

HOUSE BILL No. 2079

By Committee on Judiciary

1-20

1 AN ACT concerning state officers; relating to certain powers, duties and
2 functions of the secretary of state and the attorney general; the address
3 confidentiality program; transferring duties to the attorney general;
4 amending K.S.A. 75-451, 75-452, 75-453, 75-454, 75-455, 75-456, 75-
5 457 and 75-458 and repealing the existing sections.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 75-451 is hereby amended to read as follows: 75-
9 451. The legislature finds that persons attempting to escape from actual or
10 threatened domestic violence, sexual assault, human trafficking or stalking
11 frequently establish new addresses in order to prevent their assailants or
12 probable assailants from finding them. The purpose of K.S.A. 75-451 ~~to~~
13 ~~through 75-458, inclusive,~~ and amendments thereto, is to enable state and
14 local agencies to respond to requests for public records without disclosing
15 the location of a victim of domestic violence, sexual assault, human
16 trafficking or stalking, to enable interagency cooperation with the ~~secretary~~
17 ~~of state attorney general~~ in providing address confidentiality for victims of
18 domestic violence, sexual assault, human trafficking or stalking, and to
19 enable state and local agencies to accept a program participant's use of an
20 address designated by the ~~secretary of state attorney general~~ as a substitute
21 mailing address.

22 Sec. 2. K.S.A. 75-452 is hereby amended to read as follows: 75-452.
23 The following words and phrases when used in K.S.A. 75-451 ~~to through~~
24 ~~75-458, inclusive,~~ and amendments thereto, shall ~~have the meanings~~
25 ~~respectively ascribed to them herein~~ *mean*, unless the context clearly
26 requires otherwise:

- 27 (a) "Abuse" means:
28 (1) Causing or attempting to cause physical harm;
29 (2) placing another person in fear of imminent physical harm;
30 (3) causing another person to engage involuntarily in sexual relations
31 by force, threats or duress, or threatening to do so;
32 (4) engaging in mental abuse, which includes threats, intimidation
33 and acts designed to induce terror;
34 (5) depriving another person of necessary health care, housing or
35 food; or
36 (6) unreasonably and forcibly restraining the physical movement of

1 another.

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

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

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

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

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

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

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

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

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

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

24 (g) "Sexual assault" means an act which if committed in this state
25 would constitute any crime defined in article 35 of chapter 21 of the
26 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
27 of the Kansas Statutes Annotated, or K.S.A. 2020 Supp. 21-6419 through
28 21-6422, and amendments thereto.

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

32 (i) "Human trafficking" means an act which if committed in this state
33 would constitute the crime of human trafficking as defined by K.S.A. 21-
34 3446, prior to its repeal, or K.S.A. 2020 Supp. 21-5426~~(a)~~, and
35 amendments thereto.

36 Sec. 3. K.S.A. 75-453 is hereby amended to read as follows: 75-453.

37 (a) An adult person, an adult family member residing with the victim, a
38 parent or guardian acting on behalf of a minor, or a guardian acting on
39 behalf of an incapacitated person, may apply by and through an enrolling
40 agent to have an address designated by the ~~secretary of state attorney~~
41 ~~general~~ serve as the person's address or the address of the minor or
42 incapacitated person. Program participants shall not apply directly to the
43 ~~secretary of state attorney general~~. The ~~secretary of state attorney general~~

1 shall approve an application if it is filed in the manner and on the form
2 prescribed by the ~~secretary of state~~ *attorney general*, signed by the
3 applicant and enrolling agent under penalty of perjury ~~and providing~~, and
4 *it contains all of the following:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (e) A person who falsely attests in an application that disclosure of
22 the applicant's address would endanger the applicant's safety or the safety
23 of the applicant's children or the minor or incapacitated person on whose
24 behalf the application is made, or who knowingly provides false or
25 incorrect information upon making an application, ~~shall be punishable~~ *may*
26 *be prosecuted for, convicted of and punished* under K.S.A. 2020 Supp. 21-
27 5824, and amendments thereto, or other applicable statutes.

28 Sec. 4. K.S.A. 75-454 is hereby amended to read as follows: 75-454.

29 (a) If the program participant obtains a legal name change after being
30 certified as a program participant, the ~~secretary of state~~ *attorney general*
31 shall cancel certification of the program participant.

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

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

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

43 Sec. 5. K.S.A. 75-455 is hereby amended to read as follows: 75-455.

1 (a) A program participant may request that state and local agencies use the
 2 address designated by the ~~secretary of state~~ *attorney general* as the
 3 participant's address. When creating a new public record or amending or
 4 updating an existing record, state and local agencies shall accept the
 5 address designated by the ~~secretary of state~~ *attorney general* as a program
 6 participant's substitute address, unless the ~~secretary of state~~ *attorney*
 7 *general* has determined that:

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

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

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

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

19 Sec. 6. K.S.A. 75-456 is hereby amended to read as follows: 75-456.

20 (a) The ~~secretary of state~~ *attorney general* is authorized to adopt rules and
 21 regulations for the proper implementation of K.S.A. 75-451 ~~to through~~ 75-
 22 458, ~~inclusive~~, and amendments thereto.

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

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

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

41 Sec. 7. K.S.A. 75-457 is hereby amended to read as follows: 75-457.

42 The ~~secretary of state~~ *attorney general* shall not make any records in a
 43 program participant's file available for inspection or copying, other than

1 the address designated by the ~~secretary of state~~ *attorney general*, except
2 under the following circumstances:

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

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

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

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

12 Sec. 8. K.S.A. 75-458 is hereby amended to read as follows: 75-458.
13 The ~~secretary of state~~ *attorney general* shall designate enrolling agents to
14 assist persons applying to be program participants. The ~~secretary of state~~
15 *attorney general* may collaborate with enrolling agents to develop a
16 training curriculum. Any assistance rendered to applicants by the ~~office of~~
17 ~~the secretary of state or its~~ *attorney general or the attorney general's*
18 *designees* shall not be construed as legal advice.

19 Sec. 9. K.S.A. 75-451, 75-452, 75-453, 75-454, 75-455, 75-456, 75-
20 457 and 75-458 are hereby repealed.

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