

SCOTT SCHWAB
Secretary of State



Memorial Hall, 1st Floor
120 S.W. 10th Avenue
Topeka, KS 66612-1594
(785) 296-4564
sos.kansas.gov

STATE OF KANSAS

Testimony: SB293 (Proponent)

House Judiciary Committee
Thursday, January 30, 2020

Chairman Patton and members of the Committee:

SB293, if enacted, would consolidate regulation of charitable fundraising and the Safe at Home Program into the Office of the Attorney General. The bill, as originally introduced, also proposed to eliminate the authority of the Secretary of State to prosecute election crimes (see attached, section 12 of original SB293). However, that provision was eliminated by a voice vote in the Senate Judiciary Committee. We respectfully ask that this committee consider putting those provisions back into SB293.

Charitable Fundraising: Under current law, the Secretary of State is responsible for administering the registration of charitable organizations, solicitors and fundraisers, while the Attorney General's Office enforces violations of the charities statutes and prosecutes fraudulent solicitations. For several years, our office has coordinated the regulation of charities with the Attorney General's office. This legislation would provide better customer service and more efficient administration to have one agency perform these tasks.

Safe at Home: We work closely with victim's services organizations to administer the Safe at Home Program which ensures participant addresses are kept confidential from their abuser, trafficker or stalker. However, we are only an administrator of these programs and have no oversight or enforcement capabilities. Given the small size of our staff and the lack of expertise, particularly for working with abuse victims, we believe these programs, and their participants, would be better served by the Office of Attorney General.

Prosecutorial Authority: As previously stated, SB293, as it appears before you today, no longer removes the authority of the Secretary of State to prosecute election crimes. We would welcome efforts by this committee to restore those provisions to the bill.

In the past, local officials did not always prosecute accusations of voter fraud due to limited resources and higher profile crimes. The reasoning was understandable and served as the basis for the previous secretary to seek prosecutorial power. However, unlike his predecessor, Secretary Schwab is a businessman, not an attorney and believes the resources of the Office should concentrate on administering the constitutional duties of the Office of Secretary of State and ensuring Kansas elections continue to be secure and trustworthy. Moreover, the possession of prosecutorial authority can make the Secretary of State a target for litigation based on a claimed threat of prosecution.

On behalf of the Office of Secretary of State, we believe SB293 effectively combines regulatory and enforcement responsibilities into a single agency. We appreciate your consideration and ask for your support of SB293.

Respectfully Submitted,

Katie Koupal
Deputy Assistant Secretary of State
Communications & Policy

Attachment

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 (c) 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.