

Protective Orders—Sexual Assault; Sexual Assault Examinations—Exceptions to Parental Notification; Infectious Disease Testing; Crime Victims Compensation; House Sub. for SB 101

House Sub. for SB 101 amends law concerning protective orders, notification of a sexual assault examination of a minor child, infectious disease testing, and claims for compensation through the Crime Victims Compensation Board, as follows.

Protective Orders

The bill amends the law concerning protective orders to extend the provisions of the Protection from Abuse Act (PFAA) and Protection from Stalking Act (PFSA) to apply to victims of sexual assault. Specifically, the bill amends the definition of “abuse” in the PFAA to include “engaging in any sexual contact or attempted sexual contact with another person without consent or when such person is incapable of giving consent.”

The bill also amends the PFSA, renaming it the Protection from Stalking and Sexual Assault Act (PFSSAA). For the purposes of the PFSSAA, “sexual assault” is defined as:

- A nonconsensual sexual act; or
- An attempted sexual act against another by force, threat of force, or duress, or when the person is incapable of giving consent.

The bill adds “sexual assault” throughout the PFSSAA and allows the court to issue an order restraining the defendant from committing or attempting to commit a sexual assault upon the victim. The bill specifies the court may issue a protection from stalking or sexual assault order granting any one or more of the orders allowed by the PFSSAA, including orders restraining a defendant from harassing, abusing, or sexually assaulting a victim. The bill requires the order to include a statement that if such order is violated, the violation will constitute “violation of a protective order” and a “sex offense” as defined by the Kansas Criminal Code and the accused can be prosecuted for, convicted of, and punished for such sex offense.

The bill amends the crime of violation of a protective order to include knowingly violating a protection from sexual assault order, which is a class A person misdemeanor.

Notification of Sexual Assault Examination

The bill adds exceptions to the requirement under continuing law that mandates a medical facility give a parent or guardian written notice when a sexual assault examination of a minor child has taken place. The exceptions apply when a medical facility has information that a parent, guardian, or family or household member is the subject of a related criminal investigation, or when the physician, licensed physician assistant, or registered professional nurse, after consultation with law enforcement, reasonably believes the child will be harmed if such notice is given.

Infectious Disease Testing

The bill amends a statute regarding infectious disease testing of certain alleged offenders or persons arrested and charged with a crime to require such testing occur within 48 hours after the alleged offender appears before a magistrate following arrest. The bill also requires the court to order the arrested person to submit to follow-up tests for infectious diseases as medically appropriate. Finally, the bill clarifies that the results of such tests are to be disclosed to the victim and parent or legal guardian of the victim.

Crime Victims Compensation

The bill allows a claimant, or victim on whose behalf the claim is made, to be compensated for mental health counseling through the Crime Victims Compensation Board when a claim is filed within two years of notification to the claimant that DNA testing has revealed a suspected offender or when a claim is filed within two years of notification to the claimant the identification of a suspected offender.