

HOUSE BILL No. 2145

By Committee on Aging and Long Term Care

2-4

1 AN ACT concerning orders for relief of abuse; amending K.S.A. 2010
2 Supp. 60-3107 and repealing the existing section.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 2010 Supp. 60-3107 is hereby amended to read as
6 follows: 60-3107. (a) The court may approve any consent agreement to
7 bring about a cessation of abuse of the plaintiff or minor children or grant
8 any of the following orders:

9 (1) Restraining the defendant from ~~abusing~~, molesting or interfering
10 with the privacy or rights of the plaintiff or of any minor children of the
11 parties. Such order shall contain a statement that if such order is violated,
12 such violation may constitute assault as provided in ~~K.S.A. 21-3408~~
13 *subsection (a) of section 47 of chapter 136 of the 2010 Session Laws of*
14 *Kansas*, and amendments thereto, battery as provided in ~~K.S.A. 21-3412~~
15 *subsection (a) of section 48 of chapter 136 of the 2010 Session Laws of*
16 *Kansas*, and amendments thereto, domestic battery as provided in ~~K.S.A.~~
17 ~~21-3412a~~ *section 49 of chapter 136 of the 2010 Session Laws of Kansas*,
18 and amendments thereto, and violation of a protective order as provided
19 in ~~K.S.A. 21-3843~~ *section 149 of chapter 136 of the 2010 Session Laws*
20 *of Kansas*, 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 provided in ~~subsection (c) of K.S.A. 21-3721~~ *section*
27 *94 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
28 thereto, and violation of a protective order as provided in ~~K.S.A. 21-3843~~
29 *section 149 of chapter 136 of the 2010 Session Laws of Kansas*, and
30 amendments thereto. The court may grant an order, which shall expire 60
31 days following the date of issuance, restraining the defendant from
32 cancelling utility service to the residence or household.

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

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

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

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

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

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

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

16 *(10) Requiring any person that files an order to seek counseling to*
17 *aid in the treatment of abuse.*

18 ~~(10)~~ (11) Ordering or restraining any other acts deemed necessary to
19 promote the safety of the plaintiff or of any minor children of the parties.

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

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

24 (2) the plaintiff had reasonable notice of the written cross or counter
25 petition by personal service as provided in subsection (d) of K.S.A. 60-
26 3104, and amendments thereto; and

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

30 (c) Any order entered under the protection from abuse act shall not
31 be subject to modification on ex parte application or on motion for
32 temporary orders in any action filed pursuant to K.S.A. 60-1601 et seq.,
33 or K.S.A. 38-1101 et seq., and amendments thereto. Orders previously
34 issued in an action filed pursuant to K.S.A. 60-1601 et seq., or K.S.A. 38-
35 1101 et seq., and amendments thereto, shall be subject to modification
36 under the protection from abuse act only as to those matters subject to
37 modification by the terms of K.S.A. 60-1610 et seq., and amendments
38 thereto, and on sworn testimony to support a showing of good cause.
39 Immediate and present danger of abuse to the plaintiff or minor children
40 shall constitute good cause. If an action is filed pursuant to K.S.A. 60-
41 1610 et seq., or K.S.A. 38-1101 et seq., and amendments thereto, during
42 the pendency of a proceeding filed under the protection from abuse act or
43 while an order issued under the protection from abuse act is in effect, the

1 court, on final hearing or on agreement of the parties, may issue final
2 orders authorized by K.S.A. 60-1610, and amendments thereto, that are
3 inconsistent with orders entered under the protection from abuse act. Any
4 inconsistent order entered pursuant to this subsection shall be specific in
5 its terms, reference the protection from abuse order and parts thereof
6 being modified and a copy thereof shall be filed in both actions. The court
7 shall consider whether the actions should be consolidated in accordance
8 with K.S.A. 60-242, and amendments thereto. Any custody or parenting
9 time order, or order relating to the best interests of a child, issued
10 pursuant to the revised Kansas code for care of children or the revised
11 Kansas juvenile justice code, shall be binding and shall take precedence
12 over any such custody or parenting order involving the same child issued
13 under the protection from abuse act, until jurisdiction under the revised
14 Kansas code for care of children or the revised Kansas juvenile justice
15 code is terminated. Any inconsistent custody or parenting order issued in
16 the revised Kansas code for care of children case or the revised Kansas
17 juvenile justice code case shall be specific in its terms, reference any
18 preexisting protection from abuse order and the custody being modified,
19 and a copy of such order shall be filed in the preexisting protection from
20 abuse case.

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

26 (e) *Any application by a plaintiff seeking the dismissal of a*
27 *protection from abuse order shall be signed by the plaintiff and one other*
28 *adult who is not a party to the action.*

29 (f) Subject to the provisions of subsections (b), (c) and (d), a
30 protective order or approved consent agreement shall remain in effect
31 until modified or dismissed by the court and shall be for a fixed period of
32 time not to exceed one year, except that, on motion of the plaintiff, such
33 period may be extended for one additional year.

34 (g) The court may amend its order or agreement at any time upon
35 motion filed by either party, *except that a protection from abuse order*
36 *shall not be dismissed prior to one month after it has been filed.*

37 (h) No order or agreement under the protection from abuse act
38 shall in any manner affect title to any real property.

39 (i) If a person enters or remains on premises or property violating
40 an order issued pursuant to subsection (a)(2), such violation shall
41 constitute criminal trespass as provided in ~~subsection (e) of K.S.A. 21-~~
42 ~~3721~~ *section 94 of chapter 136 of the 2010 Session Laws of Kansas*, and
43 amendments thereto, and violation of a protective order as provided in

1 ~~K.S.A. 21-3843~~ *section 149 of chapter 136 of the 2010 Session Laws of*
2 *Kansas*, and amendments thereto. If a person abuses, molests or interferes
3 with the privacy or rights of another violating an order issued pursuant to
4 subsection (a)(1), such violation may constitute assault as provided in
5 ~~K.S.A. 21-3408~~ *section 149 of chapter 136 of the 2010 Session Laws of*
6 *Kansas*, and amendments thereto, battery as provided in ~~K.S.A. 21-3412~~
7 *subsection (a) of section 48 of chapter 136 of the 2010 Session Laws of*
8 *Kansas*, and amendments thereto, domestic battery as provided in ~~K.S.A.~~
9 ~~21-3412a~~ *section 49 of chapter 136 of the Session Laws of Kansas*, and
10 amendments thereto, and violation of a protective order as provided in
11 ~~K.S.A. 21-3843~~ *section 149 of chapter 136 of the 2010 Session Laws of*
12 *Kansas*, and amendments thereto.

13 Sec. 2. K.S.A. 2010 Supp. 60-3107 is hereby repealed.

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