

SENATE BILL No. 293

By Committee on Judiciary

1-22

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 certain fees; relating to prosecution of
4 election crimes; address confidentiality program; creating the charitable
5 organizations fee fund; amending K.S.A. 17-1759, 17-1763, 17-1764,
6 17-1765, 17-1766, 17-1769, 17-1771, 17-1772, 46-236, 75-451, 75-
7 452, 75-453, 75-454, 75-455, 75-456, 75-457 and 75-458 and K.S.A.
8 2019 Supp. 17-1762 and 25-2435 and repealing the existing sections.
9

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

11 New Section 1. There is hereby created in the state treasury the
12 charitable organizations fee fund. The attorney general shall remit all
13 moneys received pursuant to the charitable organizations and solicitations
14 act to the state treasurer in accordance with the provisions of K.S.A. 75-
15 4215, and amendments thereto. Upon receipt of each such remittance, the
16 state treasurer shall deposit the entire amount in the state treasury to the
17 credit of the charitable organizations fee fund. Moneys in the charitable
18 organizations fee fund shall be used by the attorney general to carry out
19 the provisions and purposes of the charitable organizations and
20 solicitations act. All expenditures from the charitable organizations fee
21 fund shall be made in accordance with appropriation acts upon warrants of
22 the director of accounts and reports issued pursuant to vouchers approved
23 by the attorney general or a person designated by the attorney general.

24 New Sec. 2. The attorney general shall have the legal custody of all
25 records, memoranda, writings, entries, prints, representations or
26 combinations thereof of any act, transaction, occurrence or event of the
27 secretary of state relating to the charitable organizations and solicitations
28 act.

29 Sec. 3. K.S.A. 17-1759 is hereby amended to read as follows: 17-
30 1759. ~~This act~~ *K.S.A. 17-1759 through 17-1776 and section 2, and*
31 *amendments thereto, shall be known and may be cited as the "charitable*
32 *organizations and solicitations act."*

33 Sec. 4. K.S.A. 2019 Supp. 17-1762 is hereby amended to read as
34 follows: 17-1762. The following persons shall not be required to register
35 with the ~~secretary of state~~ *attorney general:*

- 36 (a) State educational institutions under the control and supervision of

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

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

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

23 (d) any charitable organization ~~which~~ *that* does not intend to solicit
24 and receive and does not actually receive contributions in excess of
25 \$10,000 during such organization's tax period, as defined by K.S.A. 17-
26 7501, and amendments thereto, if all of such organization's ~~fund-raising~~
27 *fundraising* functions are carried on by persons who are unpaid for such
28 services. ~~However,~~ If the gross contributions received by such charitable
29 organization during any such tax period is in excess of \$10,000, such
30 organization, within 30 days after the end of such tax period, shall register
31 with the ~~secretary of state~~ *attorney general* as provided in K.S.A. 17-1763,
32 and amendments thereto;

33 (e) any incorporated community chest, united fund, united way or any
34 charitable organization receiving an allocation from an incorporated
35 community chest, united fund or united way;

36 (f) a bona fide organization of volunteer firemen, or a bona fide
37 auxiliary or affiliate of such organization, if all ~~fund-raising~~ *fundraising*
38 activities are carried on by members of such organization or an affiliate
39 thereof and such members receive no compensation, directly or indirectly,
40 therefor;

41 (g) any charitable organization operating a nursery for infants
42 awaiting adoption if all ~~fund-raising~~ *fundraising* activities are carried on
43 by members of such an organization or an affiliate thereof and such

1 members receive no compensation, directly or indirectly, therefor;

2 (h) any corporation established by the federal congress that is
3 required by federal law to submit annual reports of such corporation's
4 activities to congress containing itemized accounts of all receipts and
5 expenditures after being duly audited by the department of defense or
6 other federal department;

7 (i) any girls' club—~~which~~ *that* is affiliated with the girls' club of
8 America, a corporation chartered by congress, if such an affiliate properly
9 files the reports required by the girls' club of America and that the girls'
10 club of America files with the government of the United States the reports
11 required by such federal charter;

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

17 (k) any corporation, trust or organization incorporated or established
18 for religious purposes, or established for charitable, hospital or educational
19 purposes and engaged in effectuating one or more of such purposes, that is
20 affiliated with, operated by or supervised or controlled by a corporation,
21 trust or organization incorporated or established for religious purposes, or
22 to any other religious agency or organization which serves religion by the
23 preservation of religious rights and freedom from persecution or prejudice
24 or by fostering religion, including the moral and ethical aspects of a
25 particular religious faith;

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

28 (m) the young men's christian association and the young women's
29 christian association, including any regional or local organization affiliated
30 therewith;

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

33 (o) any licensed community mental health center or licensed mental
34 health clinic;

35 (p) any licensed community center for people with intellectual
36 disability and its affiliates as determined by the Kansas department for
37 aging and disability services;

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

41 (r) any community foundation or community trust to which
42 deductible contributions can be made by individuals, corporations, public
43 charities and private foundations, as well as other charitable organizations

1 and governmental agencies for the overall purposes of the foundation or to
2 particular charitable and endowment funds established under agreement
3 with the foundation or trust for the charitable benefit of the people of a
4 specific geographic area and ~~which that~~ is a nonprofit organization exempt
5 from federal income taxation pursuant to section 501(a) of the internal
6 revenue code of 1986, as in effect on the effective date of this act, by
7 reason of qualification under section 501(c)(3) of the internal revenue code
8 of 1986, as in effect on the effective date of this act, and ~~which that~~ is
9 deemed a publicly supported organization and not a private foundation
10 within the meaning of section 509(a)(1) of the internal revenue code of
11 1986, as in effect on the effective date of this act;

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

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

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

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

20 Sec. 5. K.S.A. 17-1763 is hereby amended to read as follows: 17-
21 1763. (a) Except for charitable organizations exempt under K.S.A. 17-
22 1762, and amendments thereto, no charitable organization shall solicit
23 funds in this state, nor employ a professional fund raiser to solicit funds in
24 this state, for any charitable purpose, unless such organization has filed
25 ~~with the office of the secretary of state of the state of Kansas~~, a registered
26 statement *with the attorney general* prior to solicitation.

27 (b) ~~The secretary of state~~ *attorney general* shall prescribe registration
28 forms ~~which that~~ shall be signed and sworn to by two authorized officers
29 of the organization, including the chief fiscal officer, and ~~which~~ shall
30 include the following information about such organization's activities in
31 this state:

32 (1) The name of the organization and the name or names under which
33 it intends to solicit;

34 (2) the purpose for which such organization was organized;

35 (3) the principal mailing address and street address of the
36 organization and the mailing addresses and street addresses of any offices
37 in this state;

38 (4) the names and mailing addresses and street addresses of any
39 subsidiary or subordinate chapters, branches or affiliates in this state;

40 (5) the place where and the date when the organization was legally
41 established, the form in which such organization is organized and a
42 reference to any determination of such organization's tax-exempt status, if
43 any, under the federal internal revenue code of 1986;

1 (6) the names and mailing addresses and street addresses of the
2 officers, directors, trustees and principal salaried employees of the
3 organization;

4 (7) the name and mailing address and street address of the person
5 having custody of such organization's financial records;

6 (8) the names of the individuals or officers of the organization who
7 will have responsibility for the custody of the contributions;

8 (9) the names of the individuals or officers of the organization who
9 will have responsibility for the distribution of the contributions;

10 (10) the names of the individuals or officers of the organization who
11 will have responsibility for the conduct of solicitation activities;

12 (11) the general purposes for which the organization intends to solicit
13 contributions;

14 (12) a statement indicating whether the organization intends to solicit
15 contributions directly or have such solicitation done on such organization's
16 behalf by others and naming any professional fund raiser the organization
17 intends to use;

18 (13) a statement indicating whether the organization is authorized by
19 any other governmental authority to solicit contributions and whether such
20 organization is or has ever been enjoined by any court from soliciting
21 contributions;

22 (14) the cost of ~~fund raising~~ *fundraising* incurred or anticipated to be
23 incurred by the organization, including a statement of such costs as a
24 percentage of contributions received; and

25 (15) a copy of the federal income tax return of the charitable
26 organization, if the charitable organization is required to file such;
27 otherwise a financial statement covering complete disclosure of the fiscal
28 activities of the organization during the preceding year. The financial
29 statement shall be submitted on forms approved by the ~~secretary of state~~
30 *attorney general*, signed and sworn by at least two authorized officers of
31 the organization, including the chief fiscal officer. Such financial statement
32 shall include a balance sheet and statement of income and expense, clearly
33 setting forth the following: Gross receipts and gross income from all
34 sources, broken down into total receipts and income from each separate
35 solicitation project or source; cost of administration; cost of solicitation;
36 cost of programs designed to inform or educate the public; funds or
37 properties transferred out of this state, with explanation as to recipient and
38 purpose; and total net amount disbursed or dedicated for each major
39 purpose, charitable or otherwise.

40 (c) A charitable organization that received contributions in excess of
41 \$500,000 during the organization's most recently completed fiscal year
42 shall file, in addition to the federal income tax returns or the statement
43 required by subsection (b), an audited financial statement for the charitable

1 organization's most recently completed fiscal year, prepared in accordance
 2 with generally accepted accounting principles, and the opinion of an
 3 independent certified public accountant on the financial statement.

4 (d) Upon receipt of ~~any such~~ a proper registration and payment of
 5 applicable fees, the ~~secretary of state~~ attorney general shall issue a
 6 charitable solicitation license and identification number. All certificates of
 7 registration and identification numbers issued to charitable organizations
 8 shall expire on the last day of the sixth month following the month in
 9 which the fiscal year of the charitable organization ends.

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

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

16 (2) All rules and regulations, orders, directives and standards of the
 17 secretary of state relating to the charitable organizations and solicitations
 18 act that are in effect on June 30, 2020, shall be deemed to be the rules and
 19 regulations, orders, directives and standards of the attorney general and
 20 shall continue to be effective until amended, revoked or nullified pursuant
 21 to law.

22 Sec. 6. K.S.A. 17-1764 is hereby amended to read as follows: 17-
 23 1764. (a) No person shall act as a professional fund raiser for a charitable
 24 organization or for any religious organization as described in ~~subsection~~
 25 ~~(k)~~ of K.S.A. 17-1762(k), and amendments thereto, before such person has
 26 registered with the ~~secretary of state~~ attorney general or after the
 27 expiration or cancellation of such registration or any renewal of such
 28 registration.

29 (b) ~~Applications~~ An application for registration and ~~re-registration or~~
 30 renewal shall be in writing and under oath in the form prescribed by the
 31 ~~secretary of state~~ attorney general. Registration ~~or re-registration~~ shall be in
 32 effect for a period of one year, or a part thereof, expiring on June 30, and
 33 may be renewed ~~upon written application, under oath, in the form~~
 34 ~~prescribed by the secretary of state~~ for additional ~~one year~~ one-year
 35 periods.

36 (c) Every professional fund raiser required to register ~~pursuant to this~~
 37 ~~act with the attorney general~~ shall:

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

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

43 Sec. 7. K.S.A. 17-1765 is hereby amended to read as follows: 17-

1 1765. (a) No person shall act as a professional solicitor in the employ of a
 2 professional fund raiser before such person has registered with the
 3 ~~secretary of state~~ *attorney general* or after the expiration or cancellation of
 4 such registration or any renewal of such registration.

5 (b) ~~An application for registration or reregistration renewal shall be in~~
 6 ~~writing, and under oath and in the form prescribed by the secretary of~~
 7 ~~state. Upon receipt of any such registration, the secretary of state shall~~
 8 ~~issue a professional solicitor's license and identification number~~ *attorney*
 9 ~~general. Such registration or reregistration~~ *Registration* shall be in effect
 10 for a period of one year, or a part thereof, expiring on June 30, and may be
 11 renewed upon written application, under oath, in the form prescribed by
 12 the secretary of state for an additional one-year period for additional one-
 13 year periods.

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

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

19 Sec. 8. K.S.A. 17-1766 is hereby amended to read as follows: 17-
 20 1766. All solicitations by professional solicitors shall contain the following
 21 disclosures at the point of solicitation:

22 (a) The name, address and telephone number of the charitable
 23 organization;

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

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

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

32 Sec. 9. K.S.A. 17-1769 is hereby amended to read as follows: 17-
 33 1769. The following acts and practices are hereby declared unlawful as
 34 applied to the planning, conduct or execution of any solicitation or
 35 charitable purpose:

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

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

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

43 (2) the intentional failure to state a material fact, or the intentional

1 concealment, suppression or omission of a material fact in any solicitation;

2 (c) utilizing any unconscionable acts or practices. An unconscionable
3 act or practice violates ~~this~~ *the charitable organizations and solicitations*
4 act whether it occurs before, during or after the solicitation.

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

7 (2) In determining whether an act or practice is unconscionable, the
8 court shall consider circumstances ~~which~~ *that* the charitable organization
9 or fund raiser knew or had reason to know including, but not limited to,
10 the following:

11 (A) Taking advantage of a person's inability to reasonably protect
12 such person's interests because of the person's physical infirmity,
13 ignorance, illiteracy, inability to understand the language of a solicitation
14 or similar factor; and

15 (B) using undue pressure in soliciting;

16 (d) utilizing any representation that implies the contribution is for or
17 on behalf of a charitable organization or utilizing any emblem, device or
18 printed matter belonging to or associated with a charitable organization,
19 without obtaining authorization in writing from the charitable
20 organization;

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

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

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

31 (h) using donations for purposes other than those stated in
32 solicitations;

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

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

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

42 Sec. 10. K.S.A. 17-1771 is hereby amended to read as follows: 17-
43 1771. Registration under ~~this~~ *the charitable organizations and*

1 *solicitations* act shall not be deemed to constitute an endorsement by the
 2 state of Kansas of any registering charitable organization, professional
 3 fund raiser or professional solicitor. It shall be unlawful for any charitable
 4 organization, professional fund raiser or professional solicitor to represent,
 5 directly or indirectly, by advertising or any other manner, that such
 6 charitable organization, professional fund raiser or professional solicitor
 7 has registered or otherwise complied with the provisions of ~~this~~ *the*
 8 *charitable organizations and solicitations* act, for the purpose of
 9 solicitation and collection of funds for charitable purposes. The ~~secretary~~
 10 ~~of state~~ *attorney general* shall cancel the registration of any organization,
 11 professional fund raiser or professional solicitor that violates the
 12 provisions of this section.

13 Sec. 11. K.S.A. 17-1772 is hereby amended to read as follows: 17-
 14 1772. (a) The ~~secretary of state~~ *attorney general* may enter into reciprocal
 15 agreements *relating to the charitable organizations and solicitations act*
 16 with a like authority of any other state or states for the purpose of
 17 exchanging information made available to the ~~secretary of state~~ *attorney*
 18 *general* or to such other like authority.

19 (b) *All reciprocal agreements entered into by the secretary of state*
 20 *relating to the charitable organizations and solicitations act that are in*
 21 *effect on June 30, 2020, shall be deemed to be reciprocal agreements*
 22 *entered into by the attorney general and shall continue to be effective until*
 23 *amended, revoked or nullified pursuant to law.*

24 Sec. 12. K.S.A. 2019 Supp. 25-2435 is hereby amended to read as
 25 follows: 25-2435. (a) Independent authority to prosecute any person who
 26 has committed ~~or~~, attempted to commit *or conspired to commit* any act that
 27 constitutes a Kansas elections crime defined in K.S.A. 25-1128, and
 28 amendments thereto, or article 24 of chapter 25 of the Kansas Statutes
 29 Annotated, and amendments thereto, shall be vested in:

30 (1) The *appropriate* district attorney or county attorney ~~of the county~~
 31 ~~where such act occurred~~; *or*

32 (2) the ~~Kansas~~ attorney general; ~~or~~

33 (3) ~~the Kansas~~ secretary of state.

34 (b) ~~If one of the officers listed in subsection (a) has commenced the~~
 35 ~~prosecution of a person who has committed or attempted to commit any~~
 36 ~~act that constitutes a Kansas election crime, the other officers listed in~~
 37 ~~subsection (a) may provide assistance to the prosecuting officer but shall~~
 38 ~~not commence a separate prosecution~~ *the secretary of state becomes aware*
 39 *of evidence of any elections crime as described in subsection (a), the*
 40 *secretary of state shall promptly inform the attorney general and the*
 41 *appropriate county or district attorney of such evidence. Upon request of*
 42 *the attorney general or the appropriate county or district attorney, the*
 43 *secretary of state shall cooperate and provide assistance in the*

1 *investigation or prosecution of any such crime.*

2 Sec. 13. K.S.A. 46-236 is hereby amended to read as follows: 46-236.

3 (a) No state officer or employee, candidate for state office or state officer
4 elect shall solicit any economic opportunity, gift, loan, gratuity, special
5 discount, favor, hospitality, or service from any person known to have a
6 special interest, under circumstances where such officer, employee,
7 candidate or state officer elect knows or should know that a major purpose
8 of the donor in granting the same could be to influence the performance of
9 the official duties or prospective official duties of such officer, employee,
10 candidate or state officer elect.

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

29 Sec. 14. K.S.A. 75-451 is hereby amended to read as follows: 75-451.

30 The legislature finds that persons attempting to escape from actual or
31 threatened domestic violence, sexual assault, human trafficking or stalking
32 frequently establish new addresses in order to prevent their assailants or
33 probable assailants from finding them. The purpose of K.S.A. 75-451 ~~to~~
34 ~~through 75-458, inclusive,~~ and amendments thereto, is to enable state and
35 local agencies to respond to requests for public records without disclosing
36 the location of a victim of domestic violence, sexual assault, human
37 trafficking or stalking, to enable interagency cooperation with the ~~secretary~~
38 ~~of state~~ *attorney general* in providing address confidentiality for victims of
39 domestic violence, sexual assault, human trafficking or stalking, and to
40 enable state and local agencies to accept a program participant's use of an
41 address designated by the ~~secretary of state~~ *attorney general* as a substitute
42 mailing address.

43 Sec. 15. K.S.A. 75-452 is hereby amended to read as follows: 75-452.

1 The following words and phrases when used in K.S.A. 75-451-~~to~~ *through*
2 75-458, ~~inclusive~~, and amendments thereto, shall have the meanings
3 respectively ascribed to them herein, unless the context clearly requires
4 otherwise:

5 (a) "Abuse" means:

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

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

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

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

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

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

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

38 (g) "Sexual assault" means an act which if committed in this state
39 would constitute any crime defined in article 35 of chapter 21 of the
40 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
41 of the Kansas Statutes Annotated, or K.S.A. 2019 Supp. 21-6419 through
42 21-6422, and amendments thereto.

43 (h) "Stalking" means an act which if committed in this state would

1 constitute "stalking" as defined by K.S.A. 60-31a01, and amendments
2 thereto.

3 (i) "Human trafficking" means an act which if committed in this state
4 would constitute the crime of human trafficking as defined by K.S.A. 21-
5 3446, prior to its repeal, or K.S.A. 2019 Supp. 21-5426~~(a)~~, and
6 amendments thereto.

7 Sec. 16. K.S.A. 75-453 is hereby amended to read as follows: 75-453.

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

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

23 (i) That the applicant fears for the applicant's safety or the applicant's
24 children's safety or the safety of the minor or incapacitated person on
25 whose behalf the application is made; or

26 (ii) that by virtue of living with an enrolled program participant, the
27 applicant fears that the knowledge or publication of the applicant's
28 whereabouts will put the enrolled participant in danger.

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

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

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

38 (5) Evidence that the applicant or the minor or incapacitated person
39 on whose behalf the application is made, is a victim of domestic violence,
40 sexual assault, human trafficking or stalking, or is an adult family member
41 residing with the victim. This evidence may include any of the following:

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

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

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

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

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

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

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

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

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

35 (e) A person who falsely attests in an application that disclosure of
36 the applicant's address would endanger the applicant's safety or the safety
37 of the applicant's children or the minor or incapacitated person on whose
38 behalf the application is made, or who knowingly provides false or
39 incorrect information upon making an application, ~~shall be punishable~~ *may*
40 *be prosecuted for, convicted of, and punished* under K.S.A. 2019 Supp. 21-
41 5824, and amendments thereto, or other applicable statutes.

42 Sec. 17. K.S.A. 75-454 is hereby amended to read as follows: 75-454.

43 (a) If the program participant obtains a legal name change after being

1 certified as a program participant, the ~~secretary of state~~ *attorney general*
2 shall cancel certification of the program participant.

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

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

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

14 Sec. 18. K.S.A. 75-455 is hereby amended to read as follows: 75-455.

15 (a) A program participant may request that state and local agencies use the
16 address designated by the ~~secretary of state~~ *attorney general* as the
17 participant's address. When creating a new public record or amending or
18 updating an existing record, state and local agencies shall accept the
19 address designated by the ~~secretary of state~~ *attorney general* as a program
20 participant's substitute address, unless the ~~secretary of state~~ *attorney*
21 *general* has determined that:

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

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

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

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

33 Sec. 19. K.S.A. 75-456 is hereby amended to read as follows: 75-456.

34 (a) The ~~secretary of state~~ *attorney general* is authorized to adopt rules and
35 regulations for the proper implementation of K.S.A. 75-451 ~~to through 75-~~
36 ~~458, inclusive,~~ and amendments thereto.

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

40 (2) *Except for rules and regulations, orders, directives and standards*
41 *of the secretary of state relating to subsection (b)(1), all rules and*
42 *regulations, orders, directives and standards of the secretary of state*
43 *relating to K.S.A. 75-451 through 75-458, and amendments thereto, that*

1 *are in effect on June 30, 2020, shall be deemed to be the rules and*
2 *regulations, orders, directives and standards of the attorney general and*
3 *shall continue to be effective until amended, revoked or nullified pursuant*
4 *to law.*

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

12 Sec. 20. K.S.A. 75-457 is hereby amended to read as follows: 75-457.
13 ~~The secretary of state~~ *attorney general* shall not make any records in a
14 program participant's file available for inspection or copying, other than
15 the address designated by the ~~secretary of state~~ *attorney general*, except
16 under the following circumstances:

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

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

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

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

26 Sec. 21. K.S.A. 75-458 is hereby amended to read as follows: 75-458.
27 ~~The secretary of state~~ *attorney general* shall designate enrolling agents to
28 assist persons applying to be program participants. ~~The secretary of state~~
29 *attorney general* may collaborate with enrolling agents to develop a
30 training curriculum. Any assistance rendered to applicants by the ~~office of~~
31 ~~the secretary of state or its attorney general or the attorney general's~~
32 *designees* shall not be construed as legal advice.

33 Sec. 22. K.S.A. 17-1759, 17-1763, 17-1764, 17-1765, 17-1766, 17-
34 1769, 17-1771, 17-1772, 46-236, 75-451, 75-452, 75-453, 75-454, 75-455,
35 75-456, 75-457 and 75-458 and K.S.A. 2019 Supp. 17-1762 and 25-2435
36 are hereby repealed.

37 Sec. 23. This act shall take effect and be in force from and after its
38 publication in the statute book.