

SENATE BILL No. 135

By Committee on Judiciary

1-30

1 AN ACT concerning certain protection orders; relating to the protection
2 from abuse act; providing precedence of child-related orders issued
3 under the protection from abuse act; amending K.S.A. 2024 Supp. 60-
4 3107 and repealing the existing section.

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

7 Section 1. K.S.A. 2024 Supp. 60-3107 is hereby amended to read as
8 follows: 60-3107. (a) The court may approve any consent agreement to
9 bring about a cessation of abuse of the plaintiff or minor children or grant
10 any of the following orders:

11 (1) Restraining the defendant from abusing, molesting or interfering
12 with the privacy or rights of the plaintiff or of any minor children of the
13 parties, including, but not limited to, utilizing any electronic tracking
14 system or acquiring tracking information to determine the other person's
15 location, movement or travel patterns. Such order shall contain a statement
16 that if such order is violated, such violation may constitute assault as
17 defined in K.S.A. 21-5412(a), and amendments thereto, battery as defined
18 in K.S.A. 21-5413(a), and amendments thereto, domestic battery as
19 defined in K.S.A. 21-5414, and amendments thereto, and violation of a
20 protective order as defined in K.S.A. 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 K.S.A. 21-5808(a)(1)(C), and amendments
27 thereto, and violation of a protective order as defined in K.S.A. 21-5924,
28 and amendments thereto. The court may grant an order, which shall expire
29 60 days following the date of issuance, restraining the defendant from
30 cancelling utility service to the residence or household.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~from abuse act or while an order issued under the protection from abuse~~
2 ~~act is in effect, the court, on final hearing or on agreement of the parties,~~
3 ~~may issue final orders authorized by K.S.A. 23-3201 through 23-3207 and~~
4 ~~23-3218 and articles 22 and 27 of chapter 23 of the Kansas Statutes~~
5 ~~Annotated, and amendments thereto, that are inconsistent with orders~~
6 ~~entered under the protection from abuse act modified by a subsequent ex~~
7 ~~parte or temporary order issued in any action, except as provided in~~
8 ~~paragraph (4).~~

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

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

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

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

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

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

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

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

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

43 (B) Any inconsistent *legal* custody or parenting order issued in the

1 revised Kansas code for care of children case or the revised Kansas
2 juvenile justice code case shall be specific in its terms, reference any
3 preexisting protection from abuse order and the custody being modified,
4 and a copy of such order shall be filed in the preexisting protection from
5 abuse case.

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

11 (e) Subject to the provisions of subsections (b), (c) and (d), a
12 protective order or approved consent agreement shall remain in effect until
13 modified or dismissed by the court and shall be for a fixed period of time
14 not less than one year and not more than two years, except as provided in
15 ~~subsections (e)(1) and (e)(2) paragraphs (1) and (2).~~

16 (1) Upon motion of the plaintiff, such period may be extended for an
17 additional period of not less than one year and not more than three years.

18 (2) Upon verified motion of the plaintiff and after the defendant has
19 been personally served with a copy of the motion and has had an
20 opportunity to present evidence and cross-examine witnesses at a hearing
21 on the motion, the court shall extend a protective order up to the lifetime
22 of the defendant if the court determines by a preponderance of the
23 evidence that the defendant has: (A) Violated a valid protection order; (B)
24 previously violated a valid protection order; or (C) been convicted of a
25 person felony or any conspiracy, criminal solicitation or attempt thereof,
26 under the laws of Kansas or the laws of any other jurisdiction which are
27 substantially similar to such person felony, committed against the plaintiff
28 or any member of the plaintiff's household. No service fee shall be
29 required for a motion filed pursuant to this subsection.
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31 (f) The court may amend its order or agreement at any time upon
32 motion filed by either party.

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

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

- 1 K.S.A. 21-5414, and amendments thereto, and violation of a protective
- 2 order as defined in K.S.A. 21-5924, and amendments thereto.
- 3 Sec. 2. K.S.A. 2024 Supp. 60-3107 is hereby repealed.
- 4 Sec. 3. This act shall take effect and be in force from and after its
- 5 publication in the statute book.