



Kansas Bureau of Investigation

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Director

Derek Schmidt
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Senate Judiciary Committee
Testimony of Kyle Smith, Assistant Attorney General
Deputy Director, Kansas Bureau of Investigation
In Support of HB 2613
March 8, 2012

Chairman Owens and Members of the Committee,

I appear today on behalf of Attorney General Derek Schmidt in support of HB 2613, a bill designed to better protect victims of crimes from further abuse.

Currently Kansas law provides for Protection From Abuse (PFA) and Protection From Stalking (PFS) civil protective orders. Violation of such orders is a class A misdemeanor under K.S.A.21-5924. However, in some cases, the current structure has proven to be inadequate to protect these victims.

In situations where the petitioner has been the victim of a violent felony, it seems unnecessary and redundant for the victim to have to return to court each year, face the assailant and request extension for another year. HB 2613 addresses this problem by providing for an extended order in situations for both PFA and PFS orders, where the respondent commits a person felony against the victim. These extended orders can run for two years up to the life of the respondent. The respondent is guaranteed due process and a right to be heard before such orders is entered.

Similarly, if a respondent has already violated a previous protective order, thus demonstrating that the respondent is not deterred at the thought of violating a court order or a class A misdemeanor, the current system just allows for the victim to seek another, clearly ineffective, order. In such cases a felony charge and resulting potential prison term is appropriate to either provide the deterrence lacking in a misdemeanor or to immobilize a respondent who has demonstrated a desire to break the law regardless of the consequences. If the plaintiff can prove that the respondent has previously violated a PFA or PFS order, the extended order, from two years to the life of the respondent, is available. Additionally HB 2613, as amended by the House, makes violation of the extended order a level 6 nonperson felony. Such an order could provide protection and deterrence long after parole or probation orders end.

The only other change is that a PFS could be filed where the victim lives, not just where the stalking occurs. Since victims frequently flee to other jurisdictions to avoid their stalkers, it seems logical to allow them to file for the protection where they live.

Thank you for your time and consideration. I would be happy to stand for questions.