

SENATE BILL No. 494

By Committee on Judiciary

2-1

9 AN ACT concerning crime, criminal procedure and punishment; relating
10 to victims; implementing the victim identity protection act.

11

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

13 Section 1. (a) Except as otherwise provided in this section, any in-
14 formation that is contained in:

15 (1) Court records, including testimony from witnesses;

16 (2) intelligence or investigative data, reports of crime or incidents of
17 criminal activity or other information;

18 (3) records of criminal history, as that term is defined in K.S.A. 21-
19 4703, and amendments thereto; and

20 (4) records in the central repository that reveal the identity of a victim
21 of sexual assault are confidential, including, but not limited to, the victim's
22 photograph, likeness, name, address or telephone number.

23 (b) A defendant charged with a crime described in article 35 of chap-
24 ter 21 of the Kansas Statutes Annotated, and amendments thereto, and
25 the defendant's attorney are entitled to all identifying information con-
26 cerning the victim in order to prepare the defense of the defendant. The
27 defendant and the defendant's attorney shall not disclose this information
28 except, as necessary, to those persons directly involved in the preparation
29 of the defense.

30 (c) A court of competent jurisdiction may authorize the release of the
31 identifying information, upon application, if the court determines that:

32 (1) The person making the application has demonstrated to the sat-
33 isfaction of the court that good cause exists for the disclosure;

34 (2) the disclosure will not place the victim at risk of person harm; and

35 (3) reasonable notice of the application and an opportunity to be
36 heard have been given to the victim.

37 (d) Nothing in this section prohibits:

38 (1) Any publication or broadcast by the media concerning a sexual
39 assault; or

40 (2) the disclosure of identifying information to any nonprofit organ-
41 ization or public agency whose purpose is to provide counseling, services
42 for the management of crises or other assistance to the victims of crimes
43 if the organization or agency needs identifying information of victims to

1 offer such services.

2 (e) The willful violation of any provision of this section or the willful
3 neglect or refusal to obey any court order made pursuant thereto is pun-
4 ishable as criminal contempt.

5 Sec. 2. (a) A victim of a sexual assault may choose a pseudonym to
6 be used instead of the victim's name on all files, records and documents
7 pertaining to the sexual assault, including, without limitation, investigative
8 records, court records and media releases.

9 (b) A victim who chooses to use a pseudonym shall file a form to
10 choose a pseudonym with the law enforcement agency investigating the
11 offense. The form shall be provided by the law enforcement agency.

12 (c) If the victim files a form to use a pseudonym, the law enforcement
13 agency shall, as soon as practicable, make a good faith effort to:

14 (1) Substitute the pseudonym for the name of the victim on all re-
15 ports, files and records in the agency's possession; and

16 (2) notify the prosecuting attorney of the pseudonym. The law en-
17 forcement agency shall maintain the form in a manner that protects the
18 confidentiality of the information contained therein.

19 (d) Upon notification that a victim has elected to be designated by a
20 pseudonym, the court shall ensure that the victim is designated by the
21 pseudonym in all legal proceedings concerning the sexual assault.

22 (e) The information contained on the form to choose a pseudonym
23 concerning the actual identity of the victim is confidential and must not
24 be disclosed to any person other than the defendant or the defendant's
25 attorney unless a court of competent jurisdiction orders the disclosure of
26 the information. The disclosure of information to the defendant or the
27 defendant's attorney is subject to the conditions and restrictions specified
28 in section 1, and amendments thereto. A person who violates this sub-
29 section is guilty of a class C misdemeanor.

30 (f) A court of competent jurisdiction may order the disclosure of the
31 information contained on the form only if it finds that the information is
32 essential in the trial of the defendant accused of a crime described in
33 article 35 of chapter 21 of the Kansas Statutes Annotated, and amend-
34 ments thereto, or the identity of the victim is at issue.

35 (g) A law enforcement agency that complies with the requirements
36 of this section is immune from civil liability for unknowingly or
37 unintentionally:

38 (1) Disclosing any information contained on the form filed by a victim
39 of a crime described in article 35 of chapter 21 of the Kansas Statutes
40 Annotated, and amendments thereto, pursuant to this section that reveals
41 the identity of the victim; or

42 (2) fails to substitute the pseudonym of the victim for the name of
43 the victim on all reports, files and records in the agency's possession.

1 Sec. 3. This act shall take effect and be in force from and after its
2 publication in the statute book.