

SESSION OF 2023

SUPPLEMENTAL NOTE ON SENATE BILL NO. 217

As Amended by House Committee of the Whole

Brief*

SB 217, as further amended, would amend statutes in the Kansas Criminal Code; Kansas Family Law Code; Kansas Parentage Act; the Revised Kansas Code for Care of Children; Protection from Abuse Act; and Protection from Stalking, Sexual Assault, or Human Trafficking Act concerning the use of electronic tracking systems to target a person's location, movement, or travel patterns.

Kansas Criminal Code—Crime of Stalking

The bill would add to the definition of “course of conduct” in the crime of stalking in the Kansas Criminal Code the following conduct: utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement, or travel patterns.

Kansas Family Law Code—Permissible Orders After the Filing of a Petition for Divorce, Annulment, or Separate Maintenance Before Action Final

The bill would expand permissible orders in continuing law related to restraining parties with regard to disposition of property and with regard to molesting or interfering with the privacy or rights of each other to specify these orders would cover the conduct of utilizing any electronic tracking system or acquiring tracking information to determine the other person's location, movement, or travel patterns.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Kansas Parentage Act—Court Orders

The bill would specify a court's power to make and enforce orders related to restraining parties from molesting or interfering with the privacy or rights of each other in continuing law would include utilizing any electronic tracking system or acquiring tracking information to determine the other person's location, movement, or travel patterns.

Revised Kansas Code for Care of Children—Temporary Custody Orders, Informal Supervision Restraining Orders, and Prohibitions on Authorized Dispositions of Custody

The bill would specify, for the purposes of sections of law concerning temporary custody orders, informal supervision restraining orders, and prohibitions on authorized dispositions of custody, the terms "harassing or intimidating" and "harass or intimidate" would include, but would not be limited to, utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement, or travel.

Protection from Abuse Act

The bill would specify restraining orders granted under the Protection from Abuse Act would include restraining the defendant from utilizing any electronic tracking system or acquiring tracking information to determine the other person's location, movement, or travel patterns.

Protection from Stalking, Sexual Assault, or Human Trafficking Act

The bill would specify, for the purposes of restraining orders granted under the Protection from Stalking, Sexual Assault, or Human Trafficking Act, the terms "harassing" or "interfering with the privacy rights" include, but are not limited

to, utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement, or travel patterns.

Timeframes of Protective Orders

The bill would amend law governing the timeframes for initial protective orders and related extension periods in the Protection from Abuse Act and in the Protection from Stalking, Sexual Assault, or Human Trafficking Act.

Current law allows orders initiated under both acts to remain in effect up to one year, with options to extend such orders for up to one additional year. The bill would change the time period for which initial orders could remain effective to a period of one to five years, and would change the time period for extensions of such orders to be effective for an additional one to five years.

The bill would also amend a provision in the Protection from Abuse Act requiring the court to extend protective orders for up to the lifetime of the defendant when the court determines a violation has occurred, by lowering the floor of the possible extension period from two additional years to one additional year.

Technical Amendments

The bill would make technical amendments to ensure consistency in statutory phrasing.

Effective Date

The bill would be in effect upon publication in the *Kansas Register*.

Background

The bill was introduced by the Senate Committee on Judiciary at the request of Senator Warren.

Senate Committee on Judiciary

In the Senate Committee hearing on February 14, 2023, a representative of the Kansas Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association provided **proponent** testimony, stating the bill is a response to the growing trend of cases where tracking devices are being used to stalk others. Written-only proponent testimony was provided by a representative of the Kansas Coalition Against Sexual and Domestic Violence (KCSDV). No other testimony was provided.

The Senate Committee adopted amendments to:

- Specify the conduct described by the bill would apply to a provision contained in the Kansas Parentage Act; and
- Specify the conduct described by the bill would apply to a provision related to interfering with privacy or rights in the section of law pertaining to permissible orders in the Kansas Family Law Code.

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on March 9, 2023, a representative of the Kansas Association of Chiefs of Police, the Kansas Sheriffs Association, and the Kansas Peace Officers Association testified as a **proponent** of the bill. The proponent stated this bill would address a growing trend of cases in which tracking devices are used to stalk others, and would provide more protection to the victims of stalking.

The House Committee amended the bill to take effect upon publication in the *Kansas Register*.

House Committee of the Whole

The House Committee of the Whole on March 27, 2023, amended the bill to include the contents of HB 2029 that was previously stricken from the calendar by Rule 1507 on February 23, 2023.

HB 2029

The bill was introduced by the House Committee on Judiciary at the request of Representative Featherston on behalf of the Metropolitan Organization to Counter Sexual Assault (MOCSA), Safehome, and KCSDV.

House Committee on Judiciary

In the House Committee hearing on January 24, 2023, two representatives of MOCSA and two representatives of KCSDV testified as **proponents** of the bill, stating that extending the effective periods for protective orders as proposed by the bill would reduce trauma for victims of abuse and promote efficiency within the court system. Written-only proponent testimony was submitted by a representative of the Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association; a representative of the Disability Rights Center of Kansas; and a private citizen. No other testimony was provided.

On February 9, 2023, the House Committee adopted an amendment to lower the floor of all relevant time periods amended by the bill from two years to one year.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on SB 217, as introduced, the Office of Judicial Administration (OJA) indicates enactment of the bill could increase the number of cases filed in district courts related to stalking crimes, which would increase the time spent by judges and court employees in processing and deciding these cases and could affect what courts may order in such cases.

OJA indicates the bill's enactment could result in the collection of docket fees in cases filed under the bill's provisions, which would be deposited into the State General Fund.

OJA indicates a fiscal effect cannot be estimated until the Judicial Branch has had an opportunity to operate under the bill's provisions.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2024 Governor's Budget Report*.

HB 2029

According to the fiscal note prepared by the Division of the Budget on HB 2029, as introduced, the OJA indicates enactment of the bill would have a negligible fiscal effect on Judicial Branch operations.

Electronic tracking systems; stalking; criminal penalties; Kansas Family Law Code; Revised Kansas Code for Care of Children; Protection from Abuse Act; Protection from Stalking, Sexual Assault, or Human Trafficking Act; restraining order; protection order; civil actions