

KANSAS OFFICE *of*
REVISOR *of* STATUTES

LEGISLATURE *of* THE STATE *of* KANSAS
Legislative Attorneys transforming ideas into legislation.

300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: February 13, 2023
Subject: Bill Brief for SB 217

Senate Bill 217 includes the conduct of utilizing any electronic tracking system or acquiring tracking information to determine the targeted person’s location, movement or travel patterns in the crime of stalking when done as part of an unlawful course of conduct and authorizing orders to prohibit such conduct under the Kansas family law code, the revised Kansas code for care of children, the protection from abuse act and the protection from stalking, sexual assault or human trafficking act.

Section 1 amends K.S.A. 21-5427, the criminal code statute for the crime of stalking. Current law makes it unlawful for a person to recklessly engage in a course of conduct targeted at a specific person which would cause a reasonable person in the circumstances of the targeted person to fear for such person’s safety, or the safety of a member of such person’s immediate family or to engage in a course of conduct targeted at a specific person with knowledge that the course of conduct will place the targeted person in fear for such person’s safety or the safety of a member of such person’s immediate family. “Course of conduct” means two or more acts over a period of time, however short, which evidence a continuity of purpose. The definition lists several examples of acts that meet the definition. The bill adds “utilizing any electronic tracking system or acquiring tracking information to determine the targeted person’s location, movement or travel patterns” to the list of acts.

Section 2 amends K.S.A. 23-2707, the Kansas family law code statute concerning permissible orders. Current law provides that after the filing of a petition for divorce, annulment or separate maintenance, and during the pendency of the action until the entry of final judgment, the judge assigned to hear the action may make certain orders. Under subsection (a)(1), the court may jointly restrain the parties with regard to disposition of the property of the parties and provide

for the use, occupancy, management and control of that property. The bill adds that such order may include utilizing any electronic tracking system or acquiring tracking information to determine the other person's location, movement or travel patterns.

Sections 3, 4, and 5 amend statutes in the revised Kansas code for care of children. Section 3 amends K.S.A. 38-2243, the statute concerning temporary custody orders, Section 4 amends K.S.A. 38-2244, the statute concerning informal supervision, and Section 5 amends K.S.A. 38-2255, the statute concerning authorized dispositions and custody of a child. Current law in each of these sections provides that the court may enter an order restraining any alleged perpetrator of physical, sexual, mental or emotional abuse of the child from: Residing in the child's home; visiting, contacting, harassing or intimidating the child; or attempting to visit, contact, harass or intimidate the child, other family members or witnesses. The bill adds a new subsection in each section to provide that "harassing or intimidating" and "harass or intimidate" includes, but is not limited to, utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement or travel patterns.

Section 6 amends K.S.A. 60-3107, concerning orders issued under the protection from abuse act. Current law in subsection (a)(1) authorizes the court to grant an order restraining the defendant from abusing, molesting or interfering with the privacy or rights of the plaintiff or of any minor children of the parties. The bill adds that such order may include utilizing any electronic tracking system or acquiring tracking information to determine the other person's location, movement or travel patterns.

Section 7 amends K.S.A. 60-31a06, concerning orders issued under the protection from stalking, sexual assault or human trafficking act. Current law in subsection (a) authorizes the court to grant orders restraining the defendant from following, harassing, telephoning, contacting or otherwise communicating with the victim and restraining the defendant from abusing, molesting or interfering with the privacy or rights of the victim. The bill adds a new subsection (h) to provide that "harassing" or "interfering with the privacy" includes, but is not limited to, utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement or travel patterns.