

2023 Kansas Statutes

60-31a06. Orders; limitations on time of orders; extension of orders; amendments; costs. (a)

The court may issue a protection from stalking, sexual assault or human trafficking order granting any one or more of the following orders:

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

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

(3) Restraining the defendant from entering upon or in the victim's residence or the immediate vicinity thereof. The order shall contain a statement that, if the order is violated, the violation shall constitute criminal trespass as defined in K.S.A. 21-5808(a)(1)(C), and amendments thereto, and violation of a protective order as defined in K.S.A. 21-5924, and amendments thereto.

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

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

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

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

(c) Upon motion of the plaintiff the court may extend the order for an additional period of not less than one year and not more than three years.

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

(1) Violated a valid protection order;

(2) previously violated a valid protection order; or

(3) been convicted of a person felony or any conspiracy, criminal solicitation or attempt thereof, under the laws of Kansas or the laws of any other jurisdiction which are substantially similar to such person felony, committed against the plaintiff or any member of the plaintiff's household.

No service fee shall be required for a motion filed pursuant to this subsection.

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

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

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

(1) Contact between the attorneys representing the parties;

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

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

(h) For the purposes of this section, "harassing" or "interfering with the privacy rights" includes, but is not limited to, utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement or travel patterns.

History: L. 2002, ch. 141, § 6; L. 2008, ch. 137, § 5; L. 2011, ch. 30, § 222; L. 2012, ch. 138, § 7; L. 2017, ch. 66, § 8; L. 2018, ch. 110, § 9; L. 2023, ch. 78, § 8; July 1.