

SENATE BILL No. 54

By Committee on Ways and Means

1-21

1 AN ACT concerning civil actions; relating to the protection from abuse
2 act; expanding reasons to extend order; tolling time in prison;
3 amending K.S.A. 2020 Supp. 60-3107 and repealing the existing
4 section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2020 Supp. 60-3107 is hereby amended to read as
8 follows: 60-3107. (a) The court may approve any consent agreement to
9 bring about a cessation of abuse of the plaintiff or minor children or grant
10 any of the following orders:

11 (1) Restraining the defendant from abusing, molesting or interfering
12 with the privacy or rights of the plaintiff or of any minor children of the
13 parties. Such order shall contain a statement that if such order is violated,
14 such violation may constitute assault as defined in ~~subsection (a) of~~ K.S.A.
15 2020 Supp. 21-5412(a), and amendments thereto, battery as defined in
16 ~~subsection (a) of~~ K.S.A. 2020 Supp. 21-5413(a), and amendments thereto,
17 domestic battery as defined in K.S.A. 2020 Supp. 21-5414, and
18 amendments thereto, and violation of a protective order as defined in
19 K.S.A. 2020 Supp. 21-5924, and amendments thereto.

20 (2) Granting possession of the residence or household to the plaintiff
21 to the exclusion of the defendant, and further restraining the defendant
22 from entering or remaining upon or in such residence or household,
23 subject to the limitation of subsection (d). Such order shall contain a
24 statement that if such order is violated, such violation shall constitute
25 criminal trespass as defined in ~~subsection (a)(1)(C) of~~ K.S.A. 2020 Supp.
26 21-5808(a)(1)(C), and amendments thereto, and violation of a protective
27 order as defined in K.S.A. 2020 Supp. 21-5924, and amendments thereto.
28 The court may grant an order, which shall expire 60 days following the
29 date of issuance, restraining the defendant from cancelling utility service
30 to the residence or household.

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

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

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

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

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

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

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

14 (10) Ordering or restraining any other acts deemed necessary to
15 promote the safety of the plaintiff or of any minor children of the parties.

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

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

20 (2) the plaintiff had reasonable notice of the written cross or counter
21 petition by personal service as provided in ~~subsection (d)~~ of K.S.A. 60-
22 3104(d), and amendments thereto; and

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

26 (c) Any order entered under the protection from abuse act shall not be
27 subject to modification on ex parte application or on motion for temporary
28 orders in any action filed pursuant to K.S.A. 60-1601 et seq., prior to their
29 transfer or repeal, or article 22 or 27 of chapter 23 of the Kansas Statutes
30 Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and
31 amendments thereto. Orders previously issued in an action filed pursuant
32 to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or
33 27 of chapter 23 of the Kansas Statutes Annotated, and amendments
34 thereto, or K.S.A. 38-1101 et seq., and amendments thereto, shall be
35 subject to modification under the protection from abuse act only as to
36 those matters subject to modification by the terms of K.S.A. 2020 Supp.
37 23-3201 through 23-3207 and 23-3218, *and amendments thereto*, and
38 article 27 of chapter 23 of the Kansas Statutes Annotated, and amendments
39 thereto, and on sworn testimony to support a showing of good cause.
40 Immediate and present danger of abuse to the plaintiff or minor children
41 shall constitute good cause. If an action is filed pursuant to K.S.A. 2020
42 Supp. 23-3201 through 23-3207 or 23-3218, *and amendments thereto*, or
43 article 22 or 27 of chapter 23 of the Kansas Statutes Annotated, and

1 amendments thereto, during the pendency of a proceeding filed under the
2 protection from abuse act or while an order issued under the protection
3 from abuse act is in effect, the court, on final hearing or on agreement of
4 the parties, may issue final orders authorized by K.S.A. 2020 Supp. 23-
5 3201 through 23-3207 and 23-3218, *and amendments thereto*, and articles
6 22 and 27 of chapter 23 of the Kansas Statutes Annotated, and
7 amendments thereto, that are inconsistent with orders entered under the
8 protection from abuse act. Any inconsistent order entered pursuant to this
9 subsection shall be specific in its terms, reference the protection from
10 abuse order and parts thereof being modified and a copy thereof shall be
11 filed in both actions. The court shall consider whether the actions should
12 be consolidated in accordance with K.S.A. 60-242, and amendments
13 thereto. Any custody or parenting time order, or order relating to the best
14 interests of a child, issued pursuant to the revised Kansas code for care of
15 children or the revised Kansas juvenile justice code, shall be binding and
16 shall take precedence over any such custody or parenting order involving
17 the same child issued under the protection from abuse act, until
18 jurisdiction under the revised Kansas code for care of children or the
19 revised Kansas juvenile justice code is terminated. Any inconsistent
20 custody or parenting order issued in the revised Kansas code for care of
21 children case or the revised Kansas juvenile justice code case shall be
22 specific in its terms, reference any preexisting protection from abuse order
23 and the custody being modified, and a copy of such order shall be filed in
24 the preexisting protection from abuse case.

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

30 (e) Subject to the provisions of subsections (b), (c) and (d), a
31 protective order or approved consent agreement shall remain in effect until
32 modified or dismissed by the court and shall be for a fixed period of time
33 not to exceed one year, except as provided in ~~subsection~~ subsections (e)(1)
34 and (e)(2). *Any time during which the defendant is incarcerated shall not*
35 *count toward the calculation of any time period provided in this*
36 *subsection.*

37 (1) Upon motion of the plaintiff, such period may be extended for one
38 additional year.

39 (2) (A) Upon verified motion of the plaintiff, and after the defendant
40 has been personally served with a copy of the motion and has had an
41 opportunity to present evidence and cross-examine witnesses at a hearing
42 on the motion, *such period may be extended as provided in subparagraph*
43 *(B) if the court determines by a preponderance of the evidence that the*

1 defendant has:

2 (i) Violated a valid protection order ~~or (A);~~

3 (ii) ~~has~~ previously violated a valid protection order, ~~or (B) has;~~

4 (iii) been convicted of a person felony or any conspiracy, criminal
5 solicitation or attempt thereof, under the laws of Kansas or the laws of any
6 other jurisdiction ~~which~~ that are substantially similar to such person
7 felony, committed against the plaintiff or any member of the plaintiff's
8 household; *or*

9 (iv) *committed an act against the plaintiff that is substantially similar*
10 *to a person felony or any conspiracy, criminal solicitation or attempt*
11 *thereof, under the laws of Kansas or the laws of any other jurisdiction that*
12 *are substantially similar to such person felony, that the defendant has been*
13 *convicted of committing against any other person.*

14 (B) *If the court makes a determination pursuant to subparagraph (A),*
15 *the court shall extend a protective order for not less than two additional*
16 *years and may extend the protective order up to the lifetime of the*
17 *defendant. No service fee shall be required for a motion filed pursuant to*
18 *this subsection.*

19 (f) The court may amend its order or agreement at any time upon
20 motion filed by either party.

21 (g) No order or agreement under the protection from abuse act shall
22 in any manner affect title to any real property.

23 (h) If a person enters or remains on premises or property violating an
24 order issued pursuant to subsection (a)(2), such violation shall constitute
25 criminal trespass as defined in ~~subsection (a)(1)(C) of~~ K.S.A. 2020 Supp.
26 21-5808(a)(1)(C), and amendments thereto, and violation of a protective
27 order as defined in K.S.A. 2020 Supp. 21-5924, and amendments thereto.
28 If a person abuses, molests or interferes with the privacy or rights of
29 another violating an order issued pursuant to subsection (a)(1), such
30 violation may constitute assault as defined in ~~subsection (a) of~~ K.S.A.
31 2020 Supp. 21-5412(a), and amendments thereto, battery as defined in
32 ~~subsection (a) of~~ K.S.A. 2020 Supp. 21-5413(a), and amendments thereto,
33 domestic battery as defined in K.S.A. 2020 Supp. 21-5414, and
34 amendments thereto, and violation of a protective order as defined in
35 K.S.A. 2020 Supp. 21-5924, and amendments thereto.

36 Sec. 2. K.S.A. 2020 Supp. 60-3107 is hereby repealed.

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