

## HOUSE BILL No. 2994

By Committee on Federal and State Affairs

3-3

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9 AN ACT relating to address confidentiality for victims of domestic vio-  
10 lence, sexual assault, trafficking and stalking; authorizing the secretary  
11 of state to perform certain duties and functions.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. The legislature finds that persons attempting to escape  
15 from actual or threatened domestic violence, sexual assault, trafficking or  
16 stalking frequently establish new addresses in order to prevent their as-  
17 sailants or probable assailants from finding them. The purpose of this  
18 chapter is to enable state and local agencies to respond to requests for  
19 public records without disclosing the location of a victim of domestic  
20 violence, sexual assault, trafficking or stalking, to enable interagency co-  
21 operation with the secretary of state in providing address confidentiality  
22 for victims of domestic violence, sexual assault, trafficking or stalking, and  
23 to enable state and local agencies to accept a program participant's use  
24 of an address designated by the secretary of state as a substitute mailing  
25 address.

26 Sec. 2. Unless the context clearly requires otherwise, as used in this  
27 act:

28 (a) "Abuse" means:

- 29 (1) Causing or attempting to cause physical harm;
- 30 (2) placing another person in fear of imminent physical harm;
- 31 (3) causing another person to engage involuntarily in sexual relations  
32 by force, threats or duress, or threatening to do so;
- 33 (4) engaging in mental abuse, which includes threats, intimidation  
34 and acts designed to induce terror;
- 35 (5) depriving another person of health care, housing, food or other  
36 necessities of life; or
- 37 (6) restraining the liberty of another.

38 (b) "Confidential address" means a residential street address, school  
39 street address or work street address of an individual, as specified on the  
40 individual's application to be a program participant under this act.

41 (c) "Confidential mailing address" means an address that is recog-  
42 nized for delivery by the United States postal service.

43 (d) "Domestic violence" means abuse committed against a victim or

1 the victim's spouse or dependent child by:

2 (1) A current or former spouse of the victim;

3 (2) a person with whom the victim shares parentage of a child in  
4 common;

5 (3) a person who is cohabitating with, or has cohabitated with, the  
6 victim;

7 (4) a person who is related by blood or marriage; or

8 (5) a person with whom the victim has or had a dating or engagement  
9 relationship.

10 (e) "Program participant" means a person certified as a program par-  
11 ticipant under section 3, and amendments thereto.

12 (f) "Enrolling agent" means state and local agencies, law enforcement  
13 offices, nonprofit agencies and any others designated by the secretary of  
14 state that provide counseling and shelter services to victims of domestic  
15 violence, sexual assault, trafficking or stalking.

16 (g) "Sexual assault" means an act which if committed in this state  
17 would constitute any crime defined in article 35 of chapter 21 of the  
18 Kansas Statutes Annotated.

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

22 (i) "Trafficking" means an act which if committed in this state would  
23 constitute the crime of trafficking as defined by K.S.A. 2005 Supp. 21-  
24 3446, and amendments thereto.

25 Sec. 3. (1) An adult person, a parent or guardian acting on behalf of  
26 a minor, or a guardian acting on behalf of an incapacitated person, may  
27 apply by and through an enrolling agent to have an address designated  
28 by the secretary of state serve as the person's address or the address of  
29 the minor or incapacitated person. Program participants shall not apply  
30 directly to the secretary of state. The secretary of state shall approve an  
31 application if it is filed in the manner and on the form prescribed by the  
32 secretary of state signed by the applicant and enrolling agent under pen-  
33 alty of perjury and providing:

34 (a) A statement by the applicant that the applicant has good reason  
35 to believe (i) that the applicant, or the minor or incapacitated person on  
36 whose behalf the application is made, is a victim of domestic violence,  
37 sexual assault, trafficking or stalking; and (ii) that the applicant fears for  
38 the applicant's safety or the applicant's children's safety or the safety of  
39 the minor or incapacitated person on whose behalf the application is  
40 made;

41 (b) a designation of the secretary of state as agent for purposes of  
42 service of process and for the purpose of receipt of mail;

43 (c) the confidential mailing address where the applicant can be con-

- 1   tacted by the secretary of state, and the phone number or numbers where  
2   the applicant can be called by the secretary of state;
- 3   (d) the confidential address or addresses that the applicant requests  
4   not be disclosed for the reason that disclosure will increase the risk of  
5   domestic violence, sexual assault, trafficking or stalking;
- 6   (e) the signature of the applicant and of any individual or represen-  
7   tative of any enrolling agent who assisted in the preparation of the appli-  
8   cation, and the date on which the applicant signed the application.
- 9   (2) Applications shall be filed in accordance with procedures pre-  
10   scribed by the secretary of state.
- 11   (3) Upon filing a properly completed application, the secretary of  
12   state shall certify the applicant as a program participant. Applicants shall  
13   be certified for four years following the date of filing unless the certifi-  
14   cation is withdrawn or invalidated before that date. The secretary of state  
15   shall by rule and regulation establish a renewal procedure.
- 16   (4) A person who falsely attests in an application that disclosure of  
17   the applicant's address would endanger the applicant's safety or the safety  
18   of the applicant's children or the minor or incapacitated person on whose  
19   behalf the application is made, or who knowingly provides false or incor-  
20   rect information upon making an application, shall be punishable under  
21   K.S.A. 21-3711, and amendments thereto, or other applicable statutes.
- 22   Sec. 4. (1) If the program participant obtains a legal name change  
23   after being certified as a program participant, the secretary of state shall  
24   cancel certification of the program participant.
- 25   (2) The secretary of state may cancel a program participant's certifi-  
26   cation if there is a change in the residential address from the one listed  
27   on the application, unless the program participant provides the secretary  
28   of state with seven days' prior notice of the change of address.
- 29   (3) The secretary of state may cancel certification of a program par-  
30   ticipant if mail forwarded by the secretary to the program participant's  
31   address is returned as nondeliverable.
- 32   (4) The secretary of state shall cancel certification of a program par-  
33   ticipant who applies using false information.
- 34   Sec. 5. (1) A program participant may request that state and local  
35   agencies use the address designated by the secretary of state as the par-  
36   ticipant's address. When creating a new public record or amending or  
37   updating an existing record, state and local agencies shall accept the ad-  
38   dress designated by the secretary of state as a program participant's sub-  
39   stitute address, unless the secretary of state has determined that:
- 40   (a) The agency has a bona fide statutory or administrative require-  
41   ment for the use of the address which would otherwise be confidential  
42   under this act; and
- 43   (b) this address will be used only for those statutory and administra-

1 tive purposes.

2 (2) A program participant may use the address designated by the  
3 secretary of state as the participant's work address.

4 (3) The office of the secretary of state shall forward all first class mail,  
5 and other items designated by rule and regulation, to the appropriate  
6 program participants.

7 Sec. 6. (a) The secretary of state is authorized to adopt rules and  
8 regulations for the proper implementation of this act.

9 (b) The secretary of state shall prescribe by rule and regulation voting  
10 procedures to maintain confidentiality of the addresses of program  
11 participants.

12 Sec. 7. The secretary of state shall not make any records in a program  
13 participant's file available for inspection or copying, other than the ad-  
14 dress designated by the secretary of state, except under the following  
15 circumstances:

16 (1) If requested by a law enforcement agency, to the law enforcement  
17 agency in accordance with procedures prescribed by rules and  
18 regulations;

19 (2) if directed by a court order, to a person identified in the order;  
20 or

21 (3) to verify the participation of a specific program participant, in  
22 which case the secretary may only confirm participation in the program.

23 Sec. 8. The secretary of state shall designate enrolling agents to assist  
24 persons applying to be program participants. The secretary of state may  
25 collaborate with enrolling agents to develop a training curriculum. Any  
26 assistance rendered to applicants by the office of the secretary of state or  
27 its designees shall not be construed as legal advice.

28 Sec. 9. This act shall take effect and be in force on and after January  
29 1, 2007, and its publication in the statute book.