

SENATE BILL No. 265

By Committee on Ways and Means

2-16

1 AN ACT concerning protection orders; relating to crimes, punishment
2 and criminal procedure; ~~relating to restitution; requiring a person~~
3 ~~convicted of an offense that resulted in the incapacitation or death of~~
4 ~~a victim who is the parent or guardian of a minor child to pay~~
5 ~~restitution in the form of child support;~~ relating to violation of a
6 protective order; increasing criminal penalties for repeat violations;
7 prohibiting a sheriff from charging a fee for service of process for
8 proceedings under the protection from abuse act and the protection
9 from stalking, sexual assault or human trafficking act; amending
10 K.S.A. ~~2022 Supp.~~ 21-5924 and 28-110 and repealing the existing
11 ~~section~~ sections.
12

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

14 ~~*{New Section 1. (a) Notwithstanding any provision of law to the*~~
15 ~~*contrary, if a defendant is convicted of an offense that resulted in the*~~
16 ~~*incapacitation or death of a victim who is the parent or guardian of a*~~
17 ~~*minor child, then the court shall order the defendant to pay restitution in*~~
18 ~~*the form of reasonable and necessary support of each minor child of the*~~
19 ~~*victim until each minor child reaches 18 years of age and has graduated*~~
20 ~~*from high school, or the class of which the minor child is a member*~~
21 ~~*when the child reaches 18 years of age has graduated from high school.*~~

22 ~~*(b) When determining the amount of support that is reasonable and*~~
23 ~~*necessary for the support of the child, the court shall consider all*~~
24 ~~*relevant factors, including, but not limited to:*~~

25 ~~*(1) The age of the child;*~~

26 ~~*(2) the financial needs and resources of the child;*~~

27 ~~*(3) the financial resources and needs of the surviving parent or*~~
28 ~~*guardian of the child or the financial resources of the state if the child is*~~
29 ~~*in the custody of the secretary for children and families;*~~

30 ~~*(4) the standard of living to which the child is accustomed;*~~

31 ~~*(5) the physical and emotional condition of the child and the child's*~~
32 ~~*educational needs;*~~

33 ~~*(6) the child's legal custody and residency; and*~~

34 ~~*(7) the reasonable child care expenses of the surviving parent or*~~

1 guardian.

2 ~~(c) The court shall order the support payments be paid to the child's~~
3 ~~parent or guardian. The court's order shall be enforced as a judgment of~~
4 ~~restitution pursuant to K.S.A. 20-169, and amendments thereto, and~~
5 ~~K.S.A. 2022 Supp. 21-6604(b)(2), and amendments thereto. Payments~~
6 ~~shall continue until the entire arrearage is paid in full.~~

7 ~~(d) (1) If the victim or the victim's family brings a civil action~~
8 ~~against the defendant prior to the court ordering the defendant to pay~~
9 ~~the restitution described in this section and the victim or the victim's~~
10 ~~family obtains a judgment in such action, then the restitution described~~
11 ~~in this section shall not be ordered.~~

12 ~~(2) If the court enters an order pursuant to this section and the~~
13 ~~victim or the victim's family subsequently brings a civil action against~~
14 ~~the defendant and obtains a judgment in such action, then the order~~
15 ~~entered pursuant to this section shall be offset by the amount of the~~
16 ~~judgment in such action.~~

17 ~~(e) This section shall be a part of and supplemental to the Kansas~~
18 ~~code of criminal procedure.~~

19 Section 1. ~~{Sec. 2.}~~ Section 1. K.S.A. ~~2022 Supp. 21-5924~~ is hereby
20 amended to read as follows: 21-5924. (a) Violation of a protective order is
21 knowingly violating:

22 (1) A protection from abuse order issued pursuant to K.S.A. 60-3105,
23 60-3106 or 60-3107, and amendments thereto;

24 (2) a protective order issued by a court or tribunal of any state or
25 Indian tribe that is consistent with the provisions of 18 U.S.C. § 2265, ~~and~~
26 ~~amendments thereto;~~

27 (3) a restraining order issued pursuant to K.S.A. **23-2707**, 38-2243,
28 38-2244 or 38-2255, and amendments thereto, ~~or K.S.A. 2022 Supp. 23-~~
29 ~~2707, 38-2243, 38-2244 or 38-2255, and amendments thereto,~~ or K.S.A.
30 60-1607, prior to its transfer;

31 (4) an order issued in this or any other state as a condition of pretrial
32 release, diversion, probation, suspended sentence, postrelease supervision
33 or at any other time during the criminal case that orders the person to
34 refrain from having any direct or indirect contact with another person;

35 (5) an order issued in this or any other state as a condition of release
36 after conviction or as a condition of a supersedeas bond pending
37 disposition of an appeal, that orders the person to refrain from having any
38 direct or indirect contact with another person; or

39 (6) a protection from stalking, sexual assault or human trafficking
40 order issued pursuant to K.S.A. 60-31a05 or 60-31a06, and amendments
41 thereto.

42 (b) (1) *Except as provided in subsection (b)(2), violation of a*
43 *protective order is a:*

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

3 (B) severity level 7, person felony upon a second or subsequent
4 conviction.

5 (2) Violation of an extended protective order as described in K.S.A.
6 60-3107(e)(2), ~~and amendments thereto~~, and K.S.A. 60-31a06(d), and
7 amendments thereto, is a:

8 (A) Severity level 6, person felony, *except as provided in subsection*
9 *(b)(2)(B); and*

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

12 (c) No protective order, as set forth in this section, shall be construed
13 to prohibit an attorney, or any person acting on such attorney's behalf, who
14 is representing the defendant in any civil or criminal proceeding, from
15 contacting the protected party for a legitimate purpose within the scope of
16 the civil or criminal proceeding. The attorney, or person acting on such
17 attorney's behalf, shall be identified in any such contact.

18 (d) As used in this section, "order" includes any order issued by a
19 municipal or district court.

20 **Sec. 2. K.S.A. 28-110 is hereby amended to read as follows: 28-**
21 **110. (a) Except as otherwise provided in this section:**

22 ~~(1) On and after July 1, 2012 through June 30, 2013, the sheriff of~~
23 ~~each Kansas county shall charge a fee of \$10 for serving, executing and~~
24 ~~returning any process.~~

25 ~~(2) On and after July 1, 2013, the sheriff of each Kansas county~~
26 ~~shall charge a fee of \$15 for serving, executing and returning any~~
27 ~~process, except that no fee shall be charged for serving, executing and~~
28 ~~returning any process for a proceeding pursuant to the protection from~~
29 ~~abuse act as described in K.S.A. 60-3104, and amendments thereto, or the~~
30 ~~protection from stalking, sexual assault and human trafficking act as~~
31 ~~described in K.S.A. 60-31a04, and amendments thereto.~~

32 **(b) Subject to subsection (e), the fee described in subsection (a)**
33 **shall be charged for serving, executing and returning process, as well**
34 **as for any unsuccessful attempts to serve, execute or return process.**

35 **(c) If more than one process for the same person in the same case**
36 **is issued and is in the hands of a sheriff at one time, the sheriff shall**
37 **charge a single fee for serving, executing and returning the processes.**

38 **(d) If more than one process for different persons at the same**
39 **address in the same case is issued and is in the hands of a sheriff at**
40 **one time, the sheriff shall charge a single fee for serving, executing and**
41 **returning the processes.**

42 **(e) Where return is not made or timely return is not made**
43 **pursuant to K.S.A. 60-312 or 61-3005, and amendments thereto, no fee**

1 shall be charged for subsequent processes that may be required to
2 effect service and the timely return of the failed service. However, if
3 service is attempted and return is made showing no service because
4 the person to be served cannot be served at that address or there is no
5 such address, the fee in subsection (a) shall be charged for an alias
6 summons at the same address.

7 (f) Except as provided by K.S.A. 19-269, and amendments
8 thereto, a sheriff shall be reimbursed for the necessary transportation
9 and board expenses incurred while serving under requisition made by
10 the governor.

11 (g) All fees charged by a sheriff pursuant to this section for the
12 same case may be paid in one combined payment, in a form
13 designated by the sheriff, such as a check or money order.

14 (h) The state of Kansas and all municipalities in this state, as
15 defined in K.S.A. 12-105a, and amendments thereto, are hereby
16 exempt, in any civil action in which such state or municipality is
17 involved, from paying service of process fees prescribed by this
18 section.

19 (i) As used in this section, "process" means any summons,
20 pleading, writ, order or notice issued by a court clerk or court.

21 ~~Sec. 2. {3.}~~ K.S.A. ~~2022 Supp.~~ 21-5924 ~~is~~ and 28-110 are hereby
22 repealed.

23 ~~Sec. 3. {4.}~~ This act shall take effect and be in force from and after its
24 publication in the statute book.