

HOUSE BILL No. 2279

By Representatives Victors and Curtis

2-12

~~AN ACT concerning crimes, punishment and criminal procedure; relating to domestic violence calls; providing information to victim on arrest victims of domestic violence, sexual assault, human trafficking or stalking; relating to housing protections; requiring law enforcement to provide information to victims when an arrest is made for a domestic violence offense; amending K.S.A. 2018 Supp. 22-2307 and repealing the existing section.~~

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

New Section 1. (a) (1) An applicant shall not be denied tenancy on the basis of, or as a direct result of, the fact that the applicant is, has been or is in imminent danger of becoming a victim of domestic violence, sexual assault, human trafficking or stalking, if the applicant otherwise qualifies for tenancy in or occupancy of the premises.

(2) A tenant or lessee shall not be evicted from the premises or found to be in violation of a rental or lease agreement on the basis of, or as a direct result of, the fact that the tenant or lessee is, has been or is in imminent danger of becoming a victim of domestic violence, sexual assault, human trafficking or stalking, if the tenant or lessee otherwise qualifies for tenancy in or occupancy of the premises.

(b) (1) A tenant or lessee shall not be liable for rent for the period after which the tenant or lessee vacates the premises that are the subject of the rental or lease agreement if the tenant or lessee:

(A) Is, has been or is in imminent danger of becoming a victim of domestic violence, sexual assault, human trafficking or stalking; and

(B) notifies the landlord or property owner as required in subsection (c).

(2) In any action brought against a tenant or lessee under Kansas law that seeks recovery of rent, the tenant or lessee shall have an affirmative defense and not be liable for rent for the period after which the tenant or lessee vacates the premises that are the subject of the rental or lease agreement if, by preponderance of the evidence, the court finds that the tenant or lessee:

(A) Was a victim or was in imminent danger of becoming a victim

1 *of domestic violence, sexual assault, human trafficking or stalking; and*
2 *(B) notified the landlord or property owner as required in*
3 *subsection (c).*

4 *(c) An applicant, tenant or lessee qualifies for the protections under*
5 *this section if the applicant, tenant or lessee provides a statement*
6 *regarding domestic violence, sexual assault, human trafficking or*
7 *stalking to the landlord or property owner. If the landlord or property*
8 *owner requests, the applicant, tenant or lessee shall provide*
9 *documentation of the domestic violence, sexual assault, human*
10 *trafficking or stalking, which may be in any of the following forms:*

11 *(1) A document signed by the victim and any of the following*
12 *individuals from whom the victim has sought assistance relating to*
13 *domestic violence, sexual assault, human trafficking or stalking, or the*
14 *effects of such abuse: (A) An attorney; (B) an employee, agent or*
15 *volunteer of a victim service provider; or (C) a healthcare professional*
16 *or mental health professional. The document must declare under penalty*
17 *of perjury that the individual believes in the occurrence of the incident*
18 *of domestic violence, sexual assault, human trafficking or stalking that*
19 *is the ground for protection and that the incident meets the applicable*
20 *definition of domestic violence, sexual assault, human trafficking or*
21 *stalking; or*

22 *(2) a record pertaining to the alleged incident of domestic violence,*
23 *sexual assault, human trafficking or stalking that is the ground for*
24 *protection from: (A) A court; or (B) a federal, state or local law*
25 *enforcement agency, including, but not limited to, a police report.*

26 *(d) The submission of false information by an applicant, tenant or*
27 *lessee under this section may be a basis for a denial of tenancy, eviction*
28 *or a violation of a rental or lease agreement.*

29 *(e) A landlord or property owner may impose a reasonable*
30 *termination fee not to exceed one month's rent on a tenant or lessee who*
31 *requests termination of a rental or lease agreement under the provisions*
32 *of this section before the expiration date of such agreement. Such*
33 *termination fee may only be imposed if it is contained in the terms of the*
34 *rental or lease agreement.*

35 *(f) As used in this section, "domestic violence," "human*
36 *trafficking," "sexual assault" and "stalking" mean the same as in*
37 *K.S.A. 2018 Supp. 75-452, and amendments thereto.*

38 ~~Section 1.~~ **Sec. 2.** K.S.A. 2018 Supp. 22-2307 is hereby amended to
39 read as follows: 22-2307. (a) All law enforcement agencies in this state
40 shall adopt written policies regarding domestic violence calls as provided
41 in ~~subsection~~ subsections (b) and (c). These policies shall be made
42 available to all officers of such agency.

43 (b) Such written policies shall include, but not be limited to, the

1 following:

2 (1) A statement directing that when a law enforcement officer
3 determines that there is probable cause to believe that a crime or offense
4 involving domestic violence, as defined in K.S.A. 2018 Supp. 21-5111,
5 and amendments thereto, has been committed, the officer shall, without
6 undue delay, arrest the person for which the officer has probable cause to
7 believe committed the crime or offense if such person's actions were not
8 an act of defense of a person or property as provided in K.S.A. 2018 Supp.
9 21-5222, 21-5223, 21-5225, 21-5230 or 21-5231, and amendments thereto;

10 (2) a statement that nothing shall be construed to require a law
11 enforcement officer to:

12 (A) Arrest either party involved in an alleged act of domestic
13 violence when the law enforcement officer determines there is no probable
14 cause to believe that a crime or offense has been committed; or

15 (B) arrest both parties involved in an alleged act of domestic violence
16 when both claim to have been victims of such domestic violence;

17 (3) a statement directing that if a law enforcement officer receives
18 complaints of domestic violence from two or more opposing persons, the
19 officer shall evaluate each complaint separately to determine if there is
20 probable cause that each accused person committed a crime or offense and
21 their actions were not an act of defense of a person or property as provided
22 in K.S.A. 2018 Supp. 21-5222, 21-5223, 21-5225, 21-5230 or 21-5231,
23 and amendments thereto;

24 (4) a statement defining domestic violence in accordance with K.S.A.
25 2018 Supp. 21-5111, and amendments thereto;

26 (5) a statement describing the dispatchers' responsibilities;

27 (6) a statement describing the responding officers' responsibilities and
28 procedures to follow when responding to a domestic violence call and the
29 suspect is at the scene;

30 (7) a statement regarding procedures when the suspect has left the
31 scene of the crime;

32 (8) procedures for both misdemeanor and felony cases;

33 (9) procedures for law enforcement officers to follow when handling
34 domestic violence calls involving court orders, including protection from
35 abuse orders, restraining orders and a protective order issued by a court of
36 any state or Indian tribe;

37 (10) a statement that the law enforcement agency shall provide the
38 following information to victims, in writing:

39 (A) Availability of emergency and medical telephone numbers, if
40 needed;

41 (B) the law enforcement agency's report number;

42 (C) the address and telephone number of the prosecutor's office the
43 victim should contact to obtain information about victims' rights pursuant

1 to K.S.A. 74-7333 and 74-7335, and amendments thereto;

2 (D) the name and address of the crime victims' compensation board
3 and information about possible compensation benefits;

4 (E) advise the victim that the details of the crime may be made
5 public;

6 (F) advise the victim of such victims' rights under K.S.A. 74-7333
7 and 74-7335, and amendments thereto; and

8 (G) advise the victim of known available resources which may assist
9 the victim; and

10 (11) whether an arrest is made or not, a standard offense report shall
11 be completed on all such incidents and sent to the Kansas bureau of
12 investigation.

13 (c) *Such written policies shall provide that when an arrest is made*
14 *while a law enforcement officer is responding to a domestic violence call*
15 **for a domestic violence offense as defined in K.S.A. 2018 Supp. 21-**
16 **5111, and amendments thereto, including an arrest for violation of a**
17 *protection order as defined in K.S.A. 2018 Supp. 21-5924, and*
18 *amendments thereto, the officer shall provide the victim information*
19 *related to:*

20 (A) *The earliest possible time of release from custody of the person*
21 *being arrested according to the bond schedule adopted in the jurisdiction*
22 *within which the arrest is being made if such jurisdiction has adopted a*
23 *bond schedule* **fact that in some cases the person arrested can be**
24 **released from custody in a short amount of time;**

25 (B) *the requirement contained in K.S.A. 12-4301 and 22-2802, and*
26 *amendments thereto, that if the person is being bonded out for a person*
27 *felony or a person misdemeanor, the bond shall be conditioned on the*
28 *person being prohibited from having any contact with the alleged victim of*
29 *such offense for a period of at least 72 hours, unless the judge makes a*
30 *specific finding otherwise* **fact that in some cases a bond condition may**
31 **be imposed on the person arrested that prohibits contact with the**
32 **victim for 72 hours, and that if the person arrested contacts the victim**
33 **during that time, the victim should notify law enforcement**
34 **immediately;**

35 (C) *any available services within the jurisdiction to monitor custody*
36 *changes of the person being arrested, including, but not limited to, the*
37 *Kansas victim information and notification everyday service if available in*
38 *such jurisdiction.*

39 (d) *All law enforcement agencies shall provide training to law*
40 *enforcement officers about the policies adopted pursuant to this section.*

41 Sec. ~~2~~ 3. K.S.A. 2018 Supp. 22-2307 is hereby repealed.

42 Sec. ~~3~~ 4. This act shall take effect and be in force from and after its
43 publication in the statute book.