

February 16, 2023

The Honorable Will Carpenter, Chairperson
House Committee on Federal and State Affairs
300 SW 10th Avenue, Room 346-S
Topeka, Kansas 66612

Dear Representative Carpenter:

SUBJECT: Fiscal Note for HB 2245 by Representative Ballard, et al.

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2245 is respectfully submitted to your committee.

HB 2245 would enact the Gun Violence Restraining Order Act. The bill would allow the spouse of the defendant; a former spouse of the defendant; an individual who has a child in common with the defendant; an individual who has or has had a dating relationship with the defendant; an individual who resides or has resided in the same household with the individual; a family member; or another individual who has a close relationship with the defendant to file an action with a district court requesting the court enter a gun violence restraining order. A court could issue a gun violence restraining order if the court determines that there is reasonable cause to believe that the defendant poses a significant risk to self or others by possessing a firearm. The bill would specify what the court must consider in making a determination.

If a plaintiff is not one of the individuals described above, the court would not be allowed to issue a gun violence restraining order, unless the court determines that the plaintiff has a close enough relationship with the defendant to justify the issuance of the order. The court may issue a gun violence restraining order without written or oral notice to the defendant if the court determines that clear and convincing evidence has been submitted under oath or affirmation.

The bill would allow a restrained individual to file a motion to modify or rescind the order and request a hearing. The motion would be required to be filed within 14 days after the order is served on the restrained individual or after the restrained individual receives actual notice of the order, unless good cause is shown for filing the motion after the 14 days have elapsed. HB 2245 would specify what provisions the court would be required to include in a gun violence restraining order and what a court must do after a gun violence restraining order is issued.

A gun violence restraining order would be served on the restrained individual by any method. If a restrained individual has not been served, a law enforcement officer or clerk of the court who knows that the order exists may, at any time, serve the restrained individual with a true copy of the order or advise the restrained individual of the existence of the order. The individual who served the order or gave oral notice of the order would be required to file proof of service or proof of oral notice with the clerk of the court that issued the order. The bill would outline the duties of law enforcement officers and agencies concerning gun violence restraining orders.

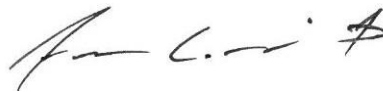
The plaintiff could move the court to issue, or the court on its own motion could issue one or more extended gun violence restraining orders, each effective for up to one year after the expiration of the preceding order. The court could only issue an extended order if there is probable cause to believe that the restrained individual continues to pose a significant risk of personal injury to themselves or others by possessing a firearm. The plaintiff or the court, as applicable, would be required to give the restrained individual written notice of a hearing on a motion to extend the order. An individual who refuses or fails to comply with a gun violence restraining order would be subject to the criminal contempt powers of the court. A plaintiff who knowingly makes a false statement to the court in the complaint or in support of the complaint would also be subject to the contempt powers of the court. The bill would take effect upon its publication in the *Kansas Register*.

The Office of Judicial Administration states enactment of HB 2245 could have a fiscal effect on Judicial Branch operations because the bill's provisions would require additional duties to be performed by court personnel, which could increase time spent by court employees and judges processing and deciding these cases. Also, the Office indicates additional court clerks may have to be hired to meet the additional workload; however, the Office does not have enough information to provide an estimate of how many additional court clerks would be needed. Additionally, according to the Office, the Judicial Branch's protection order portal would need to be modified to allow remote filing of these cases, which would result in associated programming costs. The Office states enactment of the bill could result in the collection of docket fees in those cases filed under the bill's provisions, which would be credited to the State General Fund. The Office indicates a fiscal effect cannot be estimated until the Judicial Branch has had an opportunity to operate under the bill's provisions.

The Office of the Attorney General estimates additional expenditures of \$110,728 from agency fee funds in FY 2024 to implement the bill's provisions. Of the above amount, \$83,817 would be for 1.00 Special Agent FTE position and \$26,911 would be for other operating expenditures. The Office states that although a gun violence restraining order would be issued by the courts, the Concealed Carry Licensing Unit within the agency would be affected. According to the Office, the bill would increase the time required to do the background investigation for every initial application and every renewal application. Agency staff would have to cross reference the list of individuals who have been placed under a gun violence restraining order for every person who submits an application for concealed carry licensure to the agency to ensure that the individual is allowed to purchase a firearm. Any fiscal effect associated with HB 2245 is not reflected in *The FY 2024 Governor's Budget Report*.

The Kansas Association of Counties states enactment of the bill could increase costs to counties related to seizing weapons and enforcing the bill's provisions. The League of Kansas Municipalities states enactment of the bill would increase costs to local law enforcement agencies because the bill would require officers to retrieve or accept firearms from certain offenders, which would require additional time and training.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: Vicki Jacobsen, Judiciary
Paul Weisgerber, Kansas Bureau of Investigation
John Milburn, Office of the Attorney General
Wendi Stark, League of Kansas Municipalities
Jay Hall, Kansas Association of Counties
Scott Schultz, Sentencing Commission
Randy Bowman, Department of Corrections
Sherry Macke, Highway Patrol