

HOUSE BILL No. 2624

By Committee on Judiciary

2-8

1 AN ACT concerning civil actions; relating to the protection from abuse
2 act; protection from stalking, sexual assault or human trafficking act;
3 restraining orders issued pursuant to acts; time limitations; amending
4 K.S.A. 2021 Supp. 60-3107 and 60-31a06 and repealing the existing
5 sections.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2021 Supp. 60-3107 is hereby amended to read as
9 follows: 60-3107. (a) The court may approve any consent agreement to
10 bring about a cessation of abuse of the plaintiff or minor children or grant
11 any of the following orders:

12 (1) Restraining the defendant from abusing, molesting or interfering
13 with the privacy or rights of the plaintiff or of any minor children of the
14 parties. Such order shall contain a statement that if such order is violated,
15 such violation may constitute assault as defined in ~~subsection (a) of~~ K.S.A.
16 2021 Supp. 21-5412(a), and amendments thereto, battery as defined in
17 ~~subsection (a) of~~ K.S.A. 2021 Supp. 21-5413(a), and amendments thereto,
18 domestic battery as defined in K.S.A. 2021 Supp. 21-5414, and
19 amendments thereto, and violation of a protective order as defined in
20 K.S.A. 2021 Supp. 21-5924, and amendments thereto.

21 (2) Granting possession of the residence or household to the plaintiff
22 to the exclusion of the defendant, and further restraining the defendant
23 from entering or remaining upon or in such residence or household,
24 subject to the limitation of subsection (d). Such order shall contain a
25 statement that if such order is violated, such violation shall constitute
26 criminal trespass as defined in ~~subsection (a)(1)(C) of~~ K.S.A. 2021 Supp.
27 21-5808(a)(1)(C), and amendments thereto, and violation of a protective
28 order as defined in K.S.A. 2021 Supp. 21-5924, and amendments thereto.
29 The court may grant an order, which shall expire 60 days following the
30 date of issuance, restraining the defendant from cancelling utility service
31 to the residence or household.

32 (3) Requiring defendant to provide suitable, alternate housing for the
33 plaintiff and any minor children of the parties.

34 (4) Awarding temporary custody and residency and establishing
35 temporary parenting time with regard to minor children.

36 (5) Ordering a law enforcement officer to evict the defendant from

1 the residence or household.

2 (6) Ordering support payments by a party for the support of a party's
3 minor child, if the party is the father or mother of the child, or the plaintiff,
4 if the plaintiff is married to the defendant. Such support orders shall
5 remain in effect until modified or dismissed by the court or until expiration
6 and shall be for a fixed period of time not to exceed one year. On the
7 motion of the plaintiff, the court may extend the effect of such order for 12
8 months.

9 (7) Awarding costs and attorney fees to either party.

10 (8) Making provision for the possession of personal property of the
11 parties and ordering a law enforcement officer to assist in securing
12 possession of that property, if necessary.

13 (9) Requiring any person against whom an order is issued to seek
14 counseling to aid in the cessation of abuse.

15 (10) Ordering or restraining any other acts deemed necessary to
16 promote the safety of the plaintiff or of any minor children of the parties.

17 (b) No protection from abuse order shall be entered against the
18 plaintiff unless:

19 (1) The defendant properly files a written cross or counter petition
20 seeking such a protection order;

21 (2) the plaintiff had reasonable notice of the written cross or counter
22 petition by personal service as provided in ~~subsection (d)~~ of K.S.A. 60-
23 3104(d), and amendments thereto; and

24 (3) the issuing court made specific findings of abuse against both the
25 plaintiff and the defendant and determined that both parties acted primarily
26 as aggressors and neither party acted primarily in self-defense.

27 (c) Any order entered under the protection from abuse act shall not be
28 subject to modification on ex parte application or on motion for temporary
29 orders in any action filed pursuant to K.S.A. 60-1601 et seq., prior to their
30 transfer or repeal, or article 22 or 27 of chapter 23 of the Kansas Statutes
31 Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and
32 amendments thereto. Orders previously issued in an action filed pursuant
33 to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or
34 27 of chapter 23 of the Kansas Statutes Annotated, and amendments
35 thereto, or K.S.A. 38-1101 et seq., and amendments thereto, shall be
36 subject to modification under the protection from abuse act only as to
37 those matters subject to modification by the terms of K.S.A. 2021 Supp.
38 23-3201 through 23-3207 and 23-3218 and article 27 of chapter 23 of the
39 Kansas Statutes Annotated, and amendments thereto, and on sworn
40 testimony to support a showing of good cause. Immediate and present
41 danger of abuse to the plaintiff or minor children shall constitute good
42 cause. If an action is filed pursuant to K.S.A. 2021 Supp. 23-3201 through
43 23-3207 or 23-3218 or article 22 or 27 of chapter 23 of the Kansas Statutes

1 Annotated, and amendments thereto, during the pendency of a proceeding
2 filed under the protection from abuse act or while an order issued under
3 the protection from abuse act is in effect, the court, on final hearing or on
4 agreement of the parties, may issue final orders authorized by K.S.A. 2021
5 Supp. 23-3201 through 23-3207 and 23-3218 and articles 22 and 27 of
6 chapter 23 of the Kansas Statutes Annotated, and amendments thereto, that
7 are inconsistent with orders entered under the protection from abuse act.
8 Any inconsistent order entered pursuant to this subsection shall be specific
9 in its terms, reference the protection from abuse order and parts thereof
10 being modified and a copy thereof shall be filed in both actions. The court
11 shall consider whether the actions should be consolidated in accordance
12 with K.S.A. 60-242, and amendments thereto. Any custody or parenting
13 time order, or order relating to the best interests of a child, issued pursuant
14 to the revised Kansas code for care of children or the revised Kansas
15 juvenile justice code, shall be binding and shall take precedence over any
16 such custody or parenting order involving the same child issued under the
17 protection from abuse act, until jurisdiction under the revised Kansas code
18 for care of children or the revised Kansas juvenile justice code is
19 terminated. Any inconsistent custody or parenting order issued in the
20 revised Kansas code for care of children case or the revised Kansas
21 juvenile justice code case shall be specific in its terms, reference any
22 preexisting protection from abuse order and the custody being modified,
23 and a copy of such order shall be filed in the preexisting protection from
24 abuse case.

25 (d) If the parties to an action under the protection from abuse act are
26 not married to each other and one party owns the residence or household,
27 the court shall not have the authority to grant possession of the residence
28 or household under subsection (a)(2) to the exclusion of the party who
29 owns ~~it~~ *such residence or household*.

30 (e) Subject to the provisions of subsections (b), (c) and (d), a
31 protective order or approved consent agreement shall remain in effect until
32 modified or dismissed by the court and shall be for a fixed period of time
33 ~~not to exceed one year~~ *less than two years and not more than five years*,
34 except as provided in ~~subsection~~ *subsections (e)(1) and (e)(2)*.

35 (1) Upon motion of the plaintiff, such period may be extended for ~~one~~
36 *an additional year period of not less than two years and not more than five*
37 *years*.

38 (2) Upon verified motion of the plaintiff and after the defendant has
39 been personally served with a copy of the motion and has had an
40 opportunity to present evidence and cross-examine witnesses at a hearing
41 on the motion, *the court shall extend a protective order for not less than*
42 *two additional years and may extend the protective order up to the lifetime*
43 *of the defendant* if the court determines by a preponderance of the

1 evidence that the defendant has: (A) Violated a valid protection order or
2 ~~(A) has~~; (B) previously violated a valid protection order; or ~~(B) has~~ (C)
3 been convicted of a person felony or any conspiracy, criminal solicitation
4 or attempt thereof, under the laws of Kansas or the laws of any other
5 jurisdiction which are substantially similar to such person felony,
6 committed against the plaintiff or any member of the plaintiff's household;
7 ~~the court shall extend a protective order for not less than two additional~~
8 ~~years and may extend the protective order up to the lifetime of the~~
9 ~~defendant.~~ No service fee shall be required for a motion filed pursuant to
10 this ~~subsection~~ *paragraph*.

11 (f) The court may amend its order or agreement at any time upon
12 motion filed by either party.

13 (g) No order or agreement under the protection from abuse act shall
14 in any manner affect title to any real property.

15 (h) If a person enters or remains on premises or property violating an
16 order issued pursuant to subsection (a)(2), such violation shall constitute
17 criminal trespass as defined in ~~subsection (a)(1)(C) of K.S.A. 2021 Supp.~~
18 ~~21-5808(a)(1)(C)~~, and amendments thereto, and violation of a protective
19 order as defined in K.S.A. 2021 Supp. 21-5924, and amendments thereto.
20 If a person abuses, molests or interferes with the privacy or rights of
21 another violating an order issued pursuant to subsection (a)(1), such
22 violation may constitute assault as defined in ~~subsection (a) of K.S.A.~~
23 ~~2021 Supp. 21-5412(a)~~, and amendments thereto, battery as defined in
24 ~~subsection (a) of K.S.A. 2021 Supp. 21-5413(a)~~, and amendments thereto,
25 domestic battery as defined in K.S.A. 2021 Supp. 21-5414, and
26 amendments thereto, and violation of a protective order as defined in
27 K.S.A. 2021 Supp. 21-5924, and amendments thereto.

28 Sec. 2. K.S.A. 2021 Supp. 60-31a06 is hereby amended to read as
29 follows: 60-31a06. (a) The court may issue a protection from stalking,
30 sexual assault or human trafficking order granting any one or more of the
31 following orders:

32 (1) Restraining the defendant from following, harassing, telephoning,
33 contacting or otherwise communicating with the victim. The order shall
34 contain a statement that, if the order is violated, the violation may
35 constitute stalking as defined in K.S.A. 2021 Supp. 21-5427, and
36 amendments thereto, and violation of a protective order as defined in
37 K.S.A. 2021 Supp. 21-5924, and amendments thereto.

38 (2) Restraining the defendant from abusing, molesting or interfering
39 with the privacy rights of the victim. The order shall contain a statement
40 that, if the order is violated, the violation may constitute stalking as
41 defined in K.S.A. 2021 Supp. 21-5427, and amendments thereto, assault as
42 defined in K.S.A. 2021 Supp. 21-5412(a), and amendments thereto, battery
43 as defined in K.S.A. 2021 Supp. 21-5413(a), and amendments thereto, and

1 violation of a protective order as defined in K.S.A. 2021 Supp. 21-5924,
2 and amendments thereto.

3 (3) Restraining the defendant from entering upon or in the victim's
4 residence or the immediate vicinity thereof. The order shall contain a
5 statement that, if the order is violated, the violation shall constitute
6 criminal trespass as defined in K.S.A. 2021 Supp. 21-5808(a)(1)(C), and
7 amendments thereto, and violation of a protective order as defined in
8 K.S.A. 2021 Supp. 21-5924, and amendments thereto.

9 (4) Restraining the defendant from committing or attempting to
10 commit a sexual assault upon the victim. The order shall contain a
11 statement that, if the order is violated, the violation shall constitute
12 violation of a protective order as defined in K.S.A. 2021 Supp. 21-5924,
13 and amendments thereto. The order shall also contain a statement that, if
14 the order is violated, the violation may constitute a sex offense under
15 article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments
16 thereto, and the accused may be prosecuted, convicted of and punished for
17 such sex offense.

18 (5) Restraining the defendant from following, harassing, telephoning,
19 contacting, recruiting, harboring, transporting, or committing or attempting
20 to commit human trafficking upon the human trafficking victim, or
21 otherwise communicating with the human trafficking victim. The order
22 shall contain a statement that, if the order is violated, the violation shall
23 constitute violation of a protective order as defined in K.S.A. 2021 Supp.
24 21-5924, and amendments thereto. The order shall also contain a statement
25 that, if the order is violated, the violation may constitute an offense under
26 chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and
27 the accused may be prosecuted, convicted of and punished for such
28 offense.

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

31 (b) A protection from stalking, sexual-~~abuse~~ *assault* or human
32 trafficking order shall remain in effect until modified or dismissed by the
33 court and shall be for a fixed period of time not to exceed ~~one year~~ *less*
34 *than two years and not more than five years*, except as provided in
35 subsections (c) and (d).

36 (c) Upon motion of the plaintiff the court may extend the order for an
37 additional-~~year~~ *period of not less than two years and not more than five*
38 *years*.

39 (d) (1) Upon verified motion of the plaintiff and after the defendant
40 has been personally served with a copy of the motion and has had an
41 opportunity to present evidence and cross-examine witnesses at a hearing
42 on the motion, the court shall extend a protective order for not less than
43 two additional years and up to a period of time not to exceed the lifetime

1 of the defendant; if the court determines by a preponderance of the
2 evidence that the defendant has:

- 3 ~~(A)~~(A) Violated a valid protection order;
- 4 ~~(B)~~(B) previously violated a valid protection order; or
- 5 ~~(C)~~(C) been convicted of a person felony or any conspiracy, criminal
6 solicitation or attempt thereof, under the laws of Kansas or the laws of any
7 other jurisdiction which are substantially similar to such person felony,
8 committed against the plaintiff or any member of the plaintiff's household.

9 (2) No service fee shall be required for a motion filed pursuant to this
10 subsection.

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

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

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

- 21 (1) Contact between the attorneys representing the parties;
- 22 (2) a party from appearing at a scheduled court or administrative
23 hearing; or
- 24 (3) a defendant or defendant's attorney from sending the plaintiff
25 copies of any legal pleadings filed in court relating to civil or criminal
26 matters presently relevant to the plaintiff.

27 Sec. 3. K.S.A. 2021 Supp. 60-3107 and 60-31a06 are hereby
28 repealed.

29 Sec. 4. This act shall take effect and be in force from and after its
30 publication in the statute book.