

SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2079

As Amended by Senate Committee on Ways
and Means

Brief*

HB 2079, as amended, would transfer certain duties from the Secretary of State to the Attorney General.

The bill would amend 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 Attorney General would have authority to adopt rules and regulations necessary for administration of the Act, and all rules and regulations, orders, directives, and standards of the Secretary of State relating to the Act in effect on June 30, 2021, would be deemed to be those of the Attorney General and would 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, would be deemed to be entered into by the Attorney General and would continue to be effective until amended, revoked, or nullified pursuant to law. The bill would create 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 would prohibit 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.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The bill would increase the charitable organization registration fee from \$20 to \$25 and would add 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 would create in the State Treasury the Charitable Organizations Fee Fund (Fund), to which the Attorney General would remit all moneys received pursuant to the Act. The bill would state 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 would specify how moneys are to be credited to the Fund and how expenditures are to be made from the Fund.

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

The bill also would amend 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 for that relating to voting procedures) would be transferred, and the bill would deem 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 would continue to be effective until amended, revoked, or nullified pursuant to law. Similarly, the bill would transfer 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 would add 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 would allow 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.

The bill would also make technical amendments throughout to ensure consistency in statutory phrasing and references.

Background

HB 2079 was introduced by the House Committee on Judiciary at the request of the Office of the Attorney General. As introduced, HB 2079 contained the provisions transferring the Safe at Home program.

House Committee on Judiciary

In the House Committee hearing, representatives of the Office of the Attorney General and the Office of Secretary of State testified as **proponents**, stating the bill was a joint effort between the two offices, and the Safe at Home program would be a better fit in the Office of the Attorney General.

No other testimony was provided.

The House Committee amended the bill to add the language of 2021 HB 2080, to transfer duties from the Secretary of State to the Attorney General that are related to the Act.

Senate Committee on Ways and Means

In the Senate Committee hearing, the Attorney General testified as a **proponent**, stating the Act currently requires certain charitable organizations, professional fundraisers, and professional solicitors to register with the state and to disclose financial contributions from those entities. The Attorney General further indicated the Office of the Secretary of State currently manages that registration process and,

unlike when the Act was first enacted in 1988, the Office of the Attorney General now manages a variety of registration programs. Additionally, the Attorney General outlined the efficiencies in operations and effectiveness that would come with consolidating those responsibilities.

A representative of the Office of the Attorney General also testified as a **proponent**, stating the Safe at Home program that currently resides in the Office of the Secretary of State would be better suited in the Victim Services Division of the Office of the Attorney General, because the Division has specialized staff that work with victims of crime, and it currently provides victims of domestic violence, sexual assault, human trafficking, or stalking with resources to obtain and use a confidential address to receive mail or service of process.

A representative of the Office of the Secretary of State also provided **proponent** testimony, indicating the Office serves only as the Safe At Home program administrator under current law, with no oversight or enforcement capabilities. The representative stated the Office of the Attorney General would be a better fit for the Safe at Home program and responsibilities in the Act because of its capacity to work with the communities served by those programs.

Lastly, a representative of The Philanthropy Roundtable testified as a **proponent**, stating the Office of the Attorney General has the expertise and resources to manage the responsibilities that would be transferred to it.

No other testimony was provided.

The Senate Committee amended the bill based on a suggestion by The Philanthropy Roundtable to add a provision prohibiting imposition of certain annual filing or reporting requirements.

HB 2080 (Charitable Organizations and Solicitations Act)

HB 2080 was introduced by the House Committee on Judiciary at the request of the Office of the Attorney General.

House Committee on Judiciary

In the House Committee hearing, the Attorney General and a representative of the Secretary of State testified as **proponents** of HB 2080, stating the bill was the result of conversations between the two offices, and it would increase efficiency and effectiveness.

No other testimony was provided.

Fiscal Information

HB 2079 (Safe at Home Program)

According to the fiscal note prepared by the Division of the Budget on HB 2079 as introduced, enactment of the bill would save the Office of the Secretary of State approximately \$4,400 per year, based on FY 2020 actual expenditures for the Safe at Home program. The Office of the Attorney General indicates costs of housing the Safe at Home program within its Victim Services Division could be absorbed within existing resources.

Any fiscal effect associated with enactment of HB 2079 is not reflected in *The FY 2022 Governor's Budget Report*.

HB 2080 (Charitable Organizations and Solicitations Act)

According to the fiscal note prepared by the Division of the Budget on HB 2080, enactment of the bill would reduce State General Fund revenues by \$89,075, because current registration and related fees would no longer be received, and the new registration fees would be deposited into the

Charitable Organizations Fee Fund, which the Office of the Attorney General estimates would receive \$128,225 from the registration fees.

The Office of the Attorney General states this revenue would be used to manage the registration program and enforcement expenses associated with the Act. The Office would require 1.0 FTE position to manage the Safe at Home program, at a cost of \$73,363 annually for salary and benefits. The Office anticipates additional annual expenses of \$15,765 for other expenses, except for \$2,839 used for one-time start-up costs. The remaining revenues would be used to offset a portion of the salary and wage expenditures of investigators and attorneys who currently investigate and enforce violations of the Act or to increase public awareness and education regarding fraudulent charities and the Act.

Any fiscal effect associated with enactment of HB 2080 is not reflected in *The FY 2022 Governor's Budget Report*.

Attorney General; Secretary of State; Safe at Home program; Charitable Organizations and Solicitations Act; Charitable Organizations Fee Fund