

HOUSE BILL No. 2185

By Committee on Judiciary

1-26

1 AN ACT concerning certain protection orders; relating to the protection
2 from abuse act and the protection from stalking, sexual assault or
3 human trafficking act; permitting short form notification service and
4 alternative methods of service; clarifying precedence of child-related
5 orders issued under the protection from abuse act; amending K.S.A.
6 2022 Supp. 60-3104, 60-3107 and 60-31a04 and repealing the existing
7 sections.
8

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

10 New Section 1. (a) A law enforcement officer may personally serve a
11 defendant with a short form notification as provided in this section.

12 (b) Upon verification of the identity of the defendant and knowledge
13 of the existence of an unserved order against the defendant, a law
14 enforcement officer may detain the defendant for a reasonable time
15 necessary to complete and serve the short form notification.

16 (c) (1) The short form notification shall include the following:

17 (A) The defendant's name;

18 (B) the defendant's date of birth, if known;

19 (C) the plaintiff's name;

20 (D) the name of each person protected under the order;

21 (E) the date and county where the order was filed;

22 (F) the court case number;

23 (G) the hearing date and time, if known;

24 (H) a notice that there are restrictions that apply to the defendant,
25 including no contact with any person protected under the order; and

26 (I) an affidavit of service completed by the serving person.

27 (2) The short form notification shall be given to the defendant and
28 shall contain the following notice in bold type:

29 "The order is now enforceable. You must contact the office of the
30 sheriff or the office of the district court in (name of county) County to
31 obtain a copy of the order. You are subject to arrest and may be charged
32 with a misdemeanor or felony if you violate any of the terms of the order."

33 (3) The law enforcement officer serving the notification shall read the
34 notice in paragraph (2) out loud to the defendant.

35 (d) When the short form notification process is complete, the law
36 enforcement officer serving the notification shall file a copy of the

1 notification with the clerk of the district court. The return of service shall
2 be filed promptly. The filing shall indicate the date and time the
3 notification was served on the person, including a certification that the
4 notice in subsection (c)(2) was read out loud to the defendant.

5 (e) The attorney general shall create the short form notification form
6 described in this section and make such form available to law enforcement
7 agencies in Kansas.

8 (f) For the purposes of this section, law enforcement officer means
9 the same as defined in K.S.A. 2022 Supp. 21-5111, and amendments
10 thereto.

11 (g) This section shall be a part of and supplemental to the protection
12 from abuse act.

13 New Sec. 2. (a) A law enforcement officer may personally serve a
14 defendant with a short form notification as provided in this section.

15 (b) Upon verification of the identity of the defendant and knowledge
16 of the existence of an unserved order against the defendant, a law
17 enforcement officer may detain the defendant for a reasonable time
18 necessary to complete and serve the short form notification.

19 (c) (1) The short form notification shall include the following:

20 (A) The defendant's name;

21 (B) the defendant's date of birth, if known;

22 (C) the plaintiff's name;

23 (D) the name of each person protected under the order;

24 (E) the date and county where the order was filed;

25 (F) the court case number;

26 (G) the hearing date and time, if known;

27 (H) a notice that there are restrictions that apply to the defendant,
28 including no contact with any person protected under the order; and

29 (I) an affidavit of service completed by the serving person.

30 (2) The short form notification shall be given to the defendant and
31 shall contain the following notice in bold type:

32 "The order is now enforceable. You must contact the office of the
33 sheriff or the office of the district court in (name of county) County to
34 obtain a copy of the order. You are subject to arrest and may be charged
35 with a misdemeanor or felony if you violate any of the terms of the order."

36 (3) The law enforcement officer serving the notification shall read the
37 notice in paragraph (2) out loud to the defendant.

38 (d) When the short form notification process is complete, the law
39 enforcement officer serving the notification shall file a copy of the
40 notification with the clerk of the district court. The return of service shall
41 be filed promptly. The filing shall indicate the date and time the
42 notification was served on the person, including a certification that the
43 notice in subsection (c)(2) was read out loud to the defendant.

1 (e) The attorney general shall create the short form notification form
2 described in this section and make such form available to law enforcement
3 agencies in Kansas.

4 (f) For the purposes of this section, law enforcement officer means
5 the same as defined in K.S.A. 2022 Supp. 21-5111, and amendments
6 thereto.

7 (g) This section shall be a part of and supplemental to the protection
8 from stalking, sexual assault or human trafficking act.

9 Sec. 3. K.S.A. 2022 Supp. 60-3104 is hereby amended to read as
10 follows: 60-3104. (a) An intimate partner or household member may seek
11 relief under the protection from abuse act by filing a verified petition with
12 any judge of the district court or with the clerk of the court alleging abuse
13 by another intimate partner or household member.

14 (b) The following persons may seek relief under the protection from
15 abuse act on behalf of a minor child by filing a verified petition with any
16 judge of the district court or with the clerk of the court alleging abuse by
17 another intimate partner or household member:

- 18 (1) A parent of the minor child;
- 19 (2) an adult residing with the minor child; or
- 20 (3) the child's court-appointed legal custodian or court-appointed
21 legal guardian.

22 (c) The clerk of the court shall supply the forms for the petition and
23 orders, which shall be prescribed by the judicial council.

24 (d) (1) (A) Service of process ~~serve~~ under this section shall be by
25 personal service *pursuant to article 3 of chapter 60 of the Kansas Statutes*
26 *Annotated, and amendments thereto*, and not by certified mail return
27 receipt requested. *Personal service may be made through short form*
28 *notification by a law enforcement officer under section 1, and amendments*
29 *thereto.*

30 (B) *If personal service cannot be made on an individual, service is*
31 *effected by leaving a copy of the summons and petition or other document*
32 *at the individual's dwelling or usual place of abode and mailing to the*
33 *individual by first-class mail, postage prepaid, a notice that the copy has*
34 *been left at the individual's dwelling or usual place of abode.*

35 (2) *If the court determines that after diligent effort the plaintiff has*
36 *been unable to serve the defendant under paragraph (1), the court may*
37 *order that notice may be given in a manner reasonably calculated to give*
38 *actual notice, including electronic means, and may be by publication if*
39 *other means are not effective.*

40 (3) *Service of minors and disabled persons as defined in K.S.A. 77-*
41 *201, and amendments thereto, shall be in accordance with K.S.A. 60-304,*
42 *and amendments thereto, or as ordered by the court.*

43 (4) No docket fee shall be required for proceedings under the

1 protection from abuse act.

2 (e) If the court finds that the plaintiff's address or telephone number,
3 or both, needs to remain confidential for the protection of the plaintiff,
4 plaintiff's minor children or minor children residing with the plaintiff, such
5 information shall not be disclosed to the public, but only to authorized
6 court or law enforcement personnel and to the commission on judicial
7 performance in the discharge of the commission's duties pursuant to article
8 32 of chapter 20 of the Kansas Statutes Annotated, and amendments
9 thereto.

10 Sec. 4. K.S.A. 2022 Supp. 60-3107 is hereby amended to read as
11 follows: 60-3107. (a) The court may approve any consent agreement to
12 bring about a cessation of abuse of the plaintiff or minor children or grant
13 any of the following orders:

14 (1) Restraining the defendant from abusing, molesting or interfering
15 with the privacy or rights of the plaintiff or of any minor children of the
16 parties. Such order shall contain a statement that if such order is violated,
17 such violation may constitute assault as defined in ~~subsection (a) of~~ K.S.A.
18 2022 Supp. 21-5412(a), and amendments thereto, battery as defined in
19 ~~subsection (a) of~~ K.S.A. 2022 Supp. 21-5413(a), and amendments thereto,
20 domestic battery as defined in K.S.A. 2022 Supp. 21-5414, and
21 amendments thereto, and violation of a protective order as defined in
22 K.S.A. 2022 Supp. 21-5924, and amendments thereto.

23 (2) Granting possession of the residence or household to the plaintiff
24 to the exclusion of the defendant, and further restraining the defendant
25 from entering or remaining upon or in such residence or household,
26 subject to the limitation of subsection (d). Such order shall contain a
27 statement that if such order is violated, such violation shall constitute
28 criminal trespass as defined in ~~subsection (a)(1)(C) of~~ K.S.A. 2022 Supp.
29 21-5808(a)(1)(C), and amendments thereto, and violation of a protective
30 order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto.
31 The court may grant an order, which shall expire 60 days following the
32 date of issuance, restraining the defendant from cancelling utility service
33 to the residence or household.

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

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

38 (5) Ordering a law enforcement officer to evict the defendant from
39 the residence or household.

40 (6) Ordering support payments by a party for the support of a party's
41 minor child, if the party is the father or mother of the child, or the plaintiff,
42 if the plaintiff is married to the defendant. Such support orders shall
43 remain in effect until modified or dismissed by the court or until expiration

1 and shall be for a fixed period of time not to exceed one year. On the
2 motion of the plaintiff, the court may extend the effect of such order for 12
3 months.

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

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

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

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

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

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

16 (2) the plaintiff had reasonable notice of the written cross or counter
17 petition by personal service as provided in ~~subsection (d) of K.S.A. 60-~~
18 ~~3104(d)~~, and amendments thereto; and

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

22 (c) *(1)* Any order entered under the protection from abuse act shall
23 not be ~~subject to modification on ex parte application or on motion for~~
24 ~~temporary orders in any action filed pursuant to K.S.A. 60-1601 et seq.,~~
25 ~~prior to their transfer or repeal, or article 22 or 27 of chapter 23 of the~~
26 ~~Kansas Statutes Annotated, and amendments thereto, or K.S.A. 38-1101 et~~
27 ~~seq., and amendments thereto. Orders previously issued in an action filed~~
28 ~~pursuant to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or~~
29 ~~article 22 or 27 of chapter 23 of the Kansas Statutes Annotated, and~~
30 ~~amendments thereto, or K.S.A. 38-1101 et seq., and amendments thereto,~~
31 ~~shall be subject to modification under the protection from abuse act only~~
32 ~~as to those matters subject to modification by the terms of K.S.A. 2022~~
33 ~~Supp. 23-3201 through 23-3207 and 23-3218 and article 27 of chapter 23~~
34 ~~of the Kansas Statutes Annotated, and amendments thereto, and on sworn~~
35 ~~testimony to support a showing of good cause. Immediate and present~~
36 ~~danger of abuse to the plaintiff or minor children shall constitute good~~
37 ~~cause. If an action is filed pursuant to K.S.A. 2022 Supp. 23-3201 through~~
38 ~~23-3207 or 23-3218 or article 22 or 27 of chapter 23 of the Kansas Statutes~~
39 ~~Annotated, and amendments thereto, during the pendency of a proceeding~~
40 ~~filed under the protection from abuse act or while an order issued under~~
41 ~~the protection from abuse act is in effect, the court, on final hearing or on~~
42 ~~agreement of the parties, may issue final orders authorized by K.S.A. 2022~~
43 ~~Supp. 23-3201 through 23-3207 and 23-3218 and articles 22 and 27 of~~

1 ~~chapter 23 of the Kansas Statutes Annotated, and amendments thereto, that~~
2 ~~are inconsistent with orders entered under the protection from abuse act~~
3 ~~modified by a subsequent ex parte or temporary order issued in any~~
4 ~~action, except as provided in paragraph (4).~~

5 (2) (A) *Any order entered under the protection from abuse act may be*
6 *modified by a subsequent final order pursuant to a hearing or an*
7 *agreement of the parties issued in any action, except as provided in*
8 *paragraph (4).*

9 (B) *Any inconsistent order entered pursuant to this subsection shall*
10 *be specific in its terms; and reference the protection from abuse order and*
11 *parts thereof of the order being modified and. A copy thereof of the order*
12 *shall be filed in both actions.*

13 (C) *The court shall consider whether the actions should be*
14 *consolidated in accordance with K.S.A. 60-242, and amendments thereto.*

15 (3) (A) *On sworn testimony to support a showing of good cause and*
16 *as authorized by K.S.A. 23-3201 through 23-3207 and 23-3218, and*
17 *amendments thereto, orders issued under the protection from abuse act*
18 *may modify orders regarding legal custody, residency and parenting time*
19 *previously issued in an action for:*

20 (i) *The determination of parentage filed pursuant to article 22 of*
21 *chapter 23 of the Kansas Statutes Annotated, and amendments thereto, or*
22 *K.S.A. 38-1101 et seq., prior to their transfer or repeal; or*

23 (ii) *divorce, separate maintenance or annulment filed pursuant to*
24 *article 27 of chapter 23 of the Kansas Statutes Annotated, and*
25 *amendments thereto, or K.S.A. 60-1601 et seq., prior to their transfer or*
26 *repeal.*

27 (B) *On sworn testimony to support a showing of good cause, orders*
28 *issued under the protection from abuse act may modify interlocutory*
29 *orders issued pursuant to K.S.A. 23-2707, and amendments thereto.*

30 (C) *For purposes of this paragraph, immediate and present danger of*
31 *abuse to the plaintiff or minor children shall constitute good cause.*

32 (4) (A) *Any legal custody or parenting time order, or order relating to*
33 *the best interests of a child, issued pursuant to the revised Kansas code for*
34 *care of children or the revised Kansas juvenile justice code, shall be*
35 *binding and shall take precedence over any such custody or parenting*
36 *order involving the same child issued under the protection from abuse act,*
37 *until jurisdiction under the revised Kansas code for care of children or the*
38 *revised Kansas juvenile justice code is terminated.*

39 (B) *Any inconsistent legal custody or parenting order issued in the*
40 *revised Kansas code for care of children case or the revised Kansas*
41 *juvenile justice code case shall be specific in its terms, reference any*
42 *preexisting protection from abuse order and the custody being modified,*
43 *and a copy of such order shall be filed in the preexisting protection from*

1 abuse case.

2 (d) If the parties to an action under the protection from abuse act are
3 not married to each other and one party owns the residence or household,
4 the court shall not have the authority to grant possession of the residence
5 or household under subsection (a)(2) to the exclusion of the party who
6 owns it.

7 (e) Subject to the provisions of subsections (b), (c) and (d), a
8 protective order or approved consent agreement shall remain in effect until
9 modified or dismissed by the court and shall be for a fixed period of time
10 not to exceed one year, except as provided in ~~subsection (e)(1) and (e)(2)~~
11 *paragraphs (1) and (2)*.

12 (1) Upon motion of the plaintiff, such period may be extended for one
13 additional year.

14 (2) Upon verified motion of the plaintiff and after the defendant has
15 been personally served with a copy of the motion and has had an
16 opportunity to present evidence and cross-examine witnesses at a hearing
17 on the motion, if the court determines by a preponderance of the evidence
18 that the defendant has violated a valid protection order or (A) has
19 previously violated a valid protection order, or (B) has been convicted of a
20 person felony or any conspiracy, criminal solicitation or attempt thereof,
21 under the laws of Kansas or the laws of any other jurisdiction which are
22 substantially similar to such person felony, committed against the plaintiff
23 or any member of the plaintiff's household, the court shall extend a
24 protective order for not less than two additional years and may extend the
25 protective order up to the lifetime of the defendant. No service fee shall be
26 required for a motion filed pursuant to this subsection.

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

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

31 (h) If a person enters or remains on premises or property violating an
32 order issued pursuant to subsection (a)(2), such violation shall constitute
33 criminal trespass as defined in ~~subsection (a)(1)(C)~~ of K.S.A. 2022 Supp.
34 21-5808(a)(1)(C), and amendments thereto, and violation of a protective
35 order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto.
36 If a person abuses, molests or interferes with the privacy or rights of
37 another violating an order issued pursuant to subsection (a)(1), such
38 violation may constitute assault as defined in ~~subsection (a)~~ of K.S.A.
39 2022 Supp. 21-5412(a), and amendments thereto, battery as defined in
40 ~~subsection (a)~~ of K.S.A. 2022 Supp. 21-5413(a), and amendments thereto,
41 domestic battery as defined in K.S.A. 2022 Supp. 21-5414, and
42 amendments thereto, and violation of a protective order as defined in
43 K.S.A. 2022 Supp. 21-5924, and amendments thereto.

1 Sec. 5. K.S.A. 2022 Supp. 60-31a04 is hereby amended to read as
2 follows: 60-31a04. (a) A person may seek relief under the protection from
3 stalking, sexual assault or human trafficking act by filing a verified
4 petition with any judge of the district court or clerk of the court. A verified
5 petition must allege facts sufficient to show the following:

6 (1) The name of the stalking victim, sexual assault victim or human
7 trafficking victim;

8 (2) the name of the defendant;

9 (3) the dates on which the alleged stalking, sexual assault or human
10 trafficking behavior occurred; and

11 (4) the acts committed by the defendant that are alleged to constitute
12 stalking, sexual assault or human trafficking.

13 (b) The following persons may seek relief under the protection from
14 stalking, sexual assault or human trafficking act on behalf of a minor child
15 by filing a verified petition with the judge of the district court or with the
16 clerk of the court in the county where the stalking, sexual assault or human
17 trafficking occurred:

18 (1) A parent of the minor child;

19 (2) an adult residing with the minor child; or

20 (3) the child's court-appointed legal custodian or court-appointed
21 legal guardian.

22 (c) The following persons may seek relief for a minor child who is
23 alleged to be a human trafficking victim under the protection from
24 stalking, sexual assault or human trafficking act on behalf of the minor
25 child by filing a verified petition with any district judge or with the clerk
26 of the court alleging acts committed by an individual that are alleged to
27 constitute human trafficking:

28 (1) A parent of the minor child;

29 (2) an adult residing with the minor child;

30 (3) the child's court-appointed legal custodian or court-appointed
31 legal guardian;

32 (4) a county or district attorney; or

33 (5) the attorney general.

34 (d) The clerk of the court shall supply the forms for the petition and
35 orders, which shall be prescribed by the judicial council.

36 (e) (1) (A) Service of process served under this section shall be by
37 personal service *pursuant to article 3 of chapter 60 of the Kansas Statutes*
38 *Annotated, and amendments thereto, and not by certified mail return*
39 *receipt requested. Personal service may be made through short form*
40 *notification by a law enforcement officer under section 2, and amendments*
41 *thereto.*

42 (B) *If personal service cannot be made on an individual, service is*
43 *effected by leaving a copy of the summons and petition or other document*

1 *at the individual's dwelling or usual place of abode and mailing to the*
2 *individual by first-class mail, postage prepaid, a notice that the copy has*
3 *been left at the individual's dwelling or usual place of abode.*

4 (2) *If the court determines that after diligent effort the plaintiff has*
5 *been unable to serve the defendant under paragraph (1), the court may*
6 *order that notice may be given in a manner reasonably calculated to give*
7 *actual notice, including electronic means, and may be by publication if*
8 *other means are not effective.*

9 (3) *Service of minors and disabled persons as defined in K.S.A. 77-*
10 *201, and amendments thereto, shall be in accordance with K.S.A. 60-304,*
11 *and amendments thereto, or as ordered by the court.*

12 (4) No docket fee shall be required for proceedings under the
13 protection from stalking, sexual assault or human trafficking act.

14 (f) The victim's address and telephone number shall not be disclosed
15 to the defendant or to the public, but only to authorized court or law
16 enforcement personnel and to the commission on judicial performance in
17 the discharge of the commission's duties pursuant to article 32 of chapter
18 20 of the Kansas Statutes Annotated, and amendments thereto.

19 Sec. 6. K.S.A. 2022 Supp. 60-3104, 60-3107 and 60-31a04 are
20 hereby repealed.

21 Sec. 7. This act shall take effect and be in force from and after its
22 publication in the statute book.