

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson Michael O'Neal at 3:30 p.m. On February 8, 2001 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes Office
Cindy O'Neal, Committee Secretary

HB 2077 - Protection from Abuse orders entered into NCIC file

The committee received a balloon amendment from the subcommittee which took out stalking and redefine abuse and added & defined "dating relationship". (Attachment 1)

Representative Long made the motion to adopt the subcommittee balloon. Representative Pauls seconded the motion. The motion carried. DiVita asked to be recorded as voting no. She believes that people should be able to file PFA orders when they are being stalked.

Representative DiVita made the motion to add the stalking language back in. Representative Patterson seconded the motion. The motion failed.

Representative Williams made the motion to report the **Substitute Bill for HB 2077** favorably for passage. Representative Ruff seconded the motion. The motion carried.

HB 2175 - promoting a limited action case to a chapter 60 judgement

Representative Loyd made the motion to report **HB 2175** favorably for passage. Representative Patterson seconded the motion.

Representative Loyd made the substitute motion to delete section one and add language to the effect that no judgement can be filed in another county until it has been certified in the original county. Representative Patterson seconded the motion. The motion carried.

Representative Loyd made the motion to report **HB 2175** favorably for passage as amended. Representative Long seconded the motion. The motion carried.

HB 2136 - criminal history classification for involuntary manslaughter while DUI

Representative Long made the motion to report **HB 2136** favorably for passage. Representative Ruff seconded the motion.

Representative Pauls made the substitute motion to have DUI convictions decay if another DUI has not been received within ten years of the date of the event and the most recent conviction. Representative Rehorn seconded the motion. The motion carried.

Representative Loyd made the motion to report **HB 2136** favorably for passage as amended. Representative Morrison seconded the motion. The motion carried.

HB 2174 - appointment of the Chief Clerk & Clerk of the District Court by the Chief Judge

Representative Rehorn made the motion to report **HB 2174** favorably for passage. Representative Long seconded the motion.

Representative Rehorn made the substitute motion to restore the original language and strike on lines 16,18 & 32 the word "other". Representative Shriver seconded the motion. The motion carried.

Representative Rehorn made the motion to report **HB 2174** favorably for passage as amended. Representative Williams seconded the motion. The motion carried.

HB 2173 - expungement of arrest records

Representative Pauls made the motion to report **HB 2173** favorably for passage. Representative Klein seconded the motion.

Representative Newton made a substitute motion to add directive language in the bill. Representative Pauls seconded the motion. The motion carried.

Representative Pauls made the motion to report **HB 2173** favorably for passage as amended. Representative Crow seconded the motion. The motion carried.

HB 2076 - search incident to lawful arrest

Representative Newton made the motion to report **HB 2076** favorably for passage. Representative DiVita seconded the motion.

Some committee members that with the passage of the bill it would have a lot of constitutional ramifications. Representative Klein made the substitute motion to table the bill. Representative Ruff seconded the motion. The motion carried.

The committee meeting adjourned at 5:00p.m. The next meeting is scheduled for February 12, 2001.

HOUSE BILL No. 2077

By Committee on Judiciary

1-19

AN ACT concerning protection from abuse orders; amending K.S.A. 60-3108 and K.S.A. 2000 Supp. 60-3102 and 60-3104 and repealing the existing sections.

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

New Section 1. (a) All emergency protection from abuse orders, temporary protection from abuse orders, protection from abuse orders, orders amending an existing protective order, other orders issued pursuant to article 31 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, or orders issued based on the laws of another jurisdiction which are entitled to full faith and credit in Kansas pursuant to the provisions of 18 U.S.C. 2265, and amendments thereto, shall be entered into the national criminal information center protection order file. A copy of these orders shall be delivered by the clerk of the court to the sheriff of the county where the order is issued or registered. The sheriff's office shall immediately enter the order into the national criminal information center and other appropriate databases. If the order is a foreign protective order, the sheriff's office shall verify with the issuing jurisdiction that the order is currently in effect prior to entering it into the databases. Any modification of an order shall be forwarded immediately by the clerk of the court to the sheriff's office with jurisdiction to enforce the modified order. The sheriff's office and the court shall ensure the validity and accuracy of the entries of the orders.

(b) All orders which have been entered into the national criminal information center protection order file shall be cleared as an active record from the computer system when:

- (1) The order expires according to the terms of such order;
- (2) a Kansas court notifies the law enforcement agency which has jurisdiction over the entry of the order that such order has been dismissed; or
- (3) a foreign protective order has been invalidated by either a Kansas court or a foreign court with jurisdiction over such order.

(c) This section shall be part of and supplemental to the protection from abuse act.

Sec. 2. K.S.A. 2000 Supp. 60-3102 is hereby amended to read as

after all mandatory identifiers are available.

verify with the issuing jurisdiction that the order is currently in effect prior to entering it into the databases. contact the issuing jurisdiction to verify the order and request that such jurisdiction enter the order into the national criminal information center and other appropriate databases.

1 follows: 60-3102. As used in this act, "abuse" means:

2 (a) The occurrence of one or more of the following acts between
3 persons who reside together, who formerly resided together or who have
4 or has had a child in common:

5 ~~(a)~~ (1) Intentionally attempting to cause bodily injury, or intentionally
6 or recklessly causing bodily injury.

7 ~~(b)~~ (2) Intentionally placing, by physical threat, another in fear of
8 imminent bodily injury.

9 ~~(c)~~ (3) Engaging in any of the following acts with a minor under 16
10 years of age who is not the spouse of the offender:

11 ~~(1)~~ (A) The act of sexual intercourse; or

12 ~~(2)~~ (B) any lewd fondling or touching of the person of either the
13 minor or the offender, done or submitted to with the intent to arouse or
14 to satisfy the sexual desires of either the minor or the offender, or both.

15 (b) Any act constituting the crime of stalking, as defined in K.S.A. 21-
16 3438, and amendments thereto.

17 Sec. 3. K.S.A. 2000 Supp. 60-3104 is hereby amended to read as
18 follows: 60-3104. (a) A person may seek relief under the protection from
19 abuse act by filing a verified petition with any district judge or with the
20 clerk of the court alleging abuse by another with whom the person resides,
21 formerly resided or has or has had a child in common.

22 (b) A parent of or an adult residing with a minor child may seek relief
23 under the protection from abuse act on behalf of the minor child by filing
24 a verified petition with any district judge or with the clerk of the court
25 alleging abuse, as defined by K.S.A. 60-3102, and amendments thereto,
26 by another with whom the child resides, formerly resided or has or has
27 had a child in common.

28 (c) The clerk of the court shall supply the forms for the petition and
29 orders, which shall be prescribed by the supreme court.

30 (d) Service of process served under this section shall be by personal
31 service and not by certified mail return receipt requested. No docket fee
32 shall be required for proceedings under the protection from abuse act.

33 (e) If the court finds that the plaintiff's address or telephone number,
34 or both, needs to remain confidential for the protection of the plaintiff,
35 plaintiff's minor children or minor children residing with the plaintiff,
36 such information shall not be disclosed to the public, but only to author-
37 ized court or law enforcement personnel.

38 Sec. 4. K.S.A. 60-3108 is hereby amended to read as follows: 60-
39 3108. A copy of any order under this act shall be issued to the plaintiff,
40 the defendant and the police department of the city where the plaintiff
41 resides. If the plaintiff does not reside in a city or resides in a city with
42 no police department, a copy of the order shall be issued to the sheriff
43 of the county where the plaintiff resides order is issued or registered.

"abuse" means the following definitions apply:

~~(a) The occurrence of one or more of the following acts between persons who reside together, who formerly resided together or who have or has had a child in common:~~

(a) "Abuse" means the occurrence of one or more of the following acts between intimate partners or household members:

~~(b) Any act constituting the crime of stalking, as defined in K.S.A. 21-3438, and amendments thereto:~~

(b) "Intimate partners or household members" mean persons who are or have been in a dating relationship, persons who reside together or who have formerly resided together, or persons who have had a child in common.

(c) "Dating relationship" means a social relationship of a romantic nature consisting of one or more dates. A dating relationship shall be presumed if a plaintiff verifies, pursuant to K.S.A. 53-601 and amendments thereto, that such relationship exists. Factors that a court may consider in making a determination of whether a relationship exists or existed include:

- (1) The nature of the relationship;
- (2) The length of time the relationship has existed;
- (3) The frequency of interaction between the parties; and
- (4) The time since termination of the relationship, if applicable.

(a) A person
An intimate partner or household member

~~with whom the person resides, formerly resided or has had a child in common.~~
intimate partner or household member.

(b) intimate partner or household member.

police department of the city where the plaintiff resides. If the plaintiff does not reside in a city or resides in a city with no police department, a copy of the order shall be issued to the

1 Sec. 5. K.S.A. 60-3108 and K.S.A. 2000 Supp. 60-3102 and 60-3104
2 are hereby repealed.

3 Sec. 6. This act shall take effect and be in force from and after its
4 publication in the statute book.

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