

February 28, 2022

The Honorable John Barker, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 346-S
Topeka, Kansas 66612

Dear Representative Barker:

SUBJECT: Fiscal Note for HB 2614 by Representative Ballard

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2614 is respectfully submitted to your committee.

HB 2614 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; and a family member to file an action with a district court requesting the court enter a gun violence restraining order. A court may 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 under an order issued 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 2614 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

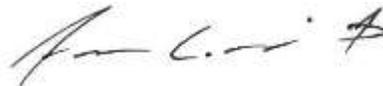
order or gave oral notice of the order would be required to file proof of service or proof of oral notice with the clerk of the court that issued the order. The bill would outline the duties of law enforcement officers and agencies concerning gun violence restraining orders.

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 self 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 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 2614 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. The Office states enactment of the bill could result in the collection of docket fees in those cases filed under the bill's provisions. Any fiscal effect associated with HB 2614 is not reflected in *The FY 2023 Governor's Budget Report*.

The Kansas Association of Counties states enactment of the bill could increase administrative costs for officer training and procedural development necessary to implement the gun violence restraining orders. The Association further states the bill's enactment could decrease emergency responder costs if the orders help prevent gun violence incidents. 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,



Adam Proffitt
Director of the Budget

cc: Vicki Jacobsen, Judiciary
Jay Hall, Association of Counties
Wendi Stark, League of Municipalities
Scott Schultz, Sentencing Commission
Randy Bowman, Corrections
Paul Weisgerber, KBI