

HOUSE BILL No. 2029

By Committee on Judiciary

1 AN ACT concerning civil actions; relating to the protection from abuse
2 act; protection from stalking, sexual assault or human trafficking act;
3 increasing time of initial order and possible extensions; amending
4 K.S.A. 2022 Supp. 60-3107 and 60-31a06 and repealing the existing
5 sections.
6

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

8 Section 1. K.S.A. 2022 Supp. 60-3107 is hereby amended to read as
9 follows: 60-3107. (a) The court may approve any consent agreement to
10 bring about a cessation of abuse of the plaintiff or minor children or grant
11 any of the following orders:

12 (1) Restraining the defendant from abusing, molesting or interfering
13 with the privacy or rights of the plaintiff or of any minor children of the
14 parties. Such order shall contain a statement that if such order is violated,
15 such violation may constitute assault as defined in ~~subsection (a) of~~ K.S.A.
16 2022 Supp. 21-5412(a), and amendments thereto, battery as defined in
17 ~~subsection (a) of~~ K.S.A. 2022 Supp. 21-5413(a), and amendments thereto,
18 domestic battery as defined in K.S.A. 2022 Supp. 21-5414, and
19 amendments thereto, and violation of a protective order as defined in
20 K.S.A. 2022 Supp. 21-5924, and amendments thereto.

21 (2) Granting possession of the residence or household to the plaintiff
22 to the exclusion of the defendant, and further restraining the defendant
23 from entering or remaining upon or in such residence or household,
24 subject to the limitation of subsection (d). Such order shall contain a
25 statement that if such order is violated, such violation shall constitute
26 criminal trespass as defined in ~~subsection (a)(1)(C) of~~ K.S.A. 2022 Supp.
27 21-5808(a)(1)(C), and amendments thereto, and violation of a protective
28 order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto.
29 The court may grant an order, which shall expire 60 days following the
30 date of issuance, restraining the defendant from cancelling utility service
31 to the residence or household.

32 (3) Requiring defendant to provide suitable, alternate housing for the
33 plaintiff and any minor children of the parties.

34 (4) Awarding temporary custody and residency and establishing
35 temporary parenting time with regard to minor children.

36 (5) Ordering a law enforcement officer to evict the defendant from
37 the residence or household.

38 (6) Ordering support payments by a party for the support of a party's
39 minor child, if the party is the father or mother of the child, or the plaintiff,

1 if the plaintiff is married to the defendant. Such support orders shall
2 remain in effect until modified or dismissed by the court or until expiration
3 and shall be for a fixed period of time not to exceed one year. On the
4 motion of the plaintiff, the court may extend the effect of such order for 12
5 months.

6 (7) Awarding costs and attorney fees to either party.

7 (8) Making provision for the possession of personal property of the
8 parties and ordering a law enforcement officer to assist in securing
9 possession of that property, if necessary.

10 (9) Requiring any person against whom an order is issued to seek
11 counseling to aid in the cessation of abuse.

12 (10) Ordering or restraining any other acts deemed necessary to
13 promote the safety of the plaintiff or of any minor children of the parties.

14 (b) No protection from abuse order shall be entered against the
15 plaintiff unless:

16 (1) The defendant properly files a written cross or counter petition
17 seeking such a protection order;

18 (2) the plaintiff had reasonable notice of the written cross or counter
19 petition by personal service as provided in ~~subsection (d)~~ of K.S.A. 60-
20 3104(d), and amendments thereto; and

21 (3) the issuing court made specific findings of abuse against both the
22 plaintiff and the defendant and determined that both parties acted primarily
23 as aggressors and neither party acted primarily in self-defense.

24 (c) Any order entered under the protection from abuse act shall not be
25 subject to modification on ex parte application or on motion for temporary
26 orders in any action filed pursuant to K.S.A. 60-1601 et seq., prior to their
27 transfer or repeal, or article 22 or 27 of chapter 23 of the Kansas Statutes
28 Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and
29 amendments thereto. Orders previously issued in an action filed pursuant
30 to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or
31 27 of chapter 23 of the Kansas Statutes Annotated, and amendments
32 thereto, or K.S.A. 38-1101 et seq., and amendments thereto, shall be
33 subject to modification under the protection from abuse act only as to
34 those matters subject to modification by the terms of K.S.A. 2022 Supp.
35 23-3201 through 23-3207 and 23-3218 and article 27 of chapter 23 of the
36 Kansas Statutes Annotated, and amendments thereto, and on sworn
37 testimony to support a showing of good cause. Immediate and present
38 danger of abuse to the plaintiff or minor children shall constitute good
39 cause. If an action is filed pursuant to K.S.A. 2022 Supp. 23-3201 through
40 23-3207 or 23-3218 or article 22 or 27 of chapter 23 of the Kansas Statutes
41 Annotated, and amendments thereto, during the pendency of a proceeding
42 filed under the protection from abuse act or while an order issued under
43 the protection from abuse act is in effect, the court, on final hearing or on

1 agreement of the parties, may issue final orders authorized by K.S.A. 2022
2 Supp. 23-3201 through 23-3207 and 23-3218 and articles 22 and 27 of
3 chapter 23 of the Kansas Statutes Annotated, and amendments thereto, that
4 are inconsistent with orders entered under the protection from abuse act.
5 Any inconsistent order entered pursuant to this subsection shall be specific
6 in its terms, reference the protection from abuse order and parts thereof
7 being modified and a copy thereof shall be filed in both actions. The court
8 shall consider whether the actions should be consolidated in accordance
9 with K.S.A. 60-242, and amendments thereto. Any custody or parenting
10 time order, or order relating to the best interests of a child, issued pursuant
11 to the revised Kansas code for care of children or the revised Kansas
12 juvenile justice code, shall be binding and shall take precedence over any
13 such custody or parenting order involving the same child issued under the
14 protection from abuse act, until jurisdiction under the revised Kansas code
15 for care of children or the revised Kansas juvenile justice code is
16 terminated. Any inconsistent custody or parenting order issued in the
17 revised Kansas code for care of children case or the revised Kansas
18 juvenile justice code case shall be specific in its terms, reference any
19 preexisting protection from abuse order and the custody being modified,
20 and a copy of such order shall be filed in the preexisting protection from
21 abuse case.

22 (d) If the parties to an action under the protection from abuse act are
23 not married to each other and one party owns the residence or household,
24 the court shall not have the authority to grant possession of the residence
25 or household under subsection (a)(2) to the exclusion of the party who
26 owns ~~it~~ *such residence or household*.

27 (e) Subject to the provisions of subsections (b), (c) and (d), a
28 protective order or approved consent agreement shall remain in effect until
29 modified or dismissed by the court and shall be for a fixed period of time
30 ~~not to exceed one year~~ *less than two years and not more than five years*,
31 except as provided in ~~subsection~~ *subsections (e)(1) and (e)(2)*.

32 (1) Upon motion of the plaintiff, such period may be extended for ~~one~~
33 *an additional year period of not less than two years and not more than five*
34 *years*.

35 (2) Upon verified motion of the plaintiff and after the defendant has
36 been personally served with a copy of the motion and has had an
37 opportunity to present evidence and cross-examine witnesses at a hearing
38 on the motion, *the court shall extend a protective order for not less than*
39 *two additional years and may extend the protective order up to the lifetime*
40 *of the defendant* if the court determines by a preponderance of the
41 evidence that the defendant has: (A) Violated a valid protection order ~~or~~
42 ~~(A) has;~~ (B) previously violated a valid protection order; ~~or (B) has~~ (C)
43 been convicted of a person felony or any conspiracy, criminal solicitation

1 or attempt thereof, under the laws of Kansas or the laws of any other
2 jurisdiction which are substantially similar to such person felony,
3 committed against the plaintiff or any member of the plaintiff's household;
4 ~~the court shall extend a protective order for not less than two additional~~
5 ~~years and may extend the protective order up to the lifetime of the~~
6 ~~defendant.~~ No service fee shall be required for a motion filed pursuant to
7 this subsection *paragraph*.

8 (f) The court may amend its order or agreement at any time upon
9 motion filed by either party.

10 (g) No order or agreement under the protection from abuse act shall
11 in any manner affect title to any real property.

12 (h) If a person enters or remains on premises or property violating an
13 order issued pursuant to subsection (a)(2), such violation shall constitute
14 criminal trespass as defined in ~~subsection (a)(1)(C) of K.S.A. 2022 Supp.~~
15 ~~21-5808(a)(1)(C)~~, and amendments thereto, and violation of a protective
16 order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto.
17 If a person abuses, molests or interferes with the privacy or rights of
18 another violating an order issued pursuant to subsection (a)(1), such
19 violation may constitute assault as defined in ~~subsection (a) of K.S.A.~~
20 ~~2022 Supp. 21-5412(a)~~, and amendments thereto, battery as defined in
21 ~~subsection (a) of K.S.A. 2022 Supp. 21-5413(a)~~, and amendments thereto,
22 domestic battery as defined in K.S.A. 2022 Supp. 21-5414, and
23 amendments thereto, and violation of a protective order as defined in
24 K.S.A. 2022 Supp. 21-5924, and amendments thereto.

25 Sec. 2. K.S.A. 2022 Supp. 60-31a06 is hereby amended to read as
26 follows: 60-31a06. (a) The court may issue a protection from stalking,
27 sexual assault or human trafficking order granting any one or more of the
28 following orders:

29 (1) Restraining the defendant from following, harassing, telephoning,
30 contacting or otherwise communicating with the victim. The order shall
31 contain a statement that, if the order is violated, the violation may
32 constitute stalking as defined in K.S.A. 2022 Supp. 21-5427, and
33 amendments thereto, and violation of a protective order as defined in
34 K.S.A. 2022 Supp. 21-5924, and amendments thereto.

35 (2) Restraining the defendant from abusing, molesting or interfering
36 with the privacy rights of the victim. The order shall contain a statement
37 that, if the order is violated, the violation may constitute stalking as
38 defined in K.S.A. 2022 Supp. 21-5427, and amendments thereto, assault as
39 defined in K.S.A. 2022 Supp. 21-5412(a), and amendments thereto, battery
40 as defined in K.S.A. 2022 Supp. 21-5413(a), and amendments thereto, and
41 violation of a protective order as defined in K.S.A. 2022 Supp. 21-5924,
42 and amendments thereto.

43 (3) Restraining the defendant from entering upon or in the victim's

1 residence or the immediate vicinity thereof. The order shall contain a
2 statement that, if the order is violated, the violation shall constitute
3 criminal trespass as defined in K.S.A. 2022 Supp. 21-5808(a)(1)(C), and
4 amendments thereto, and violation of a protective order as defined in
5 K.S.A. 2022 Supp. 21-5924, and amendments thereto.

6 (4) Restraining the defendant from committing or attempting to
7 commit a sexual assault upon the victim. The order shall contain a
8 statement that, if the order is violated, the violation shall constitute
9 violation of a protective order as defined in K.S.A. 2022 Supp. 21-5924,
10 and amendments thereto. The order shall also contain a statement that, if
11 the order is violated, the violation may constitute a sex offense under
12 article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments
13 thereto, and the accused may be prosecuted, convicted of and punished for
14 such sex offense.

15 (5) Restraining the defendant from following, harassing, telephoning,
16 contacting, recruiting, harboring, transporting, or committing or attempting
17 to commit human trafficking upon the human trafficking victim, or
18 otherwise communicating with the human trafficking victim. The order
19 shall contain a statement that, if the order is violated, the violation shall
20 constitute violation of a protective order as defined in K.S.A. 2022 Supp.
21 21-5924, and amendments thereto. The order shall also contain a statement
22 that, if the order is violated, the violation may constitute an offense under
23 chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and
24 the accused may be prosecuted, convicted of and punished for such
25 offense.

26 (6) Any other order deemed necessary by the court to carry out the
27 provisions of this act.

28 (b) A protection from stalking, sexual ~~abuse~~ *assault* or human
29 trafficking order shall remain in effect until modified or dismissed by the
30 court and shall be for a fixed period of time ~~not to exceed one year less~~
31 *than two years and not more than five years*, except as provided in
32 subsections (c) and (d).

33 (c) Upon motion of the plaintiff the court may extend the order for an
34 additional ~~year~~ *period of not less than two years and not more than five*
35 *years*.

36 (d) (I) Upon verified motion of the plaintiff and after the defendant
37 has been personally served with a copy of the motion and has had an
38 opportunity to present evidence and cross-examine witnesses at a hearing
39 on the motion, the court shall extend a protective order for not less than
40 two additional years and up to a period of time not to exceed the lifetime
41 of the defendant; if the court determines by a preponderance of the
42 evidence that the defendant has:

43 (A) Violated a valid protection order;

1 ~~(2)(B)~~ previously violated a valid protection order; or
2 ~~(3)(C)~~ been convicted of a person felony or any conspiracy, criminal
3 solicitation or attempt thereof, under the laws of Kansas or the laws of any
4 other jurisdiction which are substantially similar to such person felony,
5 committed against the plaintiff or any member of the plaintiff's household.

6 (2) No service fee shall be required for a motion filed pursuant to this
7 subsection.

8 (e) The court may amend its order at any time upon motion filed by
9 either party.

10 (f) The court shall assess costs against the defendant and may award
11 attorney fees to the victim in any case in which the court issues a
12 protection from stalking, sexual assault or human trafficking order
13 pursuant to this act. The court may award attorney fees to the defendant in
14 any case where the court finds that the petition to seek relief pursuant to
15 this act is without merit.

16 (g) A no contact or restraining provision in a protective order issued
17 pursuant to this section shall not be construed to prevent:

18 (1) Contact between the attorneys representing the parties;

19 (2) a party from appearing at a scheduled court or administrative
20 hearing; or

21 (3) a defendant or defendant's attorney from sending the plaintiff
22 copies of any legal pleadings filed in court relating to civil or criminal
23 matters presently relevant to the plaintiff.

24 Sec. 3. K.S.A. 2022 Supp. 60-3107 and 60-31a06 are hereby
25 repealed.

26 Sec. 4. This act shall take effect and be in force from and after its
27 publication in the statute book.