



# Kansas Sheriffs' Association

PO Box 1122, Pittsburg, KS 66762

Phone: (620) 230-0864 ★ Fax: (620) 230-0866

*Sheriff Sandy Horton, Ret., Executive Director*

*Sheriff John R. Fletcher, Ret., Deputy Director*

[www.kansassheriffs.org](http://www.kansassheriffs.org)

## Testimony to Committee on House Judiciary Opposing Testimony on HB 2185 February 7, 2023

Chairman Patton and Committee Members,

The Kansas Sheriff's Association is providing opposing testimony on HB 2185.

KSA understands the need for HB 2185 and stands with victims of domestic abuse. However, the current language in HB 2185 is problematic and some language should be changed.

On page 1, line 30 states: (You must contact the office of the sheriff or the office of the district court in (name of county) to obtain a copy of the order.) In State Statute 60-303, which is the statute that covers methods of service, it is very clear that the sheriff's office delivers the order by a process. Sheriffs are not the custodian of records; the District Court Clerk is the custodian of records. The phrase (office of the sheriff) should be struck from this sentence and citizens should be directed to the Clerk of the District Court for court records. A secondary issue is the court systems new RMS. Odyssey is the new Records Management System and we will not have access to these types of documents. Only what the Clerk of the District Court provides us to serve.

On page 1, line 33 states: ((3) The law enforcement officer serving the notification shall read the notice in paragraph (2) out loud to the defendant.) In State Statute 60-303, we are not required to read out loud any other types of service. We serve them the court order and at that point, they have been served. This will also become confusing when a person is avoiding service, we tack the notice to their abode and by statute, and we have to read it out loud to them. They can claim they did not receive proper notice because they were not home.

On page 2, lines 1-2 states: (The return of service shall be filed promptly.) What is the definition of promptly? Currently under 60-303, language does not exist on timeliness of return. The statute describes how the return shall be made but does not give a time limit. KSA is not against giving law enforcement a set time to deliver the return.

On page 2, lines 16-17 states: (a law enforcement officer may detain the defendant for a reasonable time necessary to complete and serve the short form notification.) Does this include individuals that run from law enforcement or individuals who shut the door on us and refuse to open the door again? There needs to be clear guidance. If we are affecting an arrest then fresh pursuit would apply, however, we are not affecting an arrest in this case and we are simply detaining them to serve them with a court order.

On page 2, lines 32-35 and line 43 is the same terminology used on page 1 lines 29-34. We have the same issues with sheriff office being stricken and reading the notice out loud.

On page 3, lines 24-39, we just want to point out since this is a new statute on serving PFA orders and Protection from Stalking, there could be people arrested that were never served. In civil process, individuals are not arrested unless the court orders it later. However, individuals that move from one address to another, that happens frequently, serving notice on a home that they do not reside in any

longer could be problematic when they arrested. We are just pointing out the difference between civil process service and now potentially criminal process service.

KSA appreciates the spirit of HB 2185. We would be willing to sit down with the reviser to work out the language issues that we see as problematic.

Thank you for your consideration.

Jeff Easter  
KSA Legislative Chair