

**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."**

1       **Sec. 4. K.S.A. 2020 Supp. 17-1762 is hereby amended to read as**  
2 **follows: 17-1762. The following persons shall not be required to**  
3 **register with the ~~secretary of state~~ *attorney general*:**

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

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

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

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

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

42       **(f) a bona fide organization of volunteer firemen, or a bona fide**  
43 **auxiliary or affiliate of such organization, if all ~~fund-raising~~ *fundraising***

1 activities are carried on by members of such organization or an  
2 affiliate thereof and such members receive no compensation, directly  
3 or indirectly, therefor;

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

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

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

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

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

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

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

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

41 (o) any licensed community mental health center or licensed  
42 mental health clinic;

43 (p) any licensed community center for people with intellectual

1 disability and its affiliates as determined by the Kansas department  
2 for aging and disability services;

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

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

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

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

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

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

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

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

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

1 officer. Such financial statement shall include a balance sheet and  
2 statement of income and expense, clearly setting forth the following:  
3 Gross receipts and gross income from all sources, broken down into  
4 total receipts and income from each separate solicitation project or  
5 source; cost of administration; cost of solicitation; cost of programs  
6 designed to inform or educate the public; funds or properties  
7 transferred out of this state, with explanation as to recipient and  
8 purpose; and total net amount disbursed or dedicated for each major  
9 purpose, charitable or otherwise.

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

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

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

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

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

37 (g) *A state agency or state official shall not impose any annual*  
38 *filing or reporting requirements on a private foundation, as defined in*  
39 *26 U.S.C. § 509(a), as in effect on July 1, 2021, or a charitable trust, as*  
40 *defined in 26 U.S.C. § 4947(a)(1), as in effect on July 1, 2021, that are*  
41 *more stringent, restrictive or expansive than such requirements in the*  
42 *Kansas Statutes Annotated or federal law.*

43 Sec. 6. K.S.A. 17-1764 is hereby amended to read as follows: 17-

1 **1764. (a) No person shall act as a professional fund raiser for a**  
2 **charitable organization or for any religious organization as described**  
3 **in subsection (k) of K.S.A. 17-1762(k), and amendments thereto, before**  
4 **such person has registered with the secretary of state attorney general or**  
5 **after the expiration or cancellation of such registration or any renewal**  
6 **of such registration.**

7 (b) ~~Applications~~ **An application for registration and reregistration or**  
8 **renewal shall be in writing and under oath in the form prescribed by**  
9 **the secretary of state attorney general. Registration or reregistration shall**  
10 **be in effect for a period of one year, or a part thereof, expiring on June**  
11 **30, and may be renewed upon written application, under oath, in the form**  
12 **prescribed by the secretary of state for additional one-year one-year**  
13 **periods.**

14 (c) **Every professional fund raiser required to register pursuant to**  
15 **this act with the attorney general shall:**

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

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

21 **Sec. 7. K.S.A. 17-1765 is hereby amended to read as follows: 17-**  
22 **1765. (a) No person shall act as a professional solicitor in the employ**  
23 **of a professional fund raiser before such person has registered with**  
24 **the secretary of state attorney general or after the expiration or**  
25 **cancellation of such registration or any renewal of such registration.**

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

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

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

40 **Sec. 8. K.S.A. 17-1766 is hereby amended to read as follows: 17-**  
41 **1766. All solicitations by professional solicitors shall contain the**  
42 **following disclosures at the point of solicitation:**

43 (a) **The name, address and telephone number of the charitable**

1 organization;

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

4 (c) if the solicitation is made by a person acting as a professional  
5 solicitor, the registration number obtained pursuant to K.S.A. 17-  
6 1765, and amendments thereto; and

7 (d) that an annual financial report required by K.S.A. 17-1763,  
8 and amendments thereto, for the preceding fiscal year is on file with the  
9 secretary of state attorney general.

10 Sec. 9. K.S.A. 17-1769 is hereby amended to read as follows: 17-  
11 1769. The following acts and practices are hereby declared unlawful as  
12 applied to the planning, conduct or execution of any solicitation or  
13 charitable purpose:

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

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

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

21 (2) the intentional failure to state a material fact, or the  
22 intentional concealment, suppression or omission of a material fact in  
23 any solicitation;

24 (c) utilizing any unconscionable acts or practices. An  
25 unconscionable act or practice violates ~~this~~ the charitable organizations  
26 and solicitations act whether it occurs before, during or after the  
27 solicitation.

28 (1) The unconscionability of an act or practice is a question for  
29 the court.

30 (2) In determining whether an act or practice is unconscionable,  
31 the court shall consider circumstances—~~which~~ that the charitable  
32 organization or fund raiser knew or had reason to know including, but  
33 not limited to, the following:

34 (A) Taking advantage of a person's inability to reasonably protect  
35 such person's interests because of the person's physical infirmity,  
36 ignorance, illiteracy, inability to understand the language of a  
37 solicitation or similar factor; and

38 (B) using undue pressure in soliciting;

39 (d) utilizing any representation that implies the contribution is  
40 for or on behalf of a charitable organization or utilizing any emblem,  
41 device or printed matter belonging to or associated with a charitable  
42 organization, without obtaining authorization in writing from the  
43 charitable organization;



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

5 (f) misrepresenting or misleading any person in any manner to  
6 believe that the person on whose behalf a solicitation or charitable  
7 purpose is being conducted is a charitable organization;

8 (g) using donations for purposes other than those stated in an  
9 organization's articles of incorporation or current registration  
10 statements filed with the ~~secretary of state~~ *attorney general*;

11 (h) using donations for purposes other than those stated in  
12 solicitations;

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

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

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

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

36 Sec. 11. K.S.A. 17-1772 is hereby amended to read as follows: 17-  
37 1772. (a) ~~The secretary of state~~ *attorney general* may enter into  
38 reciprocal agreements relating to the *charitable organizations and*  
39 *solicitations act* with a like authority of any other state or states for the  
40 purpose of exchanging information made available to the ~~secretary of~~  
41 ~~state~~ *attorney general* or to such other like authority.

42 (b) All reciprocal agreements entered into by the *secretary of state*  
43 relating to the *charitable organizations and solicitations act* that are in

1 *effect on June 30, 2021, shall be deemed to be reciprocal agreements*  
2 *entered into by the attorney general and shall continue to be effective until*  
3 *amended, revoked or nullified pursuant to law.*

4 **Sec. 12. K.S.A. 46-236 is hereby amended to read as follows: 46-**  
5 **236. (a) No state officer or employee, candidate for state office or state**  
6 **officer elect shall solicit any economic opportunity, gift, loan, gratuity,**  
7 **special discount, favor, hospitality, or service from any person known**  
8 **to have a special interest, under circumstances where such officer,**  
9 **employee, candidate or state officer elect knows or should know that a**  
10 **major purpose of the donor in granting the same could be to influence**  
11 **the performance of the official duties or prospective official duties of**  
12 **such officer, employee, candidate or state officer elect.**

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

32 ~~Section 13.~~ **Sec. 13. K.S.A. 75-451 is hereby amended to read as**  
33 **follows: 75-451. The legislature finds that persons attempting to escape**  
34 **from actual or threatened domestic violence, sexual assault, human**  
35 **trafficking or stalking frequently establish new addresses in order to**  
36 **prevent their assailants or probable assailants from finding them. The**  
37 **purpose of K.S.A. 75-451 ~~to through 75-458, inclusive,~~ and amendments**  
38 **thereto, is to enable state and local agencies to respond to requests for**  
39 **public records without disclosing the location of a victim of domestic**  
40 **violence, sexual assault, human trafficking or stalking, to enable**  
41 **interagency cooperation with the ~~secretary of state~~ attorney general in**  
42 **providing address confidentiality for victims of domestic violence, sexual**  
43 **assault, human trafficking or stalking, and to enable state and local**

1 agencies to accept a program participant's use of an address designated by  
2 the ~~secretary of state~~ *attorney general* as a substitute mailing address.

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

8 (a) "Abuse" means:

- 9 (1) Causing or attempting to cause physical harm;  
10 (2) placing another person in fear of imminent physical harm;  
11 (3) causing another person to engage involuntarily in sexual relations  
12 by force, threats or duress, or threatening to do so;  
13 (4) engaging in mental abuse, which includes threats, intimidation  
14 and acts designed to induce terror;  
15 (5) depriving another person of necessary health care, housing or  
16 food; or  
17 (6) unreasonably and forcibly restraining the physical movement of  
18 another.

19 (b) "Confidential address" means a residential street address, school  
20 street address or work street address of an individual, as specified on the  
21 individual's application to be a program participant under K.S.A. 75-451 ~~to~~  
22 ~~through~~ 75-458, ~~inclusive~~, and amendments thereto.

23 (c) "Confidential mailing address" means an address that is  
24 recognized for delivery by the United States postal service.

25 (d) "Domestic violence" means abuse committed against a victim or  
26 the victim's spouse or dependent child by:

- 27 (1) A current or former spouse of the victim;  
28 (2) a person with whom the victim shares parentage of a child in  
29 common;  
30 (3) a person who is cohabitating with, or has cohabitated with, the  
31 victim;  
32 (4) a person who is related by blood or marriage; or  
33 (5) a person with whom the victim has or had a dating or engagement  
34 relationship.

35 (e) "Program participant" means a person certified as a program  
36 participant under K.S.A. 75-453, and amendments thereto.

37 (f) "Enrolling agent" means state and local agencies, law enforcement  
38 offices, nonprofit agencies and any others designated by the ~~secretary of~~  
39 ~~state~~ *attorney general* that provide counseling and shelter services to  
40 victims of domestic violence, sexual assault, human trafficking or stalking.

41 (g) "Sexual assault" means an act which if committed in this state  
42 would constitute any crime defined in article 35 of chapter 21 of the  
43 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21

1 of the Kansas Statutes Annotated, or K.S.A. 2020 Supp. 21-6419 through  
2 21-6422, and amendments thereto.

3 (h) "Stalking" means an act which if committed in this state would  
4 constitute "stalking" as defined by K.S.A. 60-31a01, and amendments  
5 thereto.

6 (i) "Human trafficking" means an act which if committed in this state  
7 would constitute the crime of human trafficking as defined by K.S.A. 21-  
8 3446, prior to its repeal, or K.S.A. 2020 Supp. 21-5426~~(a)~~, and  
9 amendments thereto.

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

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

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

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

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

34 (3) The confidential mailing address where the applicant can be  
35 contacted by the ~~secretary of state~~ *attorney general*, and the phone number  
36 or numbers where the applicant can be called by the ~~secretary of state~~  
37 *attorney general*.

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

41 (5) Evidence that the applicant or the minor or incapacitated person  
42 on whose behalf the application is made, is a victim of domestic violence,  
43 sexual assault, human trafficking or stalking, or is an adult family member

1 residing with the victim. This evidence may include any of the following:

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

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

7 (C) Documentation from a religious, medical or other professional  
8 from whom the applicant has sought assistance in dealing with the alleged  
9 domestic violence, sexual assault, human trafficking or stalking.

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

12 (6) A statement of whether there are any existing court orders  
13 involving the applicant for child support, child custody or child visitation  
14 and whether there are any active court actions involving the applicant for  
15 child support, child custody or child visitation, the name and address of  
16 legal counsel of record and the last known address of the other parent or  
17 parents involved in those court orders or court actions.

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

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

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

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

38 (e) A person who falsely attests in an application that disclosure of  
39 the applicant's address would endanger the applicant's safety or the safety  
40 of the applicant's children or the minor or incapacitated person on whose  
41 behalf the application is made, or who knowingly provides false or  
42 incorrect information upon making an application, ~~shall be punishable~~ *may*  
43 *be prosecuted for, convicted of and punished* under K.S.A. 2020 Supp. 21-

1 5824, and amendments thereto, or other applicable statutes.

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

6 (b) The ~~secretary of state~~ *attorney general* may cancel a program  
7 participant's certification if there is a change in the residential address from  
8 the one listed on the application, unless the program participant provides  
9 the ~~secretary of state~~ *attorney general* with seven days' prior notice of the  
10 change of address.

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

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

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

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

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

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

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

36 ~~Sec. 6.~~ **18.** K.S.A. 75-456 is hereby amended to read as follows: 75-  
37 456. (a) The ~~secretary of state~~ *attorney general* is authorized to adopt rules  
38 and regulations for the proper implementation of K.S.A. 75-451 ~~to through~~  
39 75-458, ~~inclusive~~, and amendments thereto.

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

43 (2) *Except for rules and regulations, orders, directives and standards*

1 *of the secretary of state relating to subsection (b)(1), all rules and*  
2 *regulations, orders, directives and standards of the secretary of state*  
3 *relating to K.S.A. 75-451 through 75-458, and amendments thereto, that*  
4 *are in effect on June 30, 2021, shall be deemed to be the rules and*  
5 *regulations, orders, directives and standards of the attorney general and*  
6 *shall continue to be effective until amended, revoked or nullified pursuant*  
7 *to law.*

8 *(c) Except for records, memoranda, writings, entries, prints,*  
9 *representations or combinations thereof of any act, transaction,*  
10 *occurrence or event of the secretary of state relating to subsection (b)(1),*  
11 *the attorney general shall have the legal custody of all records,*  
12 *memoranda, writings, entries, prints, representations or combinations*  
13 *thereof of any act, transaction, occurrence or event of the secretary of*  
14 *state relating to K.S.A. 75-451 through 75-458, and amendments thereto.*

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

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

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

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

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

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

36 ~~Sec. 9.~~ **21.** K.S.A. ~~17-1759, 17-1763, 17-1764, 17-1765, 17-1766, 17-~~  
37 ~~1769, 17-1771, 17-1772, 46-236,~~ 75-451, 75-452, 75-453, 75-454, 75-455,  
38 75-456, 75-457 and 75-458 **and K.S.A. 2020 Supp. 17-1762** are hereby  
39 repealed.

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