

HOUSE BILL No. 2079

AN ACT concerning state officers; relating to certain powers, duties and functions of the secretary of state and the attorney general; enacting the Kansas fights addiction act; prescribing powers, duties and functions of the attorney general related thereto; providing for the expenditure of moneys recovered in opioid litigation; transferring a portion of such moneys annually for the operation of the prescription monitoring program; establishing a grant program to address the effects of substance abuse and addiction; Kansas fights addiction grant review board; Kansas fights addiction fund, municipalities fight addiction fund and prescription monitoring program fund; relating to charitable organizations; increasing the fees for certain charitable organizations; creating the charitable organizations fee fund; relating to the address confidentiality program; transferring duties to the attorney general; requiring certain businesses and public places to post notices offering help to victims of human trafficking; amending K.S.A. 17-1759, 17-1763, 17-1764, 17-1765, 17-1766, 17-1769, 17-1771, 17-1772, 46-236, 75-451, 75-452, 75-453, 75-454, 75-455, 75-456, 75-457, 75-458 and 75-759 and K.S.A. 2020 Supp. 17-1762 and repealing the existing sections.

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

New Section 1. Sections 1 through 7, and amendments thereto, shall be known and may be cited as the Kansas fights addiction act.

New Sec. 2. As used in sections 1 through 7, and amendments thereto:

(a) "Act" means the Kansas fights addiction act.

(b) "Covered conduct" means any conduct covered by opioid litigation that resulted in payment of moneys into the Kansas fights addiction fund.

(c) "Defendant" means a defendant or putative defendant in any opioid litigation.

(d) "Moneys that are received" includes damages, penalties, attorney fees, costs, disbursements, refunds, rebates or any other monetary payment made or paid by any defendant by reason of any judgment, consent decree or settlement, after payment of any costs or fees allocated by court order.

(e) "Municipality" means the same as defined in K.S.A. 75-6102, and amendments thereto.

(f) "Opioid litigation" means any civil lawsuit, demand or settlement, including any settlement in lieu of litigation, alleging unlawful conduct in the manufacturing, marketing, distribution, prescribing or other use of opioid medications and asserting or resolving claims of the state or any municipality.

(g) "Qualified applicant" means any state entity, municipality or not-for-profit private entity that provides services for the purpose of preventing, reducing, treating or otherwise abating or remediating substance abuse or addiction and that has released its legal claims arising from covered conduct against each defendant that is required by opioid litigation to pay into the fund.

(h) "State" means the state of Kansas, including any agency or official thereof.

(i) "Sunflower foundation" means the sunflower foundation: health care for Kansas, established pursuant to the settlement agreement entered into by the attorney general in the action filed by blue cross and blue shield of Kansas, inc., in the district court of Shawnee county, Kansas, case No. 97CV608.

New Sec. 3. (a) Notwithstanding any other provision of law to the contrary, the attorney general shall remit to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto, all moneys that are received by the state pursuant to opioid litigation in which the attorney general is involved that is dedicated by the terms of such litigation for the abatement or remediation of substance abuse or addiction. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount into the state treasury. The state treasurer shall credit 75% of each such deposit to the Kansas fights addiction fund and 25% of each such deposit to the municipalities fight addiction fund.

(b) There is hereby established in the state treasury the Kansas fights addiction fund, and such fund shall be administered by the attorney general. Except as provided in subsection (c), moneys in the Kansas fights addiction fund shall be expended subject to any agreement authorized under section 4(d), and amendments thereto, for

grants approved by the Kansas fights addiction grant review board created by section 4, and amendments thereto, to qualified applicants for projects and activities that prevent, reduce, treat or mitigate the effects of substance abuse and addiction. Any such expenditure for a grant shall not be used to supplant any other source of funding. No moneys shall be expended from the Kansas fights addiction fund for the payment of litigation costs, expenses or attorney fees related to opioid litigation.

(c) On July 1 of each year, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$200,000 from the Kansas fights addiction fund to the prescription monitoring program fund established by section 8, and amendments thereto. For any fiscal year, if there are insufficient unencumbered moneys in the Kansas fights addiction fund to make such transfer, no transfer shall be made under this subsection for such fiscal year.

(d) (1) There is hereby established in the state treasury the municipalities fight addiction fund, and such fund shall be administered by the attorney general to disburse funds to municipalities. Moneys in the municipalities fight addiction fund shall be expended subject to an agreement between the attorney general, the Kansas association of counties and the league of Kansas municipalities for projects and activities that prevent, reduce, treat or mitigate the effects of substance abuse and addiction or to reimburse the municipality for previous expenses related to substance abuse mitigation or arising from covered conduct. Moneys may also be used to reimburse municipalities for the payment of litigation costs, expenses or attorney fees related to opioid litigation, except that a municipality shall first seek payment from applicable outside settlement sources or settlement fee funds prior to seeking payment from the municipalities fight addiction fund.

(2) An agreement between the attorney general, the Kansas association of counties and the league of Kansas municipalities shall determine the method for disbursing moneys from the fund, and such moneys shall be disbursed to municipalities that have not filed opioid litigation and municipalities that have filed opioid litigation and have entered into an agreement with the attorney general prior to January 1, 2022, that releases the municipality's legal claims arising from covered conduct to the attorney general and assigns any future legal claims arising from covered conduct to the attorney general.

(e) All expenditures from the Kansas fights addiction fund and the municipalities fight addiction fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports pursuant to vouchers approved by the attorney general or the attorney general's designee.

New Sec. 4. (a) There is hereby created under the jurisdiction of the attorney general the Kansas fights addiction grant review board. At least one member of such board shall reside in each of the state's congressional districts. Each member shall serve at the pleasure of the appointing authority. Such board shall be composed of 11 members who have expertise in the prevention, reduction, treatment or mitigation of the effects of substance abuse and addiction, as follows:

(1) One member appointed by the attorney general to be designated as chairperson of the board;

(2) one member appointed by the governor;

(3) one member appointed by the president of the senate;

(4) one member appointed by the speaker of the house of representatives;

(5) one member appointed by the minority leader of the senate;

(6) one member appointed by the minority leader of the house of representatives;

(7) one member appointed by the league of Kansas municipalities;

(8) one member appointed by the Kansas association of counties;

(9) one member appointed by the Kansas county and district attorneys association;

(10) one member appointed by the association of community mental health centers of Kansas; and

(11) one member appointed by the behavioral sciences regulatory

board.

(b) The board shall receive and consider applications for grants of money from the Kansas fights addiction fund. Not fewer than six members of the board voting in the affirmative shall be necessary to approve each grant, and each member shall have one vote. The board may adopt rules and procedures for its operation, conduct hearings, receive testimony and gather information to assist in its powers, duties and functions under this act.

(c) In awarding grants, the board:

(1) Shall take care to support services throughout the state and shall ensure not less than 1/8 of the total amount of moneys granted each calendar year shall be for services in each of the state's congressional districts;

(2) shall take into account science and data-driven substance abuse prevention reduction, treatment or mitigation strategies;

(3) shall consult with the Kansas prescription drug and opioid advisory committee, the department of health and environment, the insurance department and other appropriate public and private entities to ensure coordination of drug abuse and addiction prevention and mitigation efforts throughout the state;

(4) shall approve grants only in compliance with the requirements of section 3, and amendments thereto;

(5) shall consider the sustainability of programming after grant funds are exhausted;

(6) may establish conditions for the award of grants and require assurance and subsequent review to ensure such conditions are satisfied;

(7) may give preference to qualified applicants that are not otherwise seeking or receiving funds from opioid litigation; and

(8) may give preference to grants that expand availability of certified drug abuse treatment programs authorized by K.S.A. 2020 Supp. 21-6824, and amendments thereto.

(d) (1) The attorney general shall provide administrative support for the board and shall administer, monitor and assure compliance with conditions on grants awarded.

(2) To carry out the duties and responsibilities under paragraph (1), the attorney general may enter into an agreement with the sunflower foundation to provide such administration, monitoring and assurance of compliance. Such agreement may:

(A) Provide for the attorney general to periodically transfer moneys from the Kansas fights addiction fund to the sunflower foundation. The sunflower administration shall administer any such moneys in a manner consistent with this act and with grants approved by the board. If an agreement authorized by this subsection is in effect, the attorney general may transfer moneys from the Kansas fights addiction fund to the sunflower foundation pursuant to such agreement;

(B) provide for a reasonable fee or other compensation for the sunflower foundation for services related to this act;

(C) make provision for the use of any earnings on moneys transferred to the sunflower foundation pursuant to this act and invested by the sunflower foundation; and

(D) contain other provisions as may be reasonably necessary and appropriate to carry out the provisions of this act.

(3) The attorney general may take any action necessary to ensure the greatest possible recovery from opioid litigation and to seek funds for the Kansas fights addiction fund and the municipalities fight addiction fund.

(e) Members of the board shall not receive compensation or expenses for serving on the board. Each member shall file a statement of substantial interest as provided in K.S.A. 46-248 through 46-252, and amendments thereto. No member shall participate in the consideration of any grant application for which such member has a conflict of interest.

New Sec. 5. The attorney general and each municipality shall be solely responsible for paying all costs, expenses and attorney fees arising from opioid litigation brought under their respective authorities,

including any attorney fees owed to private legal counsel, and may seek payment or reimbursement of such costs, expenses and attorney fees from moneys not deposited in the Kansas fights addiction fund.

New Sec. 6. (a) Except as provided by subsection (b), on and after January 1, 2021, no municipality shall file or become a party to opioid litigation in any court without the prior approval of the attorney general. Any municipality that filed or became a party to opioid litigation on or after January 1, 2021, through the effective date of the Kansas fights addiction act shall withdraw from such opioid litigation, unless such municipality receives approval from the attorney general to maintain such opioid litigation.

(b) This section shall not apply to or affect any municipality that filed or became a party to opioid litigation in court prior to January 1, 2021.

New Sec. 7. Not later than March 1 of each year, the Kansas fights addiction grant review board shall submit to the speaker of the house of representatives, the president of the senate, the governor and the attorney general a report of the board's activities during the prior calendar year, including:

(a) An accounting of moneys deposited into and expended from the Kansas fights addiction fund;

(b) a summary of each approved grant, including the name and a detailed description of the qualified applicant, the amount granted, the justification for the grant with a detailed description of the grant's intended use and any other relevant information the board deems appropriate;

(c) an explanation of how the board's actions during the year have complied with the requirements of this act; and

(d) any other relevant information the board deems appropriate.

New Sec. 8. (a) There is hereby established in the state treasury the prescription monitoring program fund. Such fund shall be administered by the president of the state board of pharmacy or the president's designee. All expenditures from the prescription monitoring program fund shall be for the purpose of operating the prescription monitoring program that is established in accordance with the prescription monitoring program act. All expenditures from the prescription monitoring program fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the state board of pharmacy or the president's designee.

(b) This section shall be a part of and supplemental to the prescription monitoring program act.

New Sec. 9. There is hereby created in the state treasury the charitable organizations fee fund. The attorney general shall remit all moneys received pursuant to the charitable organizations and solicitations act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the charitable organizations fee fund. Moneys in the charitable organizations fee fund shall be used by the attorney general to carry out the provisions and purposes of the charitable organizations and solicitations act. All expenditures from the charitable organizations fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or a person designated by the attorney general.

New Sec. 10. The attorney general shall have the legal custody of all records, memoranda, writings, entries, prints, representations or combinations thereof of any act, transaction, occurrence or event of the secretary of state relating to the charitable organizations and solicitations act.

Sec. 11. K.S.A. 17-1759 is hereby amended to read as follows: 17-1759. ~~This act~~ *K.S.A. 17-1759 through 17-1776, and amendments thereto and section 10, and amendments thereto, shall be known and may be cited as the "charitable organizations and solicitations act."*

Sec. 12. K.S.A. 2020 Supp. 17-1762 is hereby amended to read as

follows: 17-1762. The following persons shall not be required to register with the ~~secretary of state~~ *attorney general*:

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

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

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

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

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

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

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

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

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

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

(k) any corporation, trust or organization incorporated or established for religious purposes, or established for charitable, hospital

or educational purposes and engaged in effectuating one or more of such purposes, that is affiliated with, operated by or supervised or controlled by a corporation, trust or organization incorporated or established for religious purposes, or to any other religious agency or organization which serves religion by the preservation of religious rights and freedom from persecution or prejudice or by fostering religion, including the moral and ethical aspects of a particular religious faith;

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

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

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

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

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

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

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

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

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

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

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

Sec. 13. K.S.A. 17-1763 is hereby amended to read as follows: 17-1763. (a) Except for charitable organizations exempt under K.S.A. 17-1762, and amendments thereto, no charitable organization shall solicit funds in this state, nor employ a professional fund raiser to solicit funds in this state, for any charitable purpose, unless such organization has filed ~~with the office of the secretary of state of the state of Kansas,~~ a registered statement *with the attorney general* prior to solicitation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) *All rules and regulations, orders, directives and standards of*

the secretary of state relating to the charitable organizations and solicitations act that are in effect on June 30, 2021, shall be deemed to be the rules and regulations, orders, directives and standards of the attorney general and shall continue to be effective until amended, revoked or nullified pursuant to law.

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

Sec. 14. K.S.A. 17-1764 is hereby amended to read as follows: 17-1764. (a) No person shall act as a professional fund raiser for a charitable organization or for any religious organization as described in ~~subsection (k) of K.S.A. 17-1762(k)~~, and amendments thereto, before such person has registered with the ~~secretary of state~~ *attorney general* or after the expiration or cancellation of such registration or any renewal of such registration.

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

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

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

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

Sec. 15. K.S.A. 17-1765 is hereby amended to read as follows: 17-1765. (a) No person shall act as a professional solicitor in the employ of a professional fund raiser before such person has registered with the ~~secretary of state~~ *attorney general* or after the expiration or cancellation of such registration or any renewal of such registration.

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

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

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

Sec. 16. K.S.A. 17-1766 is hereby amended to read as follows: 17-1766. All solicitations by professional solicitors shall contain the following disclosures at the point of solicitation:

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

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

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

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

Sec. 17. K.S.A. 17-1769 is hereby amended to read as follows: 17-

1769. The following acts and practices are hereby declared unlawful as applied to the planning, conduct or execution of any solicitation or charitable purpose:

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

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

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

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

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

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

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

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

(B) using undue pressure in soliciting;

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

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

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

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

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

(i) using donations for other than charitable purposes;

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

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

Sec. 18. K.S.A. 17-1771 is hereby amended to read as follows: 17-1771. Registration under ~~this~~ *the charitable organizations and solicitations* act shall not be deemed to constitute an endorsement by the state of Kansas of any registering charitable organization, professional fund raiser or professional solicitor. It shall be unlawful for any charitable organization, professional fund raiser or professional solicitor to represent, directly or indirectly, by advertising or any other manner, that such charitable organization, professional fund raiser or professional solicitor has registered or otherwise complied with the provisions of ~~this~~ *the charitable organizations and solicitations* act, for the purpose of solicitation and collection of funds for charitable purposes. The ~~secretary of state~~ *attorney general* shall cancel the

registration of any organization, professional fund raiser or professional solicitor that violates the provisions of this section.

Sec. 19. K.S.A. 17-1772 is hereby amended to read as follows: 17-1772. (a) ~~The secretary of state~~ *attorney general* may enter into reciprocal agreements *relating to the charitable organizations and solicitations act* with a like authority of any other state or states for the purpose of exchanging information made available to the ~~secretary of state~~ *attorney general* or to such other like authority.

(b) *All reciprocal agreements entered into by the secretary of state relating to the charitable organizations and solicitations act that are in effect on June 30, 2021, shall be deemed to be reciprocal agreements entered into by the attorney general and shall continue to be effective until amended, revoked or nullified pursuant to law.*

Sec. 20. K.S.A. 46-236 is hereby amended to read as follows: 46-236. (a) No state officer or employee, candidate for state office or state officer elect shall solicit any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service from any person known to have a special interest, under circumstances where such officer, employee, candidate or state officer elect knows or should know that a major purpose of the donor in granting the same could be to influence the performance of the official duties or prospective official duties of such officer, employee, candidate or state officer elect.

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

Sec. 21. K.S.A. 75-451 is hereby amended to read as follows: 75-451. The legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, human trafficking or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of K.S.A. 75-451 ~~to through 75-458, inclusive,~~ and amendments thereto, is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, sexual assault, human trafficking or stalking, to enable interagency cooperation with the ~~secretary of state~~ *attorney general* in providing address confidentiality for victims of domestic violence, sexual assault, human trafficking or stalking, and to enable state and local agencies to accept a program participant's use of an address designated by the ~~secretary of state~~ *attorney general* as a substitute mailing address.

Sec. 22. K.S.A. 75-452 is hereby amended to read as follows: 75-452. The following words and phrases when used in K.S.A. 75-451 ~~to through 75-458, inclusive,~~ and amendments thereto, shall ~~have the meanings respectively ascribed to them herein mean,~~ unless the context clearly requires otherwise:

(a) "Abuse" means:

- (1) Causing or attempting to cause physical harm;
- (2) placing another person in fear of imminent physical harm;
- (3) causing another person to engage involuntarily in sexual relations by force, threats or duress, or threatening to do so;

(4) engaging in mental abuse, which includes threats, intimidation and acts designed to induce terror;

(5) depriving another person of necessary health care, housing or food; or

(6) unreasonably and forcibly restraining the physical movement of another.

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

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

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

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

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

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

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

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

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

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

(g) "Sexual assault" means an act which if committed in this state would constitute any crime defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2020 Supp. 21-6419 through 21-6422, and amendments thereto.

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

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

Sec. 23. K.S.A. 75-453 is hereby amended to read as follows: 75-453. (a) An adult person, an adult family member residing with the victim, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, may apply by and through an enrolling agent to have an address designated by the ~~secretary of state~~ *attorney general* serve as the person's address or the address of the minor or incapacitated person. Program participants shall not apply directly to the ~~secretary of state~~ *attorney general*. The ~~secretary of state~~ *attorney general* shall approve an application if it is filed in the manner and on the form prescribed by the ~~secretary of state~~ *attorney general*, signed by the applicant and enrolling agent under penalty of perjury ~~and providing~~, *and it contains all of the following*:

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

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

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

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

of mail.

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

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

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

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

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

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

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

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

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

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

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

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

(e) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, ~~shall be punishable~~ *may be prosecuted for, convicted of and punished* under K.S.A. 2020 Supp. 21-5824, and amendments thereto, or other applicable statutes.

Sec. 24. K.S.A. 75-454 is hereby amended to read as follows: 75-454. (a) If the program participant obtains a legal name change after being certified as a program participant, the ~~secretary of state~~ *attorney general* shall cancel certification of the program participant.

(b) The ~~secretary of state~~ *attorney general* may cancel a program participant's certification if there is a change in the residential address

from the one listed on the application, unless the program participant provides the ~~secretary of state~~ *attorney general* with seven days' prior notice of the change of address.

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

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

Sec. 25. K.S.A. 75-455 is hereby amended to read as follows: 75-455. (a) A program participant may request that state and local agencies use the address designated by the ~~secretary of state~~ *attorney general* as the participant's address. When creating a new public record or amending or updating an existing record, state and local agencies shall accept the address designated by the ~~secretary of state~~ *attorney general* as a program participant's substitute address, unless the ~~secretary of state~~ *attorney general* has determined that:

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

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

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

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

Sec. 26. K.S.A. 75-456 is hereby amended to read as follows: 75-456. (a) The ~~secretary of state~~ *attorney general* is authorized to adopt rules and regulations for the proper implementation of K.S.A. 75-451 ~~to through 75-458, inclusive~~, and amendments thereto.

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

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

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

Sec. 27. K.S.A. 75-457 is hereby amended to read as follows: 75-457. The ~~secretary of state~~ *attorney general* shall not make any records in a program participant's file available for inspection or copying, other than the address designated by the ~~secretary of state~~ *attorney general*, except under the following circumstances:

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

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

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

program; and

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

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

Sec. 29. K.S.A. 75-759 is hereby amended to read as follows: 75-759. (a) (1) A notice offering help to victims of human trafficking shall be accessible on the official website of the attorney general, the official website of the department for children and families and the official website of the department of labor; ~~and may~~.

(2) The notice described in this subsection shall be posted in a prominent and accessible location in ~~workplaces~~ any place required to post notices pursuant to:

(A) The Kansas act against discrimination, K.S.A. 44-1012, and amendments thereto;

(B) the Kansas age discrimination in employment act, K.S.A. 44-1114, and amendments thereto;

(C) the Kansas child labor law, K.S.A. 38-605, and amendments thereto;

(D) the employment security law and rules and regulations adopted under the employment security law; or

(E) the workers compensation act and rules and regulations adopted under the workers compensation act.

(3) The notice described in this subsection shall be posted in a location visible to members of the public in the following public places:

(A) Sexually oriented businesses as defined by K.S.A. 12-770, and amendments thereto;

(B) massage parlors;

(C) healthcare facilities;

(D) convenience stores and truck stops; and

(E) rest areas and visitors centers under state supervision or control.

(b) ~~The notice shall provide such information~~ attorney general shall adopt rules and regulations prescribing the content, size and other characteristics of such notices as the attorney general determines appropriate to help and support victims of human trafficking, including, but not limited to, information regarding the national human trafficking hotline as follows:

~~"If you or someone you know is being forced to engage in any activity and cannot leave — whether it is commercial sex, housework, farm work or any other activity — call the toll-free National Human Trafficking Hotline at 1-888-373-7888 to access help and services. The toll-free hotline is:~~

~~• Available 24 hours a day, 7 days a week~~

~~• Operated by a nonprofit, nongovernmental organization~~

~~• Anonymous and confidential~~

~~• Accessible in 170 languages~~

~~• Able to provide help, referral to services, training, and general information."~~

(c) The notice described in this section shall be made available in English, Spanish, and, if requested by an employer, another language.

(d) The secretary of labor, in consultation with the attorney general, shall develop and implement an education plan to raise awareness among Kansas employers about the problem of human trafficking, about the hotline described in this section, and about other resources that may be available to employers, employees, and potential victims of human trafficking. ~~On or before February 1, 2014, the secretary shall report to the standing committees on judiciary in the senate and the house of representatives, respectively, on the progress~~

~~achieved in developing and implementing the notice requirement and education plan required by this section.~~

Sec. 30. K.S.A. 17-1759, 17-1763, 17-1764, 17-1765, 17-1766, 17-1769, 17-1771, 17-1772, 46-236, 75-451, 75-452, 75-453, 75-454, 75-455, 75-456, 75-457, 75-458 and 75-759 and K.S.A. 2020 Supp. 17-1762 are hereby repealed.

Sec. 31. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.