

**SB 192**  
**Senate Committee on Federal and State Affairs**  
**Proponent Testimony**  
**March 2, 2022**

Chairman Olson and Members of the Committee:

The Kansas Coalition Against Sexual and Domestic Violence (KCSDV) is a statewide non-profit organization whose membership is the 25 sexual and domestic violence programs serving victims across Kansas. KCSDV provides information, training, and analysis on issues impacting victims of domestic and sexual violence, their families, and their communities. Our members, the local advocacy programs, are committed to providing quality services to victims of sexual assault and domestic violence, empowering victims to live independently without the ongoing fear of violence, and helping victims secure the resources necessary for a safe and healthy future.

**KCSDV supports the passage of SB 192.** The passage of this bill would help to save lives. Intimate partner homicides remain an all too common problem in Kansas. In 2020, at least 34 of the 193 murders committed in the state were related to domestic violence.<sup>i</sup> At least 19 of those murders utilized firearms. So far in 2022, there have been an estimated 14 homicides that have a suspected domestic violence correlation. Ten of these deaths – or 71% -- involved firearms. The presence of a firearm in a domestic violence situation increases the risk of intimate partner homicide by 500%.<sup>ii</sup> Over the ten-year period between 2008 and 2017, there was a reduction in intimate partner homicides of women across the country involving weapons—except homicides by firearms, which increased by 15 percent.<sup>iii</sup> These numbers are too significant to ignore.

Our current federal statutes provide for the removal of a firearm when there has been a finding that a defendant in a qualified protection order case poses a credible threat to the Petitioner or their child. I have included a copy of the most recent version of a Final Order of Protection from Abuse available from the Kansas Judicial Council. On page 5 of 6, a judge can already order a defendant to surrender their firearms. This bill creates a process by which that law can be enforced. It does not restrict the rights of a defendant any further than the current statute. It simply allows for compliance with the current law.

This bill will allow for the removal of firearms from situations that have been proven to put victims of domestic violence at significant risk of being murdered. This law is targeted to make sure that only those who pose a real risk of committing intimate partner homicide are affected.

This in turn means that it is targeted to eliminate one of the biggest risks to victims of domestic violence in Kansas.

Sincerely submitted on behalf of KCSDV,

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Topeka, Kansas 66603

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<sup>i</sup> <https://www.kansas.gov/kbi/stats/docs/pdf/DVStalking%20Rape%202020.pdf>

<sup>ii</sup> J.C. Campbell, D.W. Webster, J. Koziol-McLain, et al., "Risk factors for femicide within physically abusive intimate relationships: results from a multi-site case control study," 93 Amer. J. of Public Health 1089-1097 (2003).

<sup>iii</sup> [https://everytownresearch.org/reports/guns-intimate-partner-violence/#foot\\_note\\_anchor\\_5](https://everytownresearch.org/reports/guns-intimate-partner-violence/#foot_note_anchor_5)

IN THE DISTRICT COURT OF \_\_\_\_\_ COUNTY, KANSAS  
 Protection from Abuse (K.S.A. 60-3101 *et seq.*)

**Final Order of Protection from Abuse**

Judge or Division:	Case Number:
	Court ORI Number:
Plaintiff: <div style="border: 1px solid black; width: 200px; height: 15px; margin: 5px 0;"></div>	Plaintiff Identifiers:  Year of Birth <div style="border: 1px solid black; width: 80px; height: 15px; margin: 5px 0;"></div>  Sex: _____
Relationship to Defendant: <input type="checkbox"/> are or <input type="checkbox"/> have been in a dating relationship <input type="checkbox"/> reside together <input type="checkbox"/> formerly resided together <input type="checkbox"/> have a child in common <input type="checkbox"/> Plaintiff is filing on behalf of a minor child	

vs. Defendant: <div style="border: 1px solid black; width: 200px; height: 15px; margin: 5px 0;"></div>  Address	Defendant Identifiers: <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tr> <td style="width: 15%;">SEX</td> <td style="width: 15%;">RACE</td> <td style="width: 15%;">YOB</td> <td style="width: 15%;">HT</td> <td style="width: 15%;">WT</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td>HAIR</td> <td>EYES</td> <td colspan="3">LAST 4 DIGITS OF SSN (IF KNOWN)</td> </tr> <tr> <td> </td> <td> </td> <td colspan="3"> </td> </tr> <tr> <td colspan="2">DRIVERS LICENSE #</td> <td>DL STATE</td> <td colspan="2">DL EXP. DATE</td> </tr> <tr> <td colspan="2"> </td> <td> </td> <td colspan="2"> </td> </tr> </table>	SEX	RACE	YOB	HT	WT						HAIR	EYES	LAST 4 DIGITS OF SSN (IF KNOWN)								DRIVERS LICENSE #		DL STATE	DL EXP. DATE						
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Appearances:     Plaintiff                       Defendant                       Defendant Fails to Appear  
                           Plaintiff's Attorney             Defendant's Attorney             Other \_\_\_\_\_

**Protected Person(s):** *(Only the party, or parties, initialed by the judge are Protected Person(s).)*  
 \_\_\_\_\_ Plaintiff, \_\_\_\_\_ *(name of Plaintiff)*  
 The following child(ren):

Child's Name	Sex	Child's Year of Birth

**This Final Order and its terms are directed at and apply to Defendant only.**  
 (This form shall NOT be used for Mutual Protection from Abuse Orders.)

**This Final Order shall be effective until: \_\_\_\_\_, 20\_\_\_\_.**

**ONLY THE COURT CAN CHANGE THIS FINAL ORDER.**

**The Court Finds:** *(Only the provision(s) initialed by the judge apply.)*

\_\_\_\_\_ Plaintiff filed a written verified petition on \_\_\_\_\_, 20\_\_\_\_ requesting an Order of Protection from Abuse. Prior to this hearing, Defendant was given reasonable notice of the date set for the hearing, together with a copy of the petition and any ex parte order of protection from abuse, by personal service on \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_ This Court has jurisdiction over Plaintiff, Defendant and subject matter.

\_\_\_\_\_ This Court has child custody jurisdiction because  it is home state,  there is no home state and Kansas has significant connections with the child(ren),  temporary emergency jurisdiction,  other:\_\_\_\_\_

\_\_\_\_\_ The matter was heard and submitted to the Court which finds

- Defendant was personally served and failed to appear; therefore, the court grants the petition by default.
- the allegations of abuse are proven by a preponderance of the evidence as required by K.S.A. 60-3106.

\_\_\_\_\_ Defendant represents a credible threat to the physical safety of the Protected Person(s).

\_\_\_\_\_ Plaintiff's  address and  telephone number shall remain confidential for the protection of the Protected Person(s).

### Order

**The Court Orders:**

- This Final Order of Protection from Abuse (“Final Order”) replaces any previous Temporary Order of Protection from Abuse entered by the Court and serves as notice of termination of that Temporary Order upon service of this Final Order on Defendant.
- Defendant shall not assault, threaten, abuse, harass, follow, stalk, or interfere with the privacy or rights of the Protected Person(s) wherever they may be. [ **NCIC 01 & 02** ]
- Defendant shall not use, attempt to use, or threaten to use physical force, that would reasonably be expected to cause bodily injury, against the Protected Person(s), nor shall the Defendant engage in other conduct that would place any Protected Person(s) in reasonable fear of bodily injury. [ **NCIC 01 & 02** ]
- Defendant shall not threaten a member of the Protected Person’s(s’) family or household. [ **NCIC 02** ]
- Defendant shall not enter or come on or around the premises, the residence, property, school, or place of employment of the Protected Person(s) or other family or household members of the Protected Person(s). [ **NCIC 04** ]
- Defendant shall not contact the Protected Person(s), either directly or indirectly, in any manner, except as authorized by the court in Paragraph 8(b) of this Final Order. [ **NCIC 05** ]
- Defendant shall not contact, in any manner, the Protected Person’s(s’) employer, employees, fellow workers, or others with whom the communication would be likely to cause annoyance or alarm to the Protected Person(s). [ **NCIC 05** ]
- Defendant shall not direct or request another to contact the Protected Person(s), either directly or indirectly, in any manner, except as authorized by the court in Paragraph 8(b) of this Final Order. [ **NCIC 05** ]
- Law enforcement officers are directed to grant any assistance necessary to protect the Protected Person(s) from abuse by Defendant, and to provide any other assistance necessary to enforce the terms of this Final Order, including the order excluding Defendant from the Protected Person(s) place of residence, wherever it may be. [ **NCIC 08** ]

**CERTIFICATE OF COMPLIANCE WITH THE VIOLENCE AGAINST WOMEN ACT (VAWA):** This Final Order meets all the requirements of the Violence Against Women Act, 18 U.S.C. § 2265. This Court has jurisdiction of the parties and the subject matter; Defendant has been afforded notice and a timely opportunity to be heard as provided by the laws of Kansas. This Final Order is enforceable in all 50 states, the District of Columbia, all Indian tribal courts and all United States territories and shall be enforced as if it were an order of that jurisdiction pursuant to 18 U.S.C. § 2265.

**Additional terms of this Final Order are set forth below. (Only the provision(s) initialed by the judge apply.)**

**Housing and Property:**

*(If the parties to this action are not married to each other and one party owns the residence or household, the Court shall not grant possession of the residence or household to the exclusion of the party who owns it. K.S.A. 60-3107(d). The Protection from Abuse Act does not prohibit granting possession of a leasehold to either party.)*

\_\_\_\_\_ 1. Defendant owns the residence in which Plaintiff and Defendant lived together and Plaintiff and Defendant are not married to each other so the Court cannot grant Plaintiff possession of the residence. Defendant is not excluded from that residence but has an exclusive right to possession of that residence under K.S.A 60-3107(d). Defendant is entitled to the return of any means of access to that residence including residence keys and garage door openers. Plaintiff may remove the following items

. [ NCIC 08 ]

\_\_\_\_\_ 2. Defendant shall provide suitable alternate housing for Plaintiff and/or the minor child(ren) by paying rent in the amount of \$ \_\_\_\_\_ per \_\_\_\_\_ to \_\_\_\_\_, with the first payment due \_\_\_\_\_ (date), or as follows:

\_\_\_\_\_ 3. Plaintiff is granted exclusive possession of the residence located at:

\_\_\_\_\_ [ NCIC 03 ]

Defendant shall immediately move from the residence and may take only personal effects and clothing for Defendant and any child(ren) in Defendant's custody. Law enforcement officials are directed to enter the residence with Defendant to prevent abuse from occurring while Defendant is present to remove those personal effects and clothing. When Defendant has finished removing those items, law enforcement officials shall remove Defendant from the residence, and ensure that Defendant does not enter or re-enter the premises or any other residence that the Protected Person(s) may occupy. [ NCIC 08 ]

\_\_\_\_\_ 4. Defendant shall not cancel any utilities to the residence granted to Plaintiff. The terms of this paragraph expire 60 days from this Final Order's date of entry. [ NCIC 08 ]

\_\_\_\_\_ 5. Defendant shall immediately surrender to Plaintiff the following items: [ NCIC 08 ]

- The garage door opener for the residence;
- All keys to the residence;
- Mailbox keys;
- Keys to the \_\_\_\_\_ automobile(s);
- Other: \_\_\_\_\_

\_\_\_\_\_ 6. The personal property, including pets, of the parties is divided as follows:

Law enforcement officers are directed to assist in securing possession of the personal property as described above. [ NCIC 08 ]

**Parentage, Support and Custody:**

7. Defendant shall pay spousal support to Plaintiff in the amount of \$ \_\_\_\_\_ each month for the duration of this order, with the first payment due \_\_\_\_\_ (date).

8. For this paragraph, the Court shall initial subparagraph (a) **OR** subparagraph (b), but not both.

\_\_\_\_\_ a. Defendant’s parentage of the child(ren) **has not** been established through a marriage of the Parties or pursuant to the Kansas Parentage Act, K.S.A. 23-2201 *et seq.*, and Defendant has no right to custody or parenting time with the following named child(ren):

. [ NCIC 09 ]

**OR**

\_\_\_\_\_ b. Defendant’s parentage of the child(ren) **has been** established through the marriage of the Parties or pursuant to the Kansas Parentage Act, K.S.A. 23-2201 *et seq.*, and the following custody and parenting time orders are entered:

i. Temporary legal custody and residency of the following named minor child(ren):

\_\_\_\_\_ shall be:

Joint legal custody between Plaintiff and Defendant until this Final Order expires  
[ NCIC 06 ]:

**OR**

Sole legal custody granted to  Plaintiff [ NCIC 09 ]  Defendant [ NCIC 06 ] until this Final Order expires.

The parent who does not have sole legal custody shall not have access to information regarding the child(ren) because:

*(K.S.A. 23-3206)*

ii. Rights of temporary parenting time shall be as follows:

Defendant shall have no parenting time [ NCIC 09 ];

Defendant shall have supervised parenting time as follows:

[ NCIC 06 & 08 ];

Plaintiff and Defendant shall have parenting time as follows:

[ NCIC 06 & 08 ]

iii.  Plaintiff and Defendant shall exchange the minor child(ren) for parenting time at:

[ NCIC 08 ]

9. Defendant is the presumed or established parent and child support is ordered in accordance with the attached Child Support Addendum.

10. Law Enforcement shall assist Plaintiff in obtaining physical custody of the minor child(ren).

**Other Provisions:**

11. The Court orders the transfer of one or more wireless service numbers as contained in the Order Transferring Wireless Services Number(s) from Defendant to Plaintiff.

12. Defendant shall seek counseling to aid in the cessation of abuse.

13. Defendant shall pay the following attorney fees and costs:

14. Other orders necessary to promote the safety of the Protected Person(s): [ NCIC 08 ]

Defendant shall surrender any firearms to \_\_\_\_\_ [ NCIC 07 ]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SO ORDERED:**

\_\_\_\_\_ Date

\_\_\_\_\_ Judge of the District Court

### **WARNINGS TO DEFENDANT**

- **This Final Order is effective when signed by the judge. Law enforcement officials shall immediately enforce this Final Order.**
- **Violation of this Final Order may constitute: violation of a protective order as provided in K.S.A. 21-5924, and amendments thereto; assault as provided in K.S.A. 21-5412(a), and amendments thereto; battery as provided in K.S.A. 21-5413(a), and amendments thereto; and domestic battery as provided in K.S.A. 21-5414, and amendments thereto, and may result in prosecution and conviction under Kansas criminal statutes.**
- **If possession of the residence is granted to Plaintiff, violation of this Final Order by Defendant constitutes criminal trespass pursuant to K.S.A. 21-5808(a)(1)(C), and amendments thereto, and may result in prosecution and conviction under Kansas criminal statutes.**
- **Violation of this Final Order could result in the order being extended for up to the lifetime of Defendant.**
- **Violation of this Final Order may also be punishable as contempt of this Court.**
- **If Defendant has a concealed carry license, that license is subject to revocation pursuant to K.S.A. 75-7c07, and amendments thereto. After Defendant's concealed carry license has been revoked, continuing to carry a concealed weapon may constitute a violation of K.S.A. 21-6302, and amendments thereto.**
- **This Final Order may subject Defendant to prosecution for criminal use of weapons under K.S.A. 21-6301.**
- **This Final Order may subject Defendant to federal firearms restrictions under 18 U.S.C. § 922(g)(8), and violation of this Final Order may subject Defendant to prosecution for such federal crimes, including but not limited to: firearms possession; interstate travel to commit domestic violence; interstate stalking; and interstate violation of a protection order.**

#### **Notice of Extension of this Final Order (Pursuant to K.S.A. 60-3107)**

This Final Order of Protection from Abuse may be extended for additional periods of time upon motion of Plaintiff.  
Violation of this Final Order could result in this Final Order being extended for up to the lifetime of Defendant.