AN ACT concerning domestic violence; enacting the batterer intervention program certification act; amending K.S.A. 2011 Supp. 12-4509 and 22-4616 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) There is hereby created in the office of the attorney general a batterer intervention program certification unit.
(b) Except as otherwise provided by law, the books, documents, papers, records or other sources of information obtained and the investigations conducted by the unit shall be confidential as required by state or federal law.
(c) The purpose of the batterer intervention program certification unit is to certify and inspect batterer intervention programs in Kansas. To accomplish this purpose, upon request of the unit, the unit shall have access to all records of reports, investigation documents and written reports of findings related to confirmed cases of domestic violence or exploitation of persons or cases in which there is reasonable suspicion to believe domestic violence has occurred which are received or generated by the department of social and rehabilitation services, department on aging, department of health and environment, Kansas bureau of investigation or the behavioral sciences regulatory board.
(d) The attorney general shall develop a set of tools, methodologies, requirements and forms for the domestic violence offender assessment required by subsection (p) of K.S.A. 2011 Supp. 21-6604, and amendments thereto. The batterer intervention program tools, methodologies, requirements and forms shall be developed in consultation with the agency certified by the centers for disease control and prevention and the department of health and human services as the domestic violence coalition for the state and with local domestic violence victims' services organizations.
(e) The attorney general may appoint a panel to assist the attorney general by making recommendations regarding the:
(1) Content and development of a batterer intervention certification program; and
(2) rules and regulations.
(f) The attorney general may appoint such advisory committees as the
attorney general deems necessary to carry out the purposes of this act.  
Except as provided in K.S.A. 75-3212, and amendments thereto, no  
member of any such advisory committee shall receive any compensation,  
subsistence, mileage or other allowance for serving on an advisory  
committee or attending any meeting thereof.  
New Sec. 2.  (a) No person shall operate or provide services as a  
batterer intervention program unless such program has been certified as  
required by this section.  
(b) Any program desiring to be certified in Kansas as a batterer  
intervention program shall submit an application thereof to the attorney  
general. All completed applications for initial, renewal, or reinstatement  
certification shall be verified and on a form approved by the attorney  
general. The completed application shall include:  
(1) The full name and resident address of the applicant;  
(2) the name under which the applicant intends to do business and the  
business address;  
(3) a statement as to the general nature of the business in which the  
applicant intends to engage;  
(4) a statement of the educational and work experience qualifications  
of each individual, including any employee or agent of applicant, who will  
be directly providing intervention services to clients of a batterer  
intervention program;  
(5) a statement that the applicant has complied with such other qualifications as  
may be established by the attorney general by rules and regulations;  
(c) Before an application for a certification may be approved and  
granted, the applicant shall:  
(1) Have attained the age of 21;  
(2) have satisfied the attorney general that the applicant is a person  
who merits the public trust;  
(3) have paid the certification fee; and  
(4) complied with such other qualifications as may be established by  
the attorney general by rules and regulations.  
(d) If in evaluating an applicant’s application the attorney general  
finds any deficiency in the applicant’s qualifications, the attorney general  
may require such applicant to fulfill such remedial or other requirements  
as the attorney general may prescribe.  
(e) Certification as a batterer intervention program shall expire on the  
second anniversary of the date of certification.  
(f) Certification as a batterer intervention program may be renewed  
every two years upon submission of a completed renewal application to  
the attorney general on or before the expiration date of such certification,  
payment of the renewal fee and verification of continuing compliance with
the requirements of this act and the rules and regulations adopted thereunder by the attorney general.

(g) Any batterer intervention program that fails to secure a renewal certification within the time specified in subsection (f) may request reinstatement of such lapsed certification by submitting to the attorney general a completed application on a form approved by the attorney general, furnishing proof that the applicant is qualified to act as a certified batterer intervention program and satisfying all of the requirements for reinstatement including payment of a reinstatement fee to the attorney general.

(h) The attorney general may issue a temporary permit to act as a certified batterer intervention program for a period not to exceed 180 days to an applicant requesting initial certification if the attorney general determines the applicant qualifies under subsections (b) and (c), except for program requirements regarding agency structure, personnel qualifications, education requirements or training requirements established in rules and regulations, and such deficiencies can be remedied within such time period. The temporary permit shall expire upon the applicant meeting all of the program requirements and the applicant's program being certified as required by this section, or upon the expiration date of the temporary permit, whichever occurs first.

(i) No certification as a batterer intervention program or temporary permit to act as a certified batterer intervention program shall be assignable or transferable.

New Sec. 3. Each applicant, certified batterer intervention program or holder of a temporary permit shall notify the attorney general in writing:

(a) A change in name or address, both residential and business, within 30 days of the change; or

(b) A conviction of or entering into a diversion agreement in lieu of further criminal proceedings alleging a violation of:

1) A felony offense in the Kansas Statutes Annotated, and amendments thereto, or similar conviction in another jurisdiction:

(A) Involving dishonesty or false statement;

(B) Involving alcohol or a controlled substance; or

(C) Designated as a person offense in article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto; or

2) A misdemeanor offense in the Kansas Statutes Annotated, and amendments thereto, or similar conviction in another jurisdiction or an ordinance of any city of this state, or resolution of any county of this state:

(A) Involving dishonesty or false statement;

(B) Involving alcohol or a controlled substance; or

(C) Designated as a person offense in article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

(i) A batterer intervention program may be exempted from the initial application for certification as a certified batterer intervention program if such program had been previously certified or certified by the attorney general as a batterer intervention program on the day preceding the effective date of this act.

(j)(1) Except as provided further, the program director, program supervisor or program coordinator of any batterer intervention program shall be licensed to practice in Kansas as a licensed psychologist, licensed baccalaureate social worker, licensed master social worker, licensed specialist clinical social worker, licensed marriage and family therapist, licensed clinical marriage and family therapist, licensed professional counselor, licensed clinical professional counselor, licensed master level psychologist or licensed clinical psychotherapist.

(2) Any person not licensed as required in subsection (j)(1) who is a program director, program supervisor or program coordinator immediately prior to the effective date of this act may continue to be a program director, program supervisor or program coordinator on and after the effective date of this act if such person remains employed or contracted by the same program, and such program remains a certified batterer intervention program. When such person is no longer employed or contracted by the program in which they were a program director, program supervisor or program coordinator immediately prior to the effective date of this act, such person shall not be a program director, program supervisor or program coordinator for any certified batterer intervention program without meeting the license requirements prescribed in subsection (j)(1).
New Sec. 4. The fee for an initial application, renewal application or
reinstatement application for a batterer intervention program certification
shall be $100. The fee for an initial application, renewal application or
reinstatement fee for temporary permit shall be $50. The attorney general
may increase the amount of fee for an initial application, renewal
application or reinstatement application for a batterer intervention program
certification by rules and regulations, except that the fee for a batterer
intervention program certification shall not exceed $250. The attorney
general may increase the amount of fee for an initial application renewal,
application or reinstatement application for temporary permit by rules and
regulations, except that the fee for a temporary permit shall not exceed
$250.

New Sec. 5. (a) The attorney general shall establish by rules and
regulations the requirements for a batterer intervention certification
program. These requirements may include, but not be limited to:

(1) Standards;
(2) program elements and goals;
(3) the role of the certified batterer intervention program in the
community;
(4) technical considerations which may include, but not be limited to,
consideration of any combination of:
(A) Expectations of batterers;
(B) group composition;
(C) facilitation;
(D) curriculum;
(E) prohibited and restricted practices;
(F) batterer confidentiality, victim confidentiality and safety checks;
(G) program length;
(H) victim notification;
(I) victim involvement;
(J) public relations;
(K) research;
(L) agency structure; and
(M) personnel qualifications;
(5) the assessment of batterer participants and the utilization of the
Kansas domestic violence offender assessment;
(6) training and education requirements, continuing or otherwise, for
program facilitators, program supervisors and program coordinators; and
(7) any other requirements or conditions as may be required by the
attorney general.

(b) A batterer intervention program may be exempted from the initial
application for certification as a certified batterer intervention program if
such program had been previously certified or certified by the attorney
general.

Policies and procedures
orientation training and continuing education requirements

, and any agent or employee of a
certified batterer intervention program
who directly provides intervention
services to clients of such program
general as a batterer intervention program on the day preceding the effective date of this act.

New Sec. 6. (a) The attorney general may suspend, limit, condition, deny, revoke or refuse renewal or reinstatement of any certification or permit issued under this act if the attorney general determines that an applicant, a person operating or providing services as a certified batterer intervention program or holder of a temporary permit has:

1. (1) Made any false statement or given any false information in connection with an application for an initial, renewal or reinstatement of a certification or temporary permit issued under this act;
2. (2) failed to meet or maintain compliance with program requirements;
3. (3) been found guilty or convicted of fraud or deceit in connection with services rendered;
4. (4) been found guilty of negligence or wrongful actions in the performance of services rendered;
5. (5) allowed the use of the attorney general's domestic violence offender assessment by any person who is not an employee or agent of either a current certified batterer intervention program or a holder of a temporary permit issued under this act;
6. (6) committed an act of unprofessional conduct as defined by rules and regulations adopted by the attorney general;
7. (7) been convicted of any offense as defined in section 3, and amendments thereto; or
8. (8) failed or refused to allow inspection of records pursuant to section 8, and amendments thereto.

(b) (1) For purposes of this section, "conviction" means:
(A) The entry of a plea or verdict of guilty or a conviction following a plea of nolo contendere and without regard to whether the sentence was suspended or probation granted after such conviction;
(B) a forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated; or
(C) entering into a diversion agreement in lieu of further criminal proceedings alleging a violation of any offense specified in subsection (b) of section 3, and amendments thereto.

(2) The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(c) Proceedings under this section shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under this act shall be in accordance with the Kansas judicial review act.

New Sec. 7. (a) Any applicant, person who operates or provides services as a batterer intervention program or holder of a temporary permit who violates any provision of this act or any rules and regulations adopted

(b) Such rules and regulations shall require the following:
(1) The Kansas domestic violence offender assessment shall be completed by: (A) An individual who is licensed to practice in Kansas as a licensed psychologist, licensed baccalaureate social worker, licensed master social worker, licensed specialist clinical social worker, licensed marriage and family therapist, licensed clinical marriage and family therapist, licensed professional counselor, licensed clinical professional counselor, licensed master level psychologist or licensed clinical psychotherapist; or (B) an individual who meets the requirements of subsection (b)(2).
(2) Any person who is not licensed as required in subsection (b)(1)(A) who is completing domestic violence offender assessments as an employee of or volunteer for a batterer intervention program immediately prior to the effective date of this act may continue to complete such assessments on and after the effective date of this act if such person remains an employee of or volunteer for the same program, and such program remains a certified batterer intervention program. When such person is no longer an employee of or volunteer for the program in which they were employed or volunteering immediately prior to the effective date of this act, such person shall not be a allowed to complete the Kansas domestic violence offender assessment for any certified batterer intervention program without meeting the license requirements prescribed in subsection (b)(1)(A).
thereunder, in addition to any other penalty provided by law, may incur a
civil penalty imposed under subsection (b) in an amount not less than $100
nor more than $5,000 for each violation and, in the case of a continuing
violation, every day such violation continues may be deemed a separate
violation.
(b) No civil penalty shall be imposed pursuant to this section except
upon the written order of the attorney general to the applicant, person who
operates or provides services as a certified batterer intervention program or
holder of a temporary permit who committed the violation. Such order
shall state the violation, the penalty to be imposed and the right of the
applicant, person who operates or provides services as a certified batterer
intervention program or holder of a temporary permit to appeal to the
attorney general. Any such applicant, person who operates or provides
services as a certified batterer intervention program or holder of a
temporary permit, within 20 days after notification, may make written
request to the attorney general for a hearing in accordance with the
provisions of the Kansas administrative procedure act. The attorney
general shall affirm, reverse or modify the order and shall specify the
reasons therefor.
(c) Any applicant, person who operates or provides services as a
certified batterer intervention program or holder of a temporary permit
aggrieved by a final order of the attorney general made under this section
may appeal such order to the district court in the manner provided by the
Kansas judicial review act.
(d) Any civil penalty recovered pursuant to the provisions of this
section shall be remitted to the state treasurer, deposited in the state
treasury and credited to the state general fund.
(e) Any action taken pursuant to this section shall be in addition to
and not in lieu of any other penalty prescribed by law.

New Sec. 8. (a) Each certified batterer intervention program and each
holder of a temporary permit issued pursuant to this act shall keep and
maintain for a period of two years, each book, document, paper, record or
other information pertaining to services rendered as a certified batterer
intervention program.
(b) Regardless of the form or media in which such books,
documents, paper, record or other source of information is kept, each book,
document, paper, record and other source of information concerning the
compliance with the requirements established in this act and the rules and
regulations adopted thereunder by each certified batterer intervention
program or holder of a temporary permit shall be inspected at least once
every certification period by the attorney general. The attorney general
may order other or additional inspections as deemed necessary by the
attorney general. The attorney general shall at all times be given free
access to all such books, documents, papers, records or other sources of
information concerning the compliance with the requirements established
in this act and the rules and regulations adopted thereunder.
(c) (1) Any information or copy thereof obtained by the attorney
general pursuant to this section or pursuant to an investigation pursuant to
this act shall not be public and shall not be subject to disclosure pursuant
to the Kansas open records act, and amendments thereto.
(2) The provisions of subsection (c)(1) shall expire on July 1, 2017,
unless the legislature acts to reenact such provision. The provisions of
subsection (c)(1) shall be reviewed by the legislature prior to July 1, 2017.
New Sec. 9. (a) The attorney general may bring an action to restrain
or enjoin any violation of this act or any rule and regulation promulgated
thereunder. The district courts of this state shall have jurisdiction to
restrain violations of this act or the rules and regulations promulgated
thereunder. The court may issue such orders, including temporary
restraining orders, as the facts may warrant without first requiring proof
that an adequate remedy at law does not exist. Any orders issued pursuant
to this section shall be issued without bond. Proceedings may be instituted
under this section without any criminal proceedings, administrative
proceedings or civil penalty proceedings being first initiated.
(b) In any civil action brought by the attorney general pursuant to this
section in which a temporary restraining order, preliminary injunction or
permanent injunction is sought, it shall be sufficient to show that a
violation of the provisions of this act, or the rules and regulations adopted
thereunder, has occurred or is imminent. It shall not be necessary to allege
or prove at any stage of the proceeding that irreparable damage will occur
should the temporary restraining order, preliminary injunction or
permanent injunction not be issued or that the remedy at law is inadequate.
New Sec. 10. Except for a certified batterer intervention program or a
holder of a temporary permit authorized under this act, and amendments
thereto, no person shall use any of the tools, methodologies, and forms for
the domestic violence offender assessment required by subsection (p) of
K.S.A. 2011 Supp. 21-6604, and amendments thereto, developed by the
attorney general pursuant to section 1, and amendments thereto.
New Sec. 11. In accordance with the provisions of the rules and
regulations filing act, K.S.A. 77-415 et seq., and amendments thereto, the
attorney general shall adopt, amend and revoke rules and regulations
governing the administration and enforcement of this act, including but not
limited to:
(a) Criteria for the evaluation, certification and monitoring of any
certified batterer intervention program;
(b) any form required to implement this act;
(c) any educational requirement for any certified batterer intervention
program;
(d) any fee required under this act;
(e) any report, record or other information which may be required to
be kept, and maintained pursuant to this act; and
(f) such other rules and regulations as the attorney general may deem
necessary to carry out the provisions of this act.
Rules and regulations required for the administration of this act shall be
adopted on or before the first anniversary of the effective date of this act.
New Sec. 12. (a) There is hereby created in the state treasury the
Kansas attorney general batterer intervention program certification fund.
The attorney general shall remit all amounts received under this act to the
state treasurer in accordance with the provisions of K.S.A. 75-4215, and
amendments thereto. Upon receipt of each such remittance, the attorney
general shall remit the entire amount to the state treasurer pursuant to the
provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
each such remittance, the state treasurer shall deposit the entire amount in
the state treasury to the credit of the Kansas attorney general batterer
intervention program certification fund.
(b) Moneys in the Kansas attorney general batterer intervention
program certification fund shall be expended only for the purposes of
administering this act.
(c) All expenditures from the Kansas attorney general batterer
intervention program certification fund shall be made in accordance with
appropriation acts upon warrants of the director of accounts and reports
issued pursuant to vouchers approved by the attorney general or by a
person designated by the attorney general.
New Sec. 13. (a) As used in this act, unless the context otherwise
requires, the following words and phrases shall have the meanings
ascribed to them in this section:
(1) "Agent or employee thereof," in the context of either a certified
batterer intervention program or the holder of a temporary permit, means
any individual who acts or aids in any manner in directly providing
intervention related service to a client of a certified batterer intervention
program. The term "agent or employee thereof" shall not include an
individual working as an officer for a certified batterer intervention
program, or in a clerical, administrative or service capacity for a certified
batterer intervention program, provided that such individual does not
provide intervention services to clients under such program.
(2) “Attorney general” means the attorney general of the state of
Kansas and any authorized agent or designee thereof.
(3) “Certified batterer intervention program” includes any agent or
employee thereof.
(4) “Holder of a temporary permit” includes any agent or employee
thereof.
(5) “Person” means an individual, partnership, corporation, limited
liability company, association, business entity, legal representative,
trustee, trustee in bankruptcy or receiver, partnership, joint venture,
company, firm, corporation, institution, governmental subdivision, state or
federal department or agency or other legal entity.
(b) Sections 1 through 13, and amendments thereto, shall be cited as
the batterer intervention program certification act.
Sec. 14. K.S.A. 2011 Supp. 12-4509 is hereby amended to read as
follows: 12-4509. (a) Whenever a person is found guilty of the violation of
an ordinance, the municipal judge may:
(1) Release the person without imposition of sentence;
(2) release the person on probation after the imposition of sentence,
without imprisonment or the payment of a fine or a portion thereof, subject
to conditions imposed by the court as provided in subsection (e);
(3) impose such sentence of fine or imprisonment, or both, as
authorized for the ordinance violation; or
(4) impose a sentence of house arrest as provided in K.S.A. 2011
Supp. 21-6609, and amendments thereto.
(b) In addition to or in lieu of any other sentence authorized by law,
whenever a person is found guilty of the violation of an ordinance and
there is evidence that the act constituting the violation of the ordinance
was substantially related to the possession, use or ingestion of cereal malt
beverage or alcoholic liquor by such person, the judge may order such
person to attend and satisfactorily complete an alcohol or drug education
or training program certified by the chief judge of the judicial district or
licensed by the secretary of social and rehabilitation services.
(c) Except as provided in subsection (d), in addition to or in lieu of
any other sentence authorized by law, whenever a person is convicted of
having violated, while under 21 years of age, an ordinance prohibiting an
act prohibited by K.S.A. 2011 Supp. 21-5701 through 21-5717, and
amendments thereto, or K.S.A. 8-1599, 41-719 or 41-727, and
amendments thereto, the municipal judge shall order such person to submit
to and complete an alcohol and drug evaluation by a community-based
alcohol and drug safety action program certified pursuant to K.S.A. 8-
1008, and amendments thereto, and to pay a fee not to exceed the fee
established by that statute for such evaluation. If the judge finds that the
person is indigent, the fee may be waived.
(d) If the person is 18 or more years of age but less than 21 years of
age and is convicted of a violation of K.S.A. 41-727, and amendments
thereto, involving cereal malt beverage, the provisions of subsection (c)
are permissive and not mandatory.
(e) In addition to any other sentence authorized by law, whenever a
person is convicted of any criminal offense, the municipal judge shall
determine whether the defendant committed a domestic violence offense as
defined in K.S.A. 2011 Supp. 21-3110 and 21-5111, and amendments
thereto, and shall sentence the defendant pursuant to K.S.A. 2011 Supp.
22-4616, and amendments thereto.

(f) The court may impose any conditions of probation or suspension
of sentence that the court deems proper, including, but not limited to,
requiring that the defendant:

(1) Avoid such injurious or vicious habits, as directed by the court or
the probation officer;

(2) avoid such persons or places of disreputable or harmful character,
as directed by the court or the probation officer;

(3) report to the probation officer as directed;

(4) permit the probation officer to visit the defendant at home or
elsewhere;

(5) work faithfully at suitable employment insofar as possible;

(6) remain within the state unless the court grants permission to
leave;

(7) pay a fine or costs, applicable to the ordinance violation, in one or
several sums and in the manner as directed by the court;

(8) support the defendant's dependents;

(9) reside in a residential facility located in the community and
participate in educational counseling, work and other correctional or
rehabilitative programs;

(10) perform community or public service work for local
governmental agencies, private corporations organized not for profit, or
charitable or social service organizations performing services for the
community;

(11) perform services under a system of day fines whereby the
defendant is required to satisfy fines, costs or reparation or restitution
obligations by performing services for a period of days determined by the
court on the basis of ability to pay, standard of living, support obligations
and other factors;

(12) make reparation or restitution to the aggrieved party for the
damage or loss caused by the defendant's crime, in an amount and manner
determined by the court and to the person specified by the court;
or

(13) reimburse the city, in accordance with any order made under
subsection (f) (g), for all or a part of the reasonable expenditures by the
city to provide counsel and other defense services to the defendant.

(f) (g) In addition to or in lieu of any other sentence authorized by
law, whenever a person is found guilty of the violation of an ordinance the
judge may order such person to reimburse the city for all or a part of the
reasonable expenditures by the city to provide counsel and other defense
services to the defendant. In determining the amount and method of
payment of such sum, the court shall take account of the financial
resources of the defendant and the nature of the burden that payment of
such sum will impose. A defendant who has been required to pay such sum
and who is not willfully in default in the payment thereof may at any time
petition the court which sentenced the defendant to waive payment of such
sum or of any unpaid portion thereof. If it appears to the satisfaction of the
court that payment of the amount due will impose manifest hardship on the
defendant or the defendant's immediate family, the court may waive
payment of all or part of the amount due or modify the method of
payment.

Sec. 15. K.S.A. 22-4616 is hereby amended to read as follows: 22-
4616. (a) On and after July 1, 2011, in all criminal cases filed in the
district court or in the municipal court, if there is evidence that the
defendant committed a domestic violence offense, the trier of fact shall
determine whether the defendant committed a domestic violence offense.
(1) Except as provided further, if the trier of fact determines that the
defendant committed a domestic violence offense, the court shall place a
domestic violence designation on the criminal case and the defendant shall
be subject to the provisions of subsection (p) of K.S.A. 2011 Supp. 21-
6604, and amendments thereto.
(2) The court shall not place a domestic violence designation on the
criminal case and the defendant shall not be subject to the provisions of
subsection (p) of K.S.A. 2011 Supp. 21-6604, and amendments thereto,
only if the court finds on the record that:
(A) The defendant has not previously committed a domestic violence
offense or participated in a diversion upon a complaint alleging a domestic
violence offense; and
(B) the domestic violence offense was not used to coerce, control,
punish, intimidate or take revenge against a person with whom the
offender is involved or has been involved in a dating relationship or
against a family or household member.
(b) The term "domestic violence offense" shall have the meaning
provided in K.S.A. 2011 Supp. 21-5111, and amendments thereto.
(c) This section shall be a part of and supplemental to the Kansas
code for criminal procedure.

Sec. 16. K.S.A. 2011 Supp. 12-4509 and 22-4616 are hereby
repealed.

Sec. 17. This act shall take effect and be in force from and after its
publication in the Kansas register.