

**{As Amended by House Committee of the Whole}**

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**As Amended by House Committee**

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**As Amended by Senate Committee**

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*Session of 2023*

**SENATE BILL No. 217**

By Committee on Judiciary

2-8

1 AN ACT concerning **{violations of personal rights; relating to}** the  
2 unlawful use of electronic tracking systems or tracking information;  
3 relating to stalking; providing criminal penalties for the conduct of  
4 utilizing any electronic tracking system or acquiring tracking  
5 information to determine the targeted person's location, movement or  
6 travel patterns when done as part of an unlawful course of conduct;  
7 authorizing orders to prohibit such conduct under the Kansas family  
8 law code, the revised Kansas code for care of children, the protection  
9 from abuse act and the protection from stalking, sexual assault or  
10 human trafficking act; **{increasing the time of initial orders and**  
11 **possible extensions under the protection from abuse and protection**  
12 **from stalking, sexual assault and human trafficking acts;}**  
13 amending K.S.A. 38-2243, 38-2244 and 38-2255 and K.S.A. 2022  
14 Supp. 21-5427, **23-2224**, 23-2707, 60-3107 and 60-31a06 and repealing  
15 the existing sections.  
16

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

18 Section 1. K.S.A. 2022 Supp. 21-5427 is hereby amended to read as  
19 follows: 21-5427. (a) Stalking is:

20 (1) Recklessly engaging in a course of conduct targeted at a specific  
21 person which would cause a reasonable person in the circumstances of the  
22 targeted person to fear for such person's safety, or the safety of a member  
23 of such person's immediate family and the targeted person is actually  
24 placed in such fear;

25 (2) engaging in a course of conduct targeted at a specific person with  
26 knowledge that the course of conduct will place the targeted person in fear  
27 for such person's safety or the safety of a member of such person's  
28 immediate family;

29 (3) after being served with, or otherwise provided notice of, any  
30 protective order included in K.S.A. 21-3843, prior to its repeal or K.S.A.  
31 2022 Supp. 21-5924, and amendments thereto, that prohibits contact with a  
32 targeted person, recklessly engaging in at least one act listed in subsection

1 (f)(1) that violates the provisions of the order and would cause a  
2 reasonable person to fear for such person's safety, or the safety of a  
3 member of such person's immediate family and the targeted person is  
4 actually placed in such fear; or

5 (4) intentionally engaging in a course of conduct targeted at a specific  
6 child under the age of 14 that would cause a reasonable person in the  
7 circumstances of the targeted child, or a reasonable person in the  
8 circumstances of an immediate family member of such child, to fear for  
9 such child's safety.

10 (b) Stalking as defined in:

11 (1) Subsection (a)(1) is a:

12 (A) Class A person misdemeanor, except as provided in subsection  
13 (b)(1)(B); and

14 (B) severity level 7, person felony upon a second or subsequent  
15 conviction;

16 (2) subsection (a)(2) is a:

17 (A) Class A person misdemeanor, except as provided in subsection  
18 (b)(2)(B); and

19 (B) severity level 5, person felony upon a second or subsequent  
20 conviction;

21 (3) subsection (a)(3) is a:

22 (A) Severity level 9, person felony, except as provided in subsection  
23 (b)(3)(B); and

24 (B) severity level 5, person felony, upon a second or subsequent  
25 conviction; and

26 (4) subsection (a)(4) is a:

27 (A) Severity level 7, person felony, except as provided in subsection  
28 (b)(4)(B); and

29 (B) severity level 4, person felony, upon a second or subsequent  
30 conviction.

31 (c) For the purposes of this section, a person served with a protective  
32 order as defined by K.S.A. 21-3843, prior to its repeal or K.S.A. 2022  
33 Supp. 21-5924, and amendments thereto, or a person who engaged in acts  
34 which would constitute stalking, after having been advised by a law  
35 enforcement officer, that such person's actions were in violation of this  
36 section, shall be presumed to have acted knowingly as to any like future  
37 act targeted at the specific person or persons named in the order or as  
38 advised by the officer.

39 (d) In a criminal proceeding under this section, a person claiming an  
40 exemption, exception or exclusion has the burden of going forward with  
41 evidence of the claim.

42 (e) The present incarceration of a person alleged to be violating this  
43 section shall not be a bar to prosecution under this section.

1 (f) As used in this section:

2 (1) "Course of conduct" means two or more acts over a period of  
3 time, however short, which evidence a continuity of purpose. A course of  
4 conduct shall not include constitutionally protected activity nor conduct  
5 that was necessary to accomplish a legitimate purpose independent of  
6 making contact with the targeted person. A course of conduct shall include,  
7 but not be limited to, any of the following acts or a combination thereof:

8 (A) Threatening the safety of the targeted person or a member of such  
9 person's immediate family;

10 (B) following, approaching or confronting the targeted person or a  
11 member of such person's immediate family;

12 (C) appearing in close proximity to, or entering the targeted person's  
13 residence, place of employment, school or other place where such person  
14 can be found, or the residence, place of employment or school of a  
15 member of such person's immediate family;

16 (D) causing damage to the targeted person's residence or property or  
17 that of a member of such person's immediate family;

18 (E) placing an object on the targeted person's property or the property  
19 of a member of such person's immediate family, either directly or through  
20 a third person;

21 (F) causing injury to the targeted person's pet or a pet belonging to a  
22 member of such person's immediate family;

23 (G) *utilizing any electronic tracking system or acquiring tracking*  
24 *information to determine the targeted person's location, movement or*  
25 *travel patterns; and*

26 (H) any act of communication;

27 (2) "communication" means to impart a message by any method of  
28 transmission, including, but not limited to: Telephoning, personally  
29 delivering, sending or having delivered, any information or material by  
30 written or printed note or letter, package, mail, courier service or electronic  
31 transmission, including electronic transmissions generated or  
32 communicated via a computer;

33 (3) "computer" means a programmable, electronic device capable of  
34 accepting and processing data;

35 (4) "conviction" includes being convicted of a violation of K.S.A. 21-  
36 3438, prior to its repeal, this section or a law of another state which  
37 prohibits the acts that this section prohibits; and

38 (5) "immediate family" means:

39 (A) Father, mother, stepparent, child, stepchild, sibling, spouse or  
40 grandparent of the targeted person;

41 (B) any person residing in the household of the targeted person; or

42 (C) any person involved in an intimate relationship with the targeted  
43 person.

1        **Sec. 2. K.S.A. 2022 Supp. 23-2224 is hereby amended to read as**  
2 **follows: 23-2224. (a) The court, without requiring bond, may make and**  
3 **enforce orders—~~which~~ that:**

4        **(1) Restrain the parties from molesting or interfering with the**  
5 **privacy or rights of each other, including, but not limited to, utilizing any**  
6 **electronic tracking system or acquiring tracking information to determine**  
7 **the other person's location, movement or travel patterns;**

8        **(2) confirm the existing de facto custody of the child subject to**  
9 **further order of the court, if the court has jurisdiction under K.S.A.**  
10 **2022 Supp. 23-37,101 et seq., and amendments thereto;**

11        **(3) appoint an expert to conduct genetic tests for determination of**  
12 **paternity as provided in K.S.A. 2022 Supp. 23-2212, and amendments**  
13 **thereto;**

14        **(4) order the mother and child and alleged father to contact the**  
15 **court appointed expert and provide tissue samples for testing within 30**  
16 **days after service of the order;**

17        **(5) order the payment of temporary child support pursuant to**  
18 **subsection (c); or**

19        **(6) the court deems appropriate under the provisions of article 22 of**  
20 **chapter 23 of the Kansas Statutes Annotated, and amendments thereto.**

21        **(b) (1) Interlocutory orders authorized by this section that relate to**  
22 **genetic testing may be issued ex parte, if:**

23        **(A) The appointed expert is a paternity laboratory accredited by the**  
24 **American association of blood banks; and**

25        **(B) the order does not require an adverse party to make advance**  
26 **payment toward the cost of the test.**

27        **(2) If such ex parte orders are issued, and if an adverse party**  
28 **requests modification thereof, the court will conduct a hearing within 10**  
29 **days of such request.**

30        **(c) After notice and hearing, the court shall enter an order for child**  
31 **support during the pendency of the action as provided in this subsection.**  
32 **The order shall be entered if the pleadings and the motion for temporary**  
33 **support, if separate from the pleadings, indicate there is only one**  
34 **presumed father and if probable paternity by the presumed father is**  
35 **indicated by clear and convincing evidence. For purposes of this**  
36 **subsection, "clear and convincing evidence" may be presented in any**  
37 **form, including, but not limited to, an uncontested allegation in the**  
38 **pleadings, an uncontested affidavit or an agreement between the parties.**  
39 **For purposes of this subsection, "clear and convincing evidence"**  
40 **means:**

41        **(1) The presumed father does not deny paternity;**

42        **(2) the mother and the presumed father were married to each other,**  
43 **regardless of whether the marriage was void or voidable, at any time**

1 *between 300 days before the child's birth and the child's birth;*

2 *(3) a voluntary acknowledgment of paternity was completed by the*  
3 *mother and the presumed father more than 60 days before the motion*  
4 *was filed and no request to revoke the voluntary acknowledgment has*  
5 *been filed; or*

6 *(4) results of genetic tests show the probability of paternity by the*  
7 *presumed father is equal to or greater than 97% and the report was*  
8 *received more than 20 days before the motion was filed, unless written*  
9 *notice of intent to challenge the validity of the report has been timely*  
10 *given.*

11 Sec. ~~2~~. 3. K.S.A. 2022 Supp. 23-2707 is hereby amended to read as  
12 follows: 23-2707. (a) *Permissible orders.* After the filing of a petition for  
13 divorce, annulment or separate maintenance, and during the pendency of  
14 the action until the entry of final judgment the judge assigned to hear the  
15 action may, without requiring bond, make, modify, vacate and enforce by  
16 attachment, orders ~~which~~ *that*:

17 (1) Jointly restrain the parties with regard to disposition of the  
18 property of the parties and provide for the use, occupancy, management  
19 and control of that property, *including, but not limited to, utilizing any*  
20 *electronic tracking system or acquiring tracking information to determine*  
21 *the other person's location, movement or travel patterns;*

22 (2) restrain the parties from molesting or interfering with the privacy  
23 or rights of each other, *including, but not limited to, utilizing any*  
24 *electronic tracking system or acquiring tracking information to*  
25 *determine the other person's location, movement or travel patterns;*

26 (3) provide for the legal custody and residency of and parenting time  
27 with the minor children and the support, if necessary, of either party and of  
28 the minor children during the pendency of the action;

29 (4) require mediation between the parties on issues, including, but not  
30 limited to, child custody, residency, division of property, parenting time  
31 and development of a parenting plan;

32 (5) make provisions, if necessary, for the expenses of the suit,  
33 including reasonable attorney's fees, that will insure to either party  
34 efficient preparation for the trial of the case;

35 (6) require an investigation by court service officers into any issue  
36 arising in the action; or

37 (7) require that each parent execute any and all documents, including  
38 any releases, necessary so that both parents may obtain information from  
39 and to communicate with any health insurance provider regarding the  
40 health insurance coverage provided by such health insurance provider to  
41 the child. The provisions of this paragraph shall apply irrespective of  
42 which parent owns, subscribes or pays for such health insurance coverage.

43 (b) *Ex parte orders.* Orders authorized by subsections (a)(1), (2), (3),

1 (4) and (7) may be entered after ex parte hearing upon compliance with  
2 rules of the supreme court, except that no ex parte order shall have the  
3 effect of changing the residency of a minor child from the parent who has  
4 had the sole de facto residency of the child to the other parent unless there  
5 is sworn testimony to support a showing of extraordinary circumstances. If  
6 an interlocutory order is issued ex parte, the court shall hear a motion to  
7 vacate or modify the order within 14 days of the date on which a party  
8 requests a hearing whether to vacate or modify the order. In the absence,  
9 disability, or disqualification of the judge assigned to hear the action, any  
10 other judge of the district court may make any order authorized by this  
11 section, including vacation or modification or any order issued by the  
12 judge assigned to hear the action.

13 (c) *Support orders.* (1) An order of support obtained pursuant to this  
14 section may be enforced by an order of garnishment as provided in this  
15 section.

16 (2) No order of garnishment shall be issued under this section unless:  
17 (A) Fourteen or more days have elapsed since the order of support was  
18 served upon the party required to pay the support; and (B) the order of  
19 support contained a notice that the order of support may be enforced by  
20 garnishment and that the party has a right to request an opportunity for a  
21 hearing to contest the issuance of an order of garnishment, if the hearing is  
22 requested by motion filed within seven days after service of the order of  
23 support upon the party. If a hearing is requested, the court shall hold the  
24 hearing within seven days after the motion requesting the hearing is filed  
25 with the court or at a later date agreed to by the parties.

26 (3) No bond shall be required for the issuance of an order of  
27 garnishment pursuant to this section. Except as provided in this section,  
28 garnishments authorized by this section shall be subject to the procedures  
29 and limitations applicable to other orders of garnishment authorized by  
30 law.

31 (4) A party desiring to have the order of garnishment issued shall file  
32 an affidavit with the clerk of the district court stating that:

33 (A) The order of support contained the notice required by this  
34 subsection;

35 (B) fourteen or more days have elapsed since the order of support  
36 was served upon the party required to pay the support; and

37 (C) either no hearing was requested on the issuance of an order of  
38 garnishment within the seven days after service of the order of support  
39 upon the party required to pay the same or a hearing was requested and  
40 held and the court did not prohibit the issuance of an order of garnishment.

41 (d) If an interlocutory order for legal custody, residency or parenting  
42 time is sought, the party seeking such order shall file a proposed temporary  
43 parenting plan as provided by K.S.A. 2022 Supp. 23-3211, and

1 amendments thereto, at the time such order is sought. If any motion is filed  
2 to modify any such interlocutory orders, or in opposition to a request for  
3 issuance of interlocutory orders, that party shall attach to such motion or  
4 opposition a proposed alternative parenting plan.

5 (e) *Service of process.* Service of process served under subsection (a)  
6 (1) and (2) shall be by personal service and not by certified mail return  
7 receipt requested.

8 ~~Sec. 3.~~ 4. K.S.A. 38-2243 is hereby amended to read as follows: 38-  
9 2243. (a) Upon notice and hearing, the court may issue an order directing  
10 who shall have temporary custody and may modify the order during the  
11 pendency of the proceedings as will best serve the child's welfare.

12 (b) A hearing pursuant to this section shall be held within 72 hours,  
13 excluding Saturdays, Sundays, legal holidays, and days on which the  
14 office of the clerk of the court is not accessible, following a child having  
15 been taken into protective custody.

16 (c) Whenever it is determined that a temporary custody hearing is  
17 required, the court shall immediately set the time and place for the hearing.  
18 Notice of a temporary custody hearing shall be given to all parties and  
19 interested parties.

20 (d) Notice of the temporary custody hearing shall be given at least 24  
21 hours prior to the hearing. The court may continue the hearing to afford the  
22 24 hours prior notice or, with the consent of the party or interested party,  
23 proceed with the hearing at the designated time. If an order of temporary  
24 custody is entered and the parent or other person having custody of the  
25 child has not been notified of the hearing, did not appear or waive  
26 appearance and requests a rehearing, the court shall rehear the matter  
27 without unnecessary delay.

28 (e) Oral notice may be used for giving notice of a temporary custody  
29 hearing where there is insufficient time to give written notice. Oral notice  
30 is completed upon filing a certificate of oral notice.

31 (f) The court may enter an order of temporary custody after  
32 determining there is probable cause to believe that the:

33 (1) Child is dangerous to self or to others;

34 (2) child is not likely to be available within the jurisdiction of the  
35 court for future proceedings;

36 (3) health or welfare of the child may be endangered without further  
37 care;

38 (4) child has been subjected to human trafficking or aggravated  
39 human trafficking, as defined by K.S.A. 2022 Supp. 21-5426, and  
40 amendments thereto, or commercial sexual exploitation of a child, as  
41 defined by K.S.A. 2022 Supp. 21-6422, and amendments thereto;

42 (5) child is experiencing a mental health crisis and is in need of  
43 treatment; or

1 (6) child committed an act which, if committed by an adult, would  
2 constitute a violation of K.S.A. 2022 Supp. 21-6419, and amendments  
3 thereto.

4 (g) (1) Whenever the court determines the necessity for an order of  
5 temporary custody the court may place the child in the temporary custody  
6 of:

7 (A) A parent or other person having custody of the child and may  
8 enter a restraining order pursuant to subsection (h);

9 (B) a person, other than the parent or other person having custody,  
10 who shall not be required to be licensed under article 5 of chapter 65 of the  
11 Kansas Statutes Annotated, and amendments thereto;

12 (C) a youth residential facility;

13 (D) a shelter facility;

14 (E) a staff secure facility, notwithstanding any other provision of law,  
15 if the child has been subjected to human trafficking or aggravated human  
16 trafficking, as defined by K.S.A. 2022 Supp. 21-5426, and amendments  
17 thereto, or commercial sexual exploitation of a child, as defined by K.S.A.  
18 2022 Supp. 21-6422, and amendments thereto, or the child committed an  
19 act which, if committed by an adult, would constitute a violation of K.S.A.  
20 2022 Supp. 21-6419, and amendments thereto;

21 (F) after written authorization by a community mental health center, a  
22 juvenile crisis intervention center, as described in K.S.A. 65-536, and  
23 amendments thereto; or

24 (G) the secretary, if the child is 15 years of age or younger, or 16 or  
25 17 years of age if the child has no identifiable parental or family resources  
26 or shows signs of physical, mental, emotional or sexual abuse.

27 (2) If the secretary presents the court with a plan to provide services  
28 to a child or family which the court finds will assure the safety of the  
29 child, the court may only place the child in the temporary custody of the  
30 secretary until the court finds the services are in place. The court shall  
31 have the authority to require any person or entity agreeing to participate in  
32 the plan to perform as set out in the plan. When the child is placed in the  
33 temporary custody of the secretary, the secretary shall have the  
34 discretionary authority to place the child with a parent or to make other  
35 suitable placement for the child. When the child is placed in the temporary  
36 custody of the secretary and the child has been subjected to human  
37 trafficking or aggravated human trafficking, as defined by K.S.A. 2022  
38 Supp. 21-5426, and amendments thereto, or commercial sexual  
39 exploitation of a child, as defined by K.S.A. 2022 Supp. 21-6422, and  
40 amendments thereto, or the child committed an act which, if committed by  
41 an adult, would constitute a violation of K.S.A. 2022 Supp. 21-6419, and  
42 amendments thereto, the secretary shall have the discretionary authority to  
43 place the child in a staff secure facility, notwithstanding any other



1 provision of law. When the child is presently alleged, but not yet  
2 adjudicated to be a child in need of care solely pursuant to K.S.A. 38-  
3 2202(d)(9) or (d)(10), and amendments thereto, the child may be placed in  
4 a secure facility, but the total amount of time that the child may be held in  
5 such facility under this section and K.S.A. 38-2242, and amendments  
6 thereto, shall not exceed 24 hours, excluding Saturdays, Sundays, legal  
7 holidays, and days on which the office of the clerk of the court is not  
8 accessible. The order of temporary custody shall remain in effect until  
9 modified or rescinded by the court or an adjudication order is entered but  
10 not exceeding 60 days, unless good cause is shown and stated on the  
11 record.

12 (h) If the court issues an order of temporary custody, the court may  
13 also enter an order restraining any alleged perpetrator of physical, sexual,  
14 mental or emotional abuse of the child from residing in the child's home;  
15 visiting, contacting, harassing or intimidating the child; or attempting to  
16 visit, contact, harass or intimidate the child, other family members or  
17 witnesses. Such restraining order shall be served by personal service  
18 pursuant to K.S.A. 38-2237(a), and amendments thereto, on any alleged  
19 perpetrator to whom the order is directed.

20 (i) (1) The court shall not enter the initial order removing a child from  
21 the custody of a parent pursuant to this section unless the court first finds  
22 probable cause that: (A) (i) The child is likely to sustain harm if not  
23 immediately removed from the home;

24 (ii) allowing the child to remain in home is contrary to the welfare of  
25 the child; or

26 (iii) immediate placement of the child is in the best interest of the  
27 child; and

28 (B) reasonable efforts have been made to maintain the family unit and  
29 prevent the unnecessary removal of the child from the child's home or that  
30 an emergency exists which threatens the safety to the child.

31 (2) Such findings shall be included in any order entered by the court.  
32 If the child is placed in the custody of the secretary, upon making the order  
33 the court shall provide the secretary with a written copy.

34 (j) If the court enters an order of temporary custody that provides for  
35 placement of the child with a person other than the parent, the court shall  
36 make a child support determination pursuant to K.S.A. 38-2277, and  
37 amendments thereto.

38 (k) *For the purposes of this section, "harassing or intimidating" and*  
39 *"harass or intimidate" includes, but is not limited to, utilizing any*  
40 *electronic tracking system or acquiring tracking information to determine*  
41 *the targeted person's location, movement or travel patterns.*

42 Sec.-4. 5. K.S.A. 38-2244 is hereby amended to read as follows: 38-  
43 2244. (a) At any time after filing a petition, but prior to an adjudication,

1 the court may enter an order for continuance and informal supervision  
2 without an adjudication if no party objects. Upon granting the continuance,  
3 the court shall include in the order any conditions with which the parties  
4 and interested parties are expected to comply and provide the parties and  
5 interested parties with a copy of the order. The conditions may include  
6 appropriate dispositional alternatives authorized by K.S.A. 38-2255, and  
7 amendments thereto.

8 (b) An order for informal supervision may remain in force for a  
9 period of up to six months and may be extended, upon hearing, for an  
10 additional six-month period for a total of one year. For a child under an  
11 order for informal supervision who remains in the custody of such child's  
12 parent, such one-year period may be extended if no party objects, upon  
13 hearing, for up to an additional one year, with reviews by the court  
14 occurring at least every six months.

15 (c) The court after notice and hearing may revoke or modify the order  
16 with respect to a party or interested party upon a showing that the party or  
17 interested party, being subject to the order for informal supervision, has  
18 substantially failed to comply with the terms of the order, or that  
19 modification would be in the best interests of the child. Upon revocation,  
20 proceedings shall resume pursuant to this code.

21 (d) Persons subject to the order for informal supervision who  
22 successfully complete the terms and period of supervision shall not again  
23 be proceeded against in any court based solely upon the allegations in the  
24 original petition and the proceedings shall be dismissed.

25 (e) If the court issues an order for informal supervision pursuant to  
26 this section, the court may also enter an order restraining any alleged  
27 perpetrator of physical, mental or emotional abuse or sexual abuse of the  
28 child from residing in the child's home, visiting, contacting, harassing or  
29 intimidating the child, other family member or witness; or attempting to  
30 visit, contact, harass or intimidate the child, other family member or  
31 witness. The restraining order shall be served by personal service pursuant  
32 to subsection (a) of K.S.A. 38-2237, and amendments thereto, on any  
33 alleged perpetrator to whom the order is directed.

34 (f) Lack of service on a parent shall not preclude an informal  
35 supervision under the provisions of this section. If an order of informal  
36 supervision is entered which effects change in custody, any parent not  
37 served pursuant to K.S.A. 38-2237, and amendments thereto, who has not  
38 consented to the informal supervision, may request reconsideration of the  
39 order of informal supervision. The court shall hear the request without  
40 unnecessary delay. If the informal supervision order effects a change in  
41 custody, efforts to accomplish service pursuant to K.S.A. 38-2237, and  
42 amendments thereto, shall continue.

43 (g) *For the purposes of this section, "harassing or intimidating" and*

1 *"harass or intimidate" includes, but is not limited to, utilizing any*  
2 *electronic tracking system or acquiring tracking information to determine*  
3 *the targeted person's location, movement or travel patterns.*

4 ~~Sec. 5.~~ **6.** K.S.A. 38-2255 is hereby amended to read as follows: 38-  
5 2255. (a) *Considerations.* Prior to entering an order of disposition, the  
6 court shall give consideration to:

- 7 (1) The child's physical, mental and emotional condition;
- 8 (2) the child's need for assistance;
- 9 (3) the manner in which the parent participated in the abuse, neglect  
10 or abandonment of the child;
- 11 (4) any relevant information from the intake and assessment process;  
12 and
- 13 (5) the evidence received at the dispositional hearing.

14 (b) *Custody with a parent.* The court may place the child in the  
15 custody of either of the child's parents subject to terms and conditions  
16 which the court prescribes to assure the proper care and protection of the  
17 child, including, but not limited to:

- 18 (1) Supervision of the child and the parent by a court services officer;
- 19 (2) participation by the child and the parent in available programs  
20 operated by an appropriate individual or agency; and
- 21 (3) any special treatment or care which the child needs for the child's  
22 physical, mental or emotional health and safety.

23 (c) *Removal of a child from custody of a parent.* The court shall not  
24 enter the initial order removing a child from the custody of a parent  
25 pursuant to this section unless the court first finds probable cause that: (1)  
26 (A) The child is likely to sustain harm if not immediately removed from  
27 the home;

28 (B) allowing the child to remain in home is contrary to the welfare of  
29 the child; or

30 (C) immediate placement of the child is in the best interest of the  
31 child; and

32 (2) reasonable efforts have been made to maintain the family unit and  
33 prevent the unnecessary removal of the child from the child's home or that  
34 an emergency exists which threatens the safety to the child.

35 The court shall not enter an order removing a child from the custody of  
36 a parent pursuant to this section based solely on the finding that the parent  
37 is homeless.

38 (d) *Custody of a child removed from the custody of a parent.* If the  
39 court has made the findings required by subsection (c), the court shall  
40 enter an order awarding custody to: A relative of the child or to a person  
41 with whom the child has close emotional ties who shall not be required to  
42 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,  
43 and amendments thereto; any other suitable person; a shelter facility; a

1 youth residential facility; a staff secure facility, notwithstanding any other  
2 provision of law, if the child has been subjected to human trafficking or  
3 aggravated human trafficking, as defined by K.S.A. 2022 Supp. 21-5426,  
4 and amendments thereto, or commercial sexual exploitation of a child, as  
5 defined by K.S.A. 2022 Supp. 21-6422, and amendments thereto, or the  
6 child committed an act which, if committed by an adult, would constitute a  
7 violation of K.S.A. 2022 Supp. 21-6419, and amendments thereto; or, if  
8 the child is 15 years of age or younger, or 16 or 17 years of age if the child  
9 has no identifiable parental or family resources or shows signs of physical,  
10 mental, emotional or sexual abuse, to the secretary. Custody awarded  
11 under this subsection shall continue until further order of the court.

12 (1) When custody is awarded to the secretary, the secretary shall  
13 consider any placement recommendation by the court and notify the court  
14 of the placement or proposed placement of the child within 10 days of the  
15 order awarding custody. After providing the parties or interested parties  
16 notice and opportunity to be heard, the court may determine whether the  
17 secretary's placement or proposed placement is contrary to the welfare or  
18 in the best interests of the child. In making that determination the court  
19 shall consider the health and safety needs of the child and the resources  
20 available to meet the needs of children in the custody of the secretary. If  
21 the court determines that the placement or proposed placement is contrary  
22 to the welfare or not in the best interests of the child, the court shall notify  
23 the secretary, who shall then make an alternative placement.

24 (2) The custodian designated under this subsection shall notify the  
25 court in writing at least 10 days prior to any planned placement with a  
26 parent. The written notice shall state the basis for the custodian's belief that  
27 placement with a parent is no longer contrary to the welfare or best interest  
28 of the child. Upon reviewing the notice, the court may allow the custodian  
29 to proceed with the planned placement or may set the date for a hearing to  
30 determine if the child shall be allowed to return home. If the court sets a  
31 hearing on the matter, the custodian shall not return the child home without  
32 written consent of the court.

33 (3) The court may grant any person reasonable rights to visit the child  
34 upon motion of the person and a finding that the visitation rights would be  
35 in the best interests of the child.

36 (4) The court may enter an order restraining any alleged perpetrator  
37 of physical, mental or emotional abuse or sexual abuse of the child from:  
38 Residing in the child's home; visiting, contacting, harassing or intimidating  
39 the child, other family member or witness; or attempting to visit, contact,  
40 harass or intimidate the child, other family member or witness. Such  
41 restraining order shall be served by personal service pursuant to K.S.A.  
42 38-2237(a), and amendments thereto, on any alleged perpetrator to whom  
43 the order is directed.

1 (5) The court shall provide a copy of any orders entered within 10  
2 days of entering the order to the custodian designated under this  
3 subsection.

4 (e) *Further determinations regarding a child removed from the home.*  
5 If custody has been awarded under subsection (d) to a person other than a  
6 parent, a permanency plan shall be provided or prepared pursuant to  
7 K.S.A. 38-2264, and amendments thereto. If a permanency plan is  
8 provided at the dispositional hearing, the court may determine whether  
9 reintegration is a viable alternative or, if reintegration is not a viable  
10 alternative, whether the child should be placed for adoption or a permanent  
11 custodian appointed. In determining whether reintegration is a viable  
12 alternative, the court shall consider:

13 (1) Whether a parent has been found by a court to have committed  
14 one of the following crimes or to have violated the law of another state  
15 prohibiting such crimes or to have aided and abetted, attempted, conspired  
16 or solicited the commission of one of these crimes: (A) Murder in the first  
17 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2022 Supp. 21-5402,  
18 and amendments thereto; (B) murder in the second degree, K.S.A. 21-  
19 3402, prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments  
20 thereto; (C) capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A.  
21 2022 Supp. 21-5401, and amendments thereto; (D) voluntary  
22 manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 2022 Supp.  
23 21-5404, and amendments thereto; or (E) a felony battery that resulted in  
24 bodily injury;

25 (2) whether a parent has subjected the child or another child to  
26 aggravated circumstances;

27 (3) whether a parent has previously been found to be an unfit parent  
28 in proceedings under this code or in comparable proceedings under the  
29 laws of another state or the federal government;

30 (4) whether the child has been in the custody of the secretary and  
31 placed with neither parent for 15 of the most recent 22 months beginning  
32 60 days after the date on which a child in the secretary's custody was  
33 removed from the child's home;

34 (5) whether the parents have failed to work diligently toward  
35 reintegration;

36 (6) whether the secretary has provided the family with services  
37 necessary for the safe return of the child to the home; and

38 (7) whether it is reasonable to expect reintegration to occur within a  
39 time frame consistent with the child's developmental needs.

40 (f) *Proceedings if reintegration is not a viable alternative.* If the court  
41 determines that reintegration is not a viable alternative, proceedings to  
42 terminate parental rights and permit placement of the child for adoption or  
43 appointment of a permanent custodian shall be initiated unless the court

1 finds that compelling reasons have been documented in the case plan why  
2 adoption or appointment of a permanent custodian would not be in the best  
3 interests of the child. If compelling reasons have not been documented, the  
4 county or district attorney shall file a motion within 30 days to terminate  
5 parental rights or a motion to appoint a permanent custodian within 30  
6 days and the court shall hold a hearing on the motion within 90 days of its  
7 filing. No hearing is required when the parents voluntarily relinquish  
8 parental rights or consent to the appointment of a permanent custodian.

9 (g) *Additional Orders*. In addition to or in lieu of any other order  
10 authorized by this section:

11 (1) The court may order the child and the parents of any child who  
12 has been adjudicated a child in need of care to attend counseling sessions  
13 as the court directs. The expense of the counseling may be assessed as an  
14 expense in the case. No mental health provider shall charge a greater fee  
15 for court-ordered counseling than the provider would have charged to the  
16 person receiving counseling if the person had requested counseling on the  
17 person's own initiative.

18 (2) If the court has reason to believe that a child is before the court  
19 due, in whole or in part, to the use or misuse of alcohol or a violation of  
20 K.S.A. 2022 Supp. 21-5701 through 21-5717, and amendments thereto, by  
21 the child, a parent of the child, or another person responsible for the care  
22 of the child, the court may order the child, parent of the child or other  
23 person responsible for the care of the child to submit to and complete an  
24 alcohol and drug evaluation by a qualified person or agency and comply  
25 with any recommendations. If the evaluation is performed by a  
26 community-based alcohol and drug safety program certified pursuant to  
27 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or  
28 other person responsible for the care of the child shall pay a fee not to  
29 exceed the fee established by that statute. If the court finds that the child  
30 and those legally liable for the child's support are indigent, the fee may be  
31 waived. In no event shall the fee be assessed against the secretary.

32 (3) If child support has been requested and the parent or parents have  
33 a duty to support the child, the court may order one or both parents to pay  
34 child support and, when custody is awarded to the secretary, the court shall  
35 order one or both parents to pay child support. The court shall determine,  
36 for each parent separately, whether the parent is already subject to an order  
37 to pay support for the child. If the parent is not presently ordered to pay  
38 support for any child who is subject to the jurisdiction of the court and the  
39 court has personal jurisdiction over the parent, the court shall order the  
40 parent to pay child support in an amount determined under K.S.A. 38-  
41 2277, and amendments thereto. Except for good cause shown, the court  
42 shall issue an immediate income withholding order pursuant to K.S.A.  
43 2022 Supp. 23-3101 et seq., and amendments thereto, for each parent

1 ordered to pay support under this subsection, regardless of whether a payor  
2 has been identified for the parent. A parent ordered to pay child support  
3 under this subsection shall be notified, at the hearing or otherwise, that the  
4 child support order may be registered pursuant to K.S.A. 38-2279, and  
5 amendments thereto. The parent shall also be informed that, after  
6 registration, the income withholding order may be served on the parent's  
7 employer without further notice to the parent and the child support order  
8 may be enforced by any method allowed by law. Failure to provide this  
9 notice shall not affect the validity of the child support order.

10 (h) *For the purposes of this section, "harassing or intimidating" and*  
11 *"harass or intimidate" includes, but is not limited to, utilizing any*  
12 *electronic tracking system or acquiring tracking information to determine*  
13 *the targeted person's location, movement or travel patterns.*

14 Sec. ~~6~~ 7. K.S.A. 2022 Supp. 60-3107 is hereby amended to read as  
15 follows: 60-3107. (a) The court may approve any consent agreement to  
16 bring about a cessation of abuse of the plaintiff or minor children or grant  
17 any of the following orders:

18 (1) Restraining the defendant from abusing, molesting or interfering  
19 with the privacy or rights of the plaintiff or of any minor children of the  
20 parties, *including, but not limited to, utilizing any electronic tracking*  
21 *system or acquiring tracking information to determine the other person's*  
22 *location, movement or travel patterns.* Such order shall contain a statement  
23 that if such order is violated, such violation may constitute assault as  
24 defined in ~~subsection (a)~~ of K.S.A. 2022 Supp. 21-5412(a), and  
25 amendments thereto, battery as defined in ~~subsection (a)~~ of K.S.A. 2022  
26 Supp. 21-5413(a), and amendments thereto, domestic battery as defined in  
27 K.S.A. 2022 Supp. 21-5414, and amendments thereto, and violation of a  
28 protective order as defined in K.S.A. 2022 Supp. 21-5924, and  
29 amendments thereto.

30 (2) Granting possession of the residence or household to the plaintiff  
31 to the exclusion of the defendant, and further restraining the defendant  
32 from entering or remaining upon or in such residence or household,  
33 subject to the limitation of subsection (d). Such order shall contain a  
34 statement that if such order is violated, such violation shall constitute  
35 criminal trespass as defined in ~~subsection (a)(1)(C)~~ of K.S.A. 2022 Supp.  
36 21-5808(a)(1)(C), and amendments thereto, and violation of a protective  
37 order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto.  
38 The court may grant an order, which shall expire 60 days following the  
39 date of issuance, restraining the defendant from cancelling utility service  
40 to the residence or household.

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

43 (4) Awarding temporary custody and residency and establishing

1 temporary parenting time with regard to minor children.

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

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

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

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

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

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

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

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

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

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

29 (c) Any order entered under the protection from abuse act shall not be  
30 subject to modification on ex parte application or on motion for temporary  
31 orders in any action filed pursuant to K.S.A. 60-1601 et seq., prior to their  
32 transfer or repeal, or article 22 or 27 of chapter 23 of the Kansas Statutes  
33 Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and  
34 amendments thereto. Orders previously issued in an action filed pursuant  
35 to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or  
36 27 of chapter 23 of the Kansas Statutes Annotated, and amendments  
37 thereto, or K.S.A. 38-1101 et seq., and amendments thereto, shall be  
38 subject to modification under the protection from abuse act only as to  
39 those matters subject to modification by the terms of K.S.A. 2022 Supp.  
40 23-3201 through 23-3207 and 23-3218 and article 27 of chapter 23 of the  
41 Kansas Statutes Annotated, and amendments thereto, and on sworn  
42 testimony to support a showing of good cause. Immediate and present  
43 danger of abuse to the plaintiff or minor children shall constitute good



1 cause. If an action is filed pursuant to K.S.A. 2022 Supp. 23-3201 through  
2 23-3207 or 23-3218 or article 22 or 27 of chapter 23 of the Kansas Statutes  
3 Annotated, and amendments thereto, during the pendency of a proceeding  
4 filed under the protection from abuse act or while an order issued under  
5 the protection from abuse act is in effect, the court, on final hearing or on  
6 agreement of the parties, may issue final orders authorized by K.S.A. 2022  
7 Supp. 23-3201 through 23-3207 and 23-3218 and articles 22 and 27 of  
8 chapter 23 of the Kansas Statutes Annotated, and amendments thereto, that  
9 are inconsistent with orders entered under the protection from abuse act.  
10 Any inconsistent order entered pursuant to this subsection shall be specific  
11 in its terms, reference the protection from abuse order and parts thereof  
12 being modified and a copy thereof shall be filed in both actions. The court  
13 shall consider whether the actions should be consolidated in accordance  
14 with K.S.A. 60-242, and amendments thereto. Any custody or parenting  
15 time order, or order relating to the best interests of a child, issued pursuant  
16 to the revised Kansas code for care of children or the revised Kansas  
17 juvenile justice code, shall be binding and shall take precedence over any  
18 such custody or parenting order involving the same child issued under the  
19 protection from abuse act, until jurisdiction under the revised Kansas code  
20 for care of children or the revised Kansas juvenile justice code is  
21 terminated. Any inconsistent custody or parenting order issued in the  
22 revised Kansas code for care of children case or the revised Kansas  
23 juvenile justice code case shall be specific in its terms, reference any  
24 preexisting protection from abuse order and the custody being modified,  
25 and a copy of such order shall be filed in the preexisting protection from  
26 abuse case.

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

32 (e) Subject to the provisions of subsections (b), (c) and (d), a  
33 protective order or approved consent agreement shall remain in effect until  
34 modified or dismissed by the court and shall be for a fixed period of time  
35 ~~not to exceed one year~~ **{less than one year and not more than five**  
36 **years}**, except as provided in ~~subsection~~ **{subsections}** (e)(1) and (e)(2).

37 (1) Upon motion of the plaintiff, such period may be extended for ~~one~~  
38 **{an}** additional ~~year~~ **{period of not less than one year and not more**  
39 **than five years}**.

40 (2) Upon verified motion of the plaintiff and after the defendant has  
41 been personally served with a copy of the motion and has had an  
42 opportunity to present evidence and cross-examine witnesses at a hearing  
43 on the motion, *the court shall extend a protective order for not less than*

1 ~~two {one}~~ *additional years {year}* and may extend the protective order up  
2 to the lifetime of the defendant if the court determines by a preponderance  
3 of the evidence that the defendant has: (A) Violated a valid protection  
4 order ~~or (A) has~~; (B) previously violated a valid protection order<sup>5</sup>; or ~~(B)~~  
5 ~~has~~ (C) been convicted of a person felony or any conspiracy, criminal  
6 solicitation or attempt thereof, under the laws of Kansas or the laws of any  
7 other jurisdiction which are substantially similar to such person felony,  
8 committed against the plaintiff or any member of the plaintiff's household;  
9 ~~the court shall extend a protective order for not less than two additional~~  
10 ~~years and may extend the protective order up to the lifetime of the~~  
11 ~~defendant.~~ No service fee shall be required for a motion filed pursuant to  
12 this subsection.

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

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

17 (h) If a person enters or remains on premises or property violating an  
18 order issued pursuant to subsection (a)(2), such violation shall constitute  
19 criminal trespass as defined in ~~subsection (a)(1)(C)~~ of K.S.A. 2022 Supp.  
20 21-5808(a)(1)(C), and amendments thereto, and violation of a protective  
21 order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto.  
22 If a person abuses, molests or interferes with the privacy or rights of  
23 another violating an order issued pursuant to subsection (a)(1), such  
24 violation may constitute assault as defined in ~~subsection (a)~~ of K.S.A.  
25 2022 Supp. 21-5412(a), and amendments thereto, battery as defined in  
26 ~~subsection (a)~~ of K.S.A. 2022 Supp. 21-5413(a), and amendments thereto,  
27 domestic battery as defined in K.S.A. 2022 Supp. 21-5414, and  
28 amendments thereto, and violation of a protective order as defined in  
29 K.S.A. 2022 Supp. 21-5924, and amendments thereto.

30 Sec. ~~7.~~ **8.** K.S.A. 2022 Supp. 60-31a06 is hereby amended to read as  
31 follows: 60-31a06. (a) The court may issue a protection from stalking,  
32 sexual assault or human trafficking order granting any one or more of the  
33 following orders:

34 (1) Restraining the defendant from following, harassing, telephoning,  
35 contacting or otherwise communicating with the victim. The order shall  
36 contain a statement that, if the order is violated, the violation may  
37 constitute stalking as defined in K.S.A. 2022 Supp. 21-5427, and  
38 amendments thereto, and violation of a protective order as defined in  
39 K.S.A. 2022 Supp. 21-5924, and amendments thereto.

40 (2) Restraining the defendant from abusing, molesting or interfering  
41 with the privacy ~~or~~ rights of the victim. The order shall contain a statement  
42 that, if the order is violated, the violation may constitute stalking as  
43 defined in K.S.A. 2022 Supp. 21-5427, and amendments thereto, assault as

1 defined in K.S.A. 2022 Supp. 21-5412(a), and amendments thereto, battery  
2 as defined in K.S.A. 2022 Supp. 21-5413(a), and amendments thereto, and  
3 violation of a protective order as defined in K.S.A. 2022 Supp. 21-5924,  
4 and amendments thereto.

5 (3) Restraining the defendant from entering upon or in the victim's  
6 residence or the immediate vicinity thereof. The order shall contain a  
7 statement that, if the order is violated, the violation shall constitute  
8 criminal trespass as defined in K.S.A. 2022 Supp. 21-5808(a)(1)(C), and  
9 amendments thereto, and violation of a protective order as defined in  
10 K.S.A. 2022 Supp. 21-5924, and amendments thereto.

11 (4) Restraining the defendant from committing or attempting to  
12 commit a sexual assault upon the victim. The order shall contain a  
13 statement that, if the order is violated, the violation shall constitute  
14 violation of a protective order as defined in K.S.A. 2022 Supp. 21-5924,  
15 and amendments thereto. The order shall also contain a statement that, if  
16 the order is violated, the violation may constitute a sex offense under  
17 article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments  
18 thereto, and the accused may be prosecuted, convicted of and punished for  
19 such sex offense.

20 (5) Restraining the defendant from following, harassing, telephoning,  
21 contacting, recruiting, harboring, transporting, or committing or attempting  
22 to commit human trafficking upon the human trafficking victim, or  
23 otherwise communicating with the human trafficking victim. The order  
24 shall contain a statement that, if the order is violated, the violation shall  
25 constitute violation of a protective order as defined in K.S.A. 2022 Supp.  
26 21-5924, and amendments thereto. The order shall also contain a statement  
27 that, if the order is violated, the violation may constitute an offense under  
28 chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and  
29 the accused may be prosecuted, convicted of and punished for such  
30 offense.

31 (6) Any other order deemed necessary by the court to carry out the  
32 provisions of this act.

33 (b) A protection from stalking, sexual~~abuse~~ **{assault}** or human  
34 trafficking order shall remain in effect until modified or dismissed by the  
35 court and shall be for a fixed period of time ~~not to exceed one year~~ **{less**  
36 **than one year and not more than five years,}** except as provided in  
37 subsections (c) and (d).

38 (c) Upon motion of the plaintiff the court may extend the order for an  
39 additional~~year~~ **{period of not less than one year and not more than five**  
40 **years}**.

41 (d) Upon verified motion of the plaintiff and after the defendant has  
42 been personally served with a copy of the motion and has had an  
43 opportunity to present evidence and cross-examine witnesses at a hearing

1 on the motion, the court shall extend a protective order for not less than  
2 two additional years and up to a period of time not to exceed the lifetime  
3 of the defendant, if the court determines by a preponderance of the  
4 evidence that the defendant has:

- 5 (1) Violated a valid protection order;
- 6 (2) previously violated a valid protection order; or
- 7 (3) been convicted of a person felony or any conspiracy, criminal  
8 solicitation or attempt thereof, under the laws of Kansas or the laws of any  
9 other jurisdiction which are substantially similar to such person felony,  
10 committed against the plaintiff or any member of the plaintiff's household.

11 No service fee shall be required for a motion filed pursuant to this  
12 subsection.

13 (e) The court may amend its order at any time upon motion filed by  
14 either party.

15 (f) The court shall assess costs against the defendant and may award  
16 attorney fees to the victim in any case in which the court issues a  
17 protection from stalking, sexual assault or human trafficking order  
18 pursuant to this act. The court may award attorney fees to the defendant in  
19 any case where the court finds that the petition to seek relief pursuant to  
20 this act is without merit.

21 (g) A no contact or restraining provision in a protective order issued  
22 pursuant to this section shall not be construed to prevent:

- 23 (1) Contact between the attorneys representing the parties;
- 24 (2) a party from appearing at a scheduled court or administrative  
25 hearing; or
- 26 (3) a defendant or defendant's attorney from sending the plaintiff  
27 copies of any legal pleadings filed in court relating to civil or criminal  
28 matters presently relevant to the plaintiff.

29 (h) *For the purposes of this section, "harassing" or "interfering with  
30 the privacy rights" includes, but is not limited to, utilizing any electronic  
31 tracking system or acquiring tracking information to determine the  
32 targeted person's location, movement or travel patterns.*

33 ~~Sec.—8: 9.~~ K.S.A. 38-2243, 38-2244 and 38-2255 and K.S.A. 2022  
34 Supp. 21-5427, **23-2224**, 23-2707, 60-3107 and 60-31a06 are hereby  
35 repealed.

36 ~~Sec.—9: 10.~~ This act shall take effect and be in force from and after its  
37 publication in the ~~statute book~~ **Kansas register**.