

Kansas Fights Addiction Act; Safe At Home Program; Charitable Organizations and Solicitation Act; Human Trafficking Notices; HB 2079

HB 2079 creates the Kansas Fights Addiction Act, which addresses the use of funds received from opioid litigation and establishes limits on future opioid litigation by municipalities, amends law to transfer certain duties from the Secretary of State to the Attorney General, and amends law related to notices offering help to victims of human trafficking.

Kansas Fights Addiction Act

New Funds for Abatement of Substance Abuse or Addiction

The bill establishes in the State Treasury the Kansas Fights Addiction Fund (KFA Fund) and the Municipalities Fight Addiction Fund (MFA Fund), administered by the Attorney General. The bill requires the Attorney General to remit to the State Treasurer all moneys received by the State pursuant to opioid litigation in which the Attorney General is involved that is dedicated by the terms of such litigation for the abatement or remediation of substance abuse or addiction.

The bill requires 75 percent of these moneys to be credited to the KFA Fund and 25 percent to be credited to the MFA Fund and specifies how expenditures are to be made from each fund.

The bill also establishes in the State Treasury the Prescription Monitoring Program Fund (PMP Fund), administered by the President of the State Board of Pharmacy (President) or the President's designee.

Kansas Fights Addiction Fund. The bill requires moneys in the KFA Fund to be expended for grants approved by the Kansas Fights Addiction Grant Review Board (Board), as created by the bill, to qualified applicants for projects and activities that prevent, reduce, treat, or mitigate the effects of substance abuse and addiction. Such grants may not supplant any other source of funding and no moneys from the KFA Fund may be used for litigation costs, expenses, or attorney fees related to opioid litigation. [*Note:* See the section titled "Prescription Monitoring Program Fund" for provisions related to the transfer of moneys from the KFA Fund to the PMP Fund.]

Municipalities Fight Addiction Fund. The bill requires moneys in the MFA Fund to be expended subject to an agreement among the Attorney General, the Kansas Association of Counties (KAC), and the League of Kansas Municipalities (LKM), for projects and activities that prevent, reduce, treat, or mitigate the effects of substance abuse and addiction, or to reimburse a municipality for expenses related to previous substance abuse mitigation or arising from covered conduct, which is defined to include any conduct covered by opioid litigation that resulted in payment of moneys into the KFA Fund. Moneys in the MFA Fund may also be used to reimburse municipalities for payment of litigation costs, expenses, or attorney fees related to opioid litigation, after the municipality has first sought payment from applicable outside settlement sources or settlement fee funds.

The bill requires an agreement among the Attorney General, KAC, and LKM to determine the method for disbursing moneys from the MFA Fund. The bill requires that moneys be disbursed to municipalities that have not filed opioid litigation and municipalities that have filed opioid litigation but have entered into an agreement with the Attorney General prior to January 1, 2022, to release the municipality's legal claims arising from covered conduct to the Attorney General and assign any future legal claims arising from covered conduct to the Attorney General.

Prescription Monitoring Program Fund. The bill creates law in the Prescription Monitoring Program Act to establish the PMP Fund and requires all expenditures made from the PMP Fund to be approved by the President or the President's designee and for the purpose of operating the Prescription Monitoring Program (K-TRACS). Expenditures from the PMP Fund are to be made in accordance with appropriation acts upon warrants of the Director of Accounts and Reports issued pursuant to vouchers approved by the President or the President's designee.

The bill requires, on July 1 of each year or as soon as moneys are available, the Director of Accounts and Reports to transfer \$200,000 from the KFA Fund to the PMP Fund, except no transfer is made for any fiscal year if there are insufficient unencumbered moneys in the KFA Fund.

Kansas Fights Addiction Grant Review Board

The bill establishes the Board under the jurisdiction of the Attorney General.

Membership. The bill requires at least one member of the Board to reside in each of Kansas' congressional districts. The Board consists of 11 members with expertise in the prevention, reduction, treatment, or mitigation of the effects of substance abuse and addiction, as follows:

- Two members appointed by the Attorney General, one of whom is designated as chairperson and at least one of whom is appointed by the Behavioral Sciences Regulatory Board;
- One member appointed by the Governor;
- One member appointed by the President of the Senate;
- One member appointed by the Speaker of the House of Representatives;
- One member appointed by the Minority Leader of the Senate;
- One member appointed by the Minority Leader of the House of Representatives;
- One member appointed by LKM;
- One member appointed by KAC;

- One member appointed by the Kansas County and District Attorneys Association; and
- One member appointed by the Association of Community Mental Health Centers of Kansas.

Each member serves at the pleasure of the appointing authority.

Duties and operation. The bill requires the Board to receive and consider applications for grants of money from the KFA Fund and provides a list of five mandatory and three permissive factors to be considered or applied in awarding grants.

The affirmative vote of six members is required to approve a grant. The Board may adopt rules and procedures for its operation, conduct hearings, receive testimony, and gather information to assist in its powers, duties, and functions. Members do not receive compensation or expenses for serving on the Board, are required to file a statement of substantial interest, and are prohibited from participating in the consideration of any grant application for which such member has a conflict of interest.

The bill requires the Attorney General to provide administrative support for the Board and to administer, monitor, and assure compliance with grant conditions, and allows the Attorney General to enter into an agreement with the Sunflower Foundation to provide such support and administration. The bill establishes provisions regarding transfer of moneys, fees, and earnings on moneys that may be included in such agreement. The bill states the Attorney General may take any action necessary to ensure the greatest possible recovery from opioid litigation and to seek funds for the KFA Fund and the MFA Fund.

The bill requires, not later than March 1 of each year, the Board to submit to the Speaker of the House of Representatives, the President of the Senate, the Governor, and the Attorney General a report of the Board's activities during the prior calendar year, including:

- An accounting of moneys deposited into and expended from the KFA Fund;
- A summary of each approved grant, including certain specified details;
- An explanation of how the Board's actions during the year have complied with the bill's requirements; and
- Any other relevant information the Board deems appropriate.

Responsibility for Costs

The bill provides the Attorney General and each municipality is solely responsible for paying all costs, expenses, and attorney fees arising from opioid litigation brought under their respective authorities, including any attorney fees owed to private legal counsel, and may seek payment or reimbursement of such costs, expenses, and attorney fees from moneys not deposited in the KFA Fund.

Limitation on Municipal Litigation

The bill prohibits municipalities, on and after January 1, 2021, from filing or becoming a party to opioid litigation in any court without the prior approval of the Attorney General. The bill requires any municipality that filed opioid litigation on or after January 1, 2021, through the effective date of the Act to withdraw from such litigation, unless the municipality receives approval from the Attorney General to maintain such litigation. The bill specifies these provisions do not apply to or affect any municipality that filed or became a party to opioid litigation in court prior to January 1, 2021.

Definitions

In addition to “covered conduct,” the bill defines other relevant terms, including “moneys that are received,” “opioid litigation,” and “qualified applicant.”

Transfer of Duties from the Secretary of State to the Attorney General

Charitable Organizations and Solicitations Act

The bill amends the Charitable Organizations and Solicitations Act (Act) to transfer responsibilities related to registration under the Act from the Secretary of State to the Attorney General. The authority to adopt rules and regulations necessary for administration of the Act is transferred from the Secretary of State to the Attorney General, and all rules and regulations, orders, directives, and standards of the Secretary of State relating to the Act in effect on June 30, 2021, are deemed to be those of the Attorney General and continue to be effective until amended, revoked, or nullified pursuant to law. Similarly, all reciprocal agreements entered into by the Secretary of State relating to the Act in effect on June 30, 2021, are deemed to be entered into by the Attorney General and continue to be effective until amended, revoked, or nullified pursuant to law. The bill creates a new section in the Act transferring legal custody of all records, memoranda, writings, entries, prints, representations, or combinations thereof, of any act, transaction, occurrence, or event relating to the Act from the Secretary of State to the Attorney General.

The bill prohibits a state agency or state official from imposing annual filing or reporting requirements on a private foundation or charitable trust that are more stringent, restrictive, or expansive than the requirements outlined in state and federal law.

The bill increases the charitable organization registration fee from \$20 to \$25 and adds a registration or renewal fee of \$25 for every professional fundraiser and professional solicitor required to register with the Attorney General under the Act. The bill creates in the State Treasury the Charitable Organizations Fee Fund (Fund), to which the Attorney General remits all moneys received pursuant to the Act. The bill states moneys in the Fund are to be used by the Attorney General to carry out the provisions and purposes of the Act, and the bill specifies how moneys are to be credited to the Fund and how expenditures are to be made from the Fund.

The bill amends the State Governmental Ethics Law, in a provision regarding solicitation, to reflect the transfer of duties under the Act.

Safe at Home Program

The bill amends statutes regarding a substitute mailing address program (“Safe at Home” program) for certain victims of domestic violence, sexual assault, human trafficking, or stalking, to transfer responsibility for administering the Safe at Home program from the Secretary of State to the Attorney General. Related rules and regulations authority (except that relating to voting procedures) is transferred, and the bill deems all rules and regulations, orders, directives, and standards of the Secretary of State relating to the Safe at Home program (except for those prescribing voting procedures) in effect on June 30, 2021, to be those of the Attorney General, and they continue to be effective until amended, revoked, or nullified pursuant to law.

Similarly, the bill transfers legal custody of all records, memoranda, writings, entries, prints, representations, or combinations thereof of any act, transaction, occurrence, or event relating to the Safe at Home program (except for those relating to voting procedures) to the Attorney General. The bill adds an exception to the provision prohibiting the making of any records in a Safe at Home program participant’s file available for inspection or copying; this exception allows disclosure to the Secretary of State if requested by the Secretary of State for election purposes, in accordance with procedures prescribed by rules and regulations.

Human Trafficking Assistance Notices

The bill amends law related to notices offering help to victims of human trafficking to require a prominent notice of such help be posted in any place required to post notices pursuant to:

- The Kansas Act Against Discrimination;
- The Kansas Age Discrimination in Employment Act;
- Kansas child labor law;
- Employment security law, rules, and regulations; or
- The Workers Compensation Act and adopted rules and regulations related to that Act.

Additionally, the bill requires the notice to be posted in a location visible to members of the public in the following public places:

- Sexually oriented businesses, as defined in continuing law as an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center;
- Massage parlors;
- Health care facilities;

- Convenience stores and truck stops; and
- Rest areas and visitors centers under supervision or control of the State.

The bill requires the Attorney General to adopt rules and regulations prescribing the content, size, and other characteristics of such notice. The bill also removes from the notice requirement specific content regarding the required National Human Trafficking Hotline information.