respectively ascribed to them herein~~ *mean*, unless the context
42 clearly requires otherwise:

43 (a) "Abuse" means:

- 1 (1) Causing or attempting to cause physical harm;
- 2 (2) placing another person in fear of imminent physical harm;
- 3 (3) causing another person to engage involuntarily in sexual relations
- 4 by force, threats or duress, or threatening to do so;
- 5 (4) engaging in mental abuse, which includes threats, intimidation
- 6 and acts designed to induce terror;
- 7 (5) depriving another person of necessary health care, housing or
- 8 food; or
- 9 (6) unreasonably and forcibly restraining the physical movement of
- 10 another.
- 11 (b) "Confidential address" means a residential street address, school
- 12 street address or work street address of an individual, as specified on the
- 13 individual's application to be a program participant under K.S.A. 75-451 ~~to~~
- 14 ~~through 75-458, inclusive,~~ and amendments thereto.
- 15 (c) "Confidential mailing address" means an address that is
- 16 recognized for delivery by the United States postal service.
- 17 (d) "Domestic violence" means abuse committed against a victim or
- 18 the victim's spouse or dependent child by:
 - 19 (1) A current or former spouse of the victim;
 - 20 (2) a person with whom the victim shares parentage of a child in
 - 21 common;
 - 22 (3) a person who is cohabitating with, or has cohabitated with, the
 - 23 victim;
 - 24 (4) a person who is related by blood or marriage; or
 - 25 (5) a person with whom the victim has or had a dating or engagement
 - 26 relationship.
- 27 (e) "Program participant" means a person certified as a program
- 28 participant under K.S.A. 75-453, and amendments thereto.
- 29 (f) "Enrolling agent" means state and local agencies, law enforcement
- 30 offices, nonprofit agencies and any others designated by the ~~secretary of~~
- 31 ~~state attorney general~~ that provide counseling and shelter services to
- 32 victims of domestic violence, sexual assault, human trafficking or stalking.
- 33 (g) "Sexual assault" means an act which if committed in this state
- 34 would constitute any crime defined in article 35 of chapter 21 of the
- 35 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
- 36 of the Kansas Statutes Annotated, or K.S.A. 2020 Supp. 21-6419 through
- 37 21-6422, and amendments thereto.
- 38 (h) "Stalking" means an act which if committed in this state would
- 39 constitute "stalking" as defined by K.S.A. 60-31a01, and amendments
- 40 thereto.
- 41 (i) "Human trafficking" means an act which if committed in this state
- 42 would constitute the crime of human trafficking as defined by K.S.A. 21-
- 43 3446, prior to its repeal, or K.S.A. 2020 Supp. 21-5426~~(a)~~, and

1 amendments thereto.

2 Sec. ~~3~~ **15**. K.S.A. 75-453 is hereby amended to read as follows: 75-
3 453. (a) An adult person, an adult family member residing with the victim,
4 a parent or guardian acting on behalf of a minor, or a guardian acting on
5 behalf of an incapacitated person, may apply by and through an enrolling
6 agent to have an address designated by the ~~secretary of state~~ *attorney*
7 *general* serve as the person's address or the address of the minor or
8 incapacitated person. Program participants shall not apply directly to the
9 ~~secretary of state~~ *attorney general*. The ~~secretary of state~~ *attorney general*
10 shall approve an application if it is filed in the manner and on the form
11 prescribed by the ~~secretary of state~~ *attorney general*, signed by the
12 applicant and enrolling agent under penalty of perjury ~~and providing, and~~
13 *it contains all of the following:*

14 (1) A statement by the applicant that the applicant has good reason to
15 believe that the applicant, or the minor or incapacitated person on whose
16 behalf the application is made, is a victim of domestic violence, sexual
17 assault, human trafficking or stalking and:

18 ~~(i)~~(A) That the applicant fears for the applicant's safety or the
19 applicant's children's safety or the safety of the minor or incapacitated
20 person on whose behalf the application is made; or

21 ~~(ii)~~(2) that by virtue of living with an enrolled program participant,
22 the applicant fears that the knowledge or publication of the applicant's
23 whereabouts will put the enrolled participant in danger.

24 (2) A designation of the ~~secretary of state~~ *attorney general* as agent
25 for purposes of service of process and for the purpose of receipt of mail.

26 (3) The confidential mailing address where the applicant can be
27 contacted by the ~~secretary of state~~ *attorney general*, and the phone number
28 or numbers where the applicant can be called by the ~~secretary of state~~
29 *attorney general*.

30 (4) The confidential address or addresses that the applicant requests
31 not be disclosed for the reason that disclosure will increase the risk of
32 domestic violence, sexual assault, human trafficking or stalking.

33 (5) Evidence that the applicant or the minor or incapacitated person
34 on whose behalf the application is made, is a victim of domestic violence,
35 sexual assault, human trafficking or stalking, or is an adult family member
36 residing with the victim. This evidence may include any of the following:

37 (A) Law enforcement, court or other federal, state or local
38 government records or files.

39 (B) Documentation from a public or private entity that provides
40 assistance to victims of domestic violence, sexual assault, human
41 trafficking or stalking.

42 (C) Documentation from a religious, medical or other professional
43 from whom the applicant has sought assistance in dealing with the alleged

1 domestic violence, sexual assault, human trafficking or stalking.

2 (D) Other forms of evidence as determined by the ~~secretary of state~~
3 *attorney general*.

4 (6) A statement of whether there are any existing court orders
5 involving the applicant for child support, child custody or child visitation
6 and whether there are any active court actions involving the applicant for
7 child support, child custody or child visitation, the name and address of
8 legal counsel of record and the last known address of the other parent or
9 parents involved in those court orders or court actions.

10 (7) The signature of the applicant and of any individual or
11 representative of any enrolling agent who assisted in the preparation of the
12 application, and the date on which the applicant signed the application.

13 (b) Applications shall be filed in accordance with procedures
14 prescribed by the ~~secretary of state~~ *attorney general*.

15 (c) Upon filing a properly completed application, the ~~secretary of~~
16 ~~state~~ *attorney general* shall certify the applicant as a program participant.
17 Applicants shall be certified for four years following the date of filing
18 unless the certification is withdrawn or invalidated before that date. The
19 ~~secretary of state shall by rule and regulation establish~~ *attorney general*
20 *shall adopt rules and regulations prescribing* a renewal procedure.

21 (d) Upon certification in the program, in any case where there are
22 court orders or court actions identified in subsection (a)(6), the ~~secretary of~~
23 ~~state~~ *attorney general*, within 10 days, shall notify the other parent or
24 parents of the address designated by the ~~secretary of state~~ *attorney general*
25 for the program participant and the designation of the ~~secretary of state~~
26 *attorney general* as agent for purpose of service of process. The notice
27 shall be given by mail, return receipt requested, postage prepaid, to the last
28 known address of the other parent to be notified. A copy shall also be sent
29 to that parent's counsel of record.

30 (e) A person who falsely attests in an application that disclosure of
31 the applicant's address would endanger the applicant's safety or the safety
32 of the applicant's children or the minor or incapacitated person on whose
33 behalf the application is made, or who knowingly provides false or
34 incorrect information upon making an application, ~~shall be punishable~~ *may*
35 *be prosecuted for, convicted of and punished* under K.S.A. 2020 Supp. 21-
36 5824, and amendments thereto, or other applicable statutes.

37 ~~Sec. 4.~~ **16.** K.S.A. 75-454 is hereby amended to read as follows: 75-
38 454. (a) If the program participant obtains a legal name change after being
39 certified as a program participant, the ~~secretary of state~~ *attorney general*
40 shall cancel certification of the program participant.

41 (b) The ~~secretary of state~~ *attorney general* may cancel a program
42 participant's certification if there is a change in the residential address from
43 the one listed on the application, unless the program participant provides

1 the ~~secretary of state~~ *attorney general* with seven days' prior notice of the
2 change of address.

3 (c) The ~~secretary of state~~ *attorney general* may cancel certification of
4 a program participant if mail forwarded by the ~~secretary~~ *attorney general*
5 to the program participant's address is returned as nondeliverable.

6 (d) The ~~secretary of state~~ *attorney general* shall cancel certification of
7 a program participant who ~~applies using false information~~ *knowingly*
8 *provides false or incorrect information.*

9 ~~Sec. 5.~~ **17.** K.S.A. 75-455 is hereby amended to read as follows: 75-
10 455. (a) A program participant may request that state and local agencies
11 use the address designated by the ~~secretary of state~~ *attorney general* as the
12 participant's address. When creating a new public record or amending or
13 updating an existing record, state and local agencies shall accept the
14 address designated by the ~~secretary of state~~ *attorney general* as a program
15 participant's substitute address, unless the ~~secretary of state~~ *attorney*
16 *general* has determined that:

17 (1) The agency has a bona fide statutory or administrative
18 requirement for the use of the address which would otherwise be
19 confidential under K.S.A. 75-451 ~~to~~ *through* 75-458, ~~inclusive~~, and
20 amendments thereto; and

21 (2) this address will be used only for those statutory and
22 administrative purposes.

23 (b) A program participant may use the address designated by the
24 ~~secretary of state~~ *attorney general* as the participant's work address.

25 (c) The ~~office of the secretary of state~~ *attorney general* shall forward
26 all first class mail, and other items designated by ~~rule and regulation~~ *rules*
27 *and regulations*, to the appropriate program participants.

28 ~~Sec. 6.~~ **18.** K.S.A. 75-456 is hereby amended to read as follows: 75-
29 456. (a) The ~~secretary of state~~ *attorney general* is authorized to adopt rules
30 and regulations for the proper implementation of K.S.A. 75-451 ~~to~~ *through*
31 75-458, ~~inclusive~~, and amendments thereto.

32 (b) (1) The secretary of state shall ~~prescribe by rule and regulation~~
33 *adopt rules and regulations prescribing* voting procedures to maintain
34 confidentiality of the addresses of program participants.

35 (2) *Except for rules and regulations, orders, directives and standards*
36 *of the secretary of state relating to subsection (b)(1), all rules and*
37 *regulations, orders, directives and standards of the secretary of state*
38 *relating to K.S.A. 75-451 through 75-458, and amendments thereto, that*
39 *are in effect on June 30, 2021, shall be deemed to be the rules and*
40 *regulations, orders, directives and standards of the attorney general and*
41 *shall continue to be effective until amended, revoked or nullified pursuant*
42 *to law.*

43 (c) *Except for records, memoranda, writings, entries, prints,*

1 *representations or combinations thereof of any act, transaction,*
2 *occurrence or event of the secretary of state relating to subsection (b)(1),*
3 *the attorney general shall have the legal custody of all records,*
4 *memoranda, writings, entries, prints, representations or combinations*
5 *thereof of any act, transaction, occurrence or event of the secretary of*
6 *state relating to K.S.A. 75-451 through 75-458, and amendments thereto.*

7 ~~Sec. 7.~~ **19.** K.S.A. 75-457 is hereby amended to read as follows: 75-
8 457. The ~~secretary of state~~ *attorney general* shall not make any records in
9 a program participant's file available for inspection or copying, other than
10 the address designated by the ~~secretary of state~~ *attorney general*, except
11 under the following circumstances:

12 (a) If requested by a law enforcement agency, to the law enforcement
13 agency in accordance with procedures prescribed by rules and regulations;

14 (b) if directed by a court order, to a person identified in the order; ~~or~~

15 (c) if requested by a state or local agency, to verify the participation
16 of a specific program participant, in which case the ~~secretary~~ *attorney*
17 *general* may only confirm participation in the program; *and*

18 (d) *if requested by the secretary of state for election purposes, to the*
19 *secretary of state in accordance with procedures prescribed by rules and*
20 *regulations.*

21 ~~Sec. 8.~~ **20.** K.S.A. 75-458 is hereby amended to read as follows: 75-
22 458. The ~~secretary of state~~ *attorney general* shall designate enrolling
23 agents to assist persons applying to be program participants. The ~~secretary~~
24 ~~of state~~ *attorney general* may collaborate with enrolling agents to develop
25 a training curriculum. Any assistance rendered to applicants by the ~~office~~
26 ~~of the secretary of state or its~~ *attorney general* or *the attorney general's*
27 *designees* shall not be construed as legal advice.

28 ~~Sec. 9.~~ **21.** K.S.A. **17-1759, 17-1763, 17-1764, 17-1765, 17-1766, 17-**
29 **1769, 17-1771, 17-1772, 46-236,** 75-451, 75-452, 75-453, 75-454, 75-455,
30 75-456, 75-457 and 75-458 **and K.S.A. 2020 Supp. 17-1762** are hereby
31 repealed.

32 ~~Sec. 10.~~ **22.** This act shall take effect and be in force from and after
33 its publication in the statute book.