



## Kansas Bureau of Investigation

Kirk Thompson  
Director

Derek Schmidt  
Attorney General

### **House Corrections and Juvenile Justice Committee**

Testimony of Kyle Smith, Assistant Attorney General  
Deputy Director, Kansas Bureau of Investigation  
**In Support of HB 2613**  
February 6, 2012

Chairman Colloton and Members of the Committee,

I appear today on behalf of Attorney General Derek Schmidt in support of HB 2613, a bill designed to better protect victims of crimes and abuse.

Currently Kansas law provides for Protection From Abuse (PFA) and Protection From Stalking (PFS) civil protective orders. Violation of such orders is a class A misdemeanor under K.S.A.21-5924. However, in some cases, the current structure has proven to be inadequate to protect these victims.

In situations where the petitioner has been the victim of a violent felony, it seems unnecessary and redundant for the victim to have to return to court each year, face the assailant and request extension for another year. HB 2613 addresses this problem by providing for an extended order in situations for both PFA and PFS orders, where the respondent commits a person felony against the victim. These extended orders can run for two years up to the life of the respondent. The respondent is guaranteed due process and a right to be heard before such orders are entered. We do have an attached balloon to clarify that the felony must be committed against the plaintiff or the plaintiff's immediate family.

Similarly, if a respondent violates such an order, thus demonstrating that the respondent is going to ignore the court and the deterrent effect of a class A misdemeanor is insufficient, it does little good for the victim to keep getting another such order. In such cases a felony charge and resulting potential prison term is appropriate to either provide the deterrence lacking in a misdemeanor or immobilize a respondent who has demonstrated a desire to break the law regardless of the consequences. If the plaintiff can prove that the respondent has previously violated a PFA or PFS order, the extended order, from two years to the life of the respondent, is available. Additionally HB 2613 makes violation of the extended order a level 5 nonperson felony. Such an order could provide protection and deterrence long after parole or probation orders end.

The only other change is that a PFS could be filed where the victim lives, not just where the stalking occurs. Thank you for your time and consideration.

I would be happy to stand for questions.

House Corrections and Juvenile  
Committee Justice  
2012 Session  
Date 2-6-12  
Attachment # 7-1

HB 2613  
A.G. Balloon Amendment

P. 5, Lines 8-16

*(2) upon verified motion of the plaintiff and after the defendant has had an opportunity to present evidence at a hearing on the motion, if the court determines by a preponderance of the evidence that the defendant has violated a valid protection order or attempted or committed a person felony **against the plaintiff or household member** under the laws of Kansas or the laws of any other jurisdiction which are substantially similar to such person felony, the court shall extend a protective order for no less than two additional years and may extend the protective order up to the lifetime of the defendant. No service fee shall be required for a motion filed pursuant to this subsection.*

P.7, Lines 7-15:

*d) Upon verified motion of the plaintiff and after the defendant has had an opportunity to present evidence at a hearing on the motion, if the court determines by a preponderance of the evidence that the defendant has violated a valid protection order or attempted or committed a person felony **against the plaintiff** under the laws of Kansas or the laws of any other jurisdiction which are substantially similar to such person felony, the court shall extend a protective order for no less than two additional years and up to a period of time not to exceed the lifetime of the defendant. No service fee shall be required for a motion filed pursuant to this subsection.*

*(c) (e) The court may amend its order at any time upon motion*