Session of 2025

HOUSE BILL No. 2198

By Representative Ballard

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AN ACT concerning firearms; enacting the gun violence restraining order act; authorizing the issuance of protective orders prohibiting the acquisition and possession of firearms by certain individuals.

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

Section 1. (a) Sections 1 through 8, and amendments thereto, shall be known and may be cited as the gun violence restraining order act.

(b) As used in the gun violence restraining order act:

(1) "Dating relationship" means a relationship that consists of frequent, intimate associations primarily characterized by the expectation of affectional involvement. "Dating relationship" does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

(2) "Defendant" means the person against whom a gun violence restraining order is requested in an action under section 2, and amendments thereto.

(3) "Family member" means an individual who is related to the defendant as any of the following: A parent, son or daughter, sibling, grandparent, grandchild, uncle, aunt or first cousin.

(4) "Federal law enforcement officer" means an officer or agent employed by a law enforcement agency of the United States government whose primary responsibility is the enforcement of laws of the United States.

(5) "Gun violence restraining order" means an order issued by a court under section 4, and amendments thereto.

(6) "Plaintiff" means the individual who requests a gun violence restraining order in an action under section 2, and amendments thereto.

(7) "Restrained individual" means the individual against whom a gun restraining order has been issued and is in effect.

Sec. 2. (a) Any of the following individuals may file an action with the district court requesting the court to enter a gun violence restraining order pursuant to the gun violence restraining order act:

(1) The spouse of the defendant;

(2) a former spouse of the defendant;

(3) an individual who has a child in common with the defendant;

(4) an individual who has or has had a dating relationship with the

defendant;

(5) an individual who resides or has resided in the same household with the individual;

(6) a family member; or

(7) another individual who has a close relationship with the defendant.

If the plaintiff files a complaint under this paragraph, the plaintiff shall state in the complaint sufficient facts to allow the court to determine whether the individual has a close relationship with the defendant.

(b) An individual who files an action under this section shall do so by filing a summons and complaint on forms approved by the judicial council. The complaint shall state facts that demonstrate that the issuance of a gun violence restraining order is necessary because the defendant poses a significant risk of personal injury to self or others by possessing a firearm.

(c) If the plaintiff knows that the defendant is issued a license to carry a concealed weapon and is required to carry a weapon as a condition of such plaintiff's employment, the plaintiff shall state such condition of employment in the complaint.

(d) If the plaintiff requests the court to issue an order seizing firearms owned by the defendant, the plaintiff shall identify the firearms that the plaintiff knows are in the possession of the defendant.

Sec. 3. (a) In an action under section 2, and amendments thereto, the court may issue a gun violence restraining order if the court determines that there is reasonable cause to believe that the defendant poses a significant risk of personal injury to self or others by possessing a firearm. In determining whether reasonable cause exists, the court shall consider all of the following:

(1) Testimony, documents, or other evidence offered in support of the request for the gun violence restraining order;

(2) whether the defendant has previously inflicted or threatened to inflict personal injury on self or others; and

(3) any other facts that the court believes are relevant.

(b) If the plaintiff in an action filed under section 2, and amendments thereto, is not an individual described in section (2)(a)(1) through (6), and amendments thereto, the court shall not issue the gun violence restraining order unless the court determines that the plaintiff has a close enough relationship with the defendant to justify the issuance of the order.

(c) The court in an action under section 2, and amendments thereto, may issue a gun violence restraining order without written or oral notice to the defendant if the court determines that clear and convincing evidence has been submitted under oath or affirmation that irreparable injury will result from the delay required to effectuate notice or that the notice will

itself precipitate adverse action before a gun violence restraining order can be issued.

(d) A restrained individual under an order issued under subsection (c) may file a motion to modify or rescind the order and request a hearing. The motion to modify or rescind the order must be filed within 14 days after the order is served on the restrained individual or after the restrained individual receives actual notice of the order, unless good cause is shown for filing the motion after the 14 days have elapsed.

(e) The court shall conduct a hearing on a motion under subsection (d) within 14 days after the motion is filed. If the restrained individual is an individual described in section 2(d), and amendments thereto, the court shall conduct a hearing on a motion under subsection (d) within five days after the motion is filed.

Sec. 4. (a) If the court determines under section 3, and amendments thereto, that a gun violence restraining order is to be issued, the court shall include all of the following provisions in the order:

(1) That the restrained individual shall not purchase or possess a firearm;

(2) a statement that the restrained individual may file a motion to modify or rescind the order and request a hearing within 14 days after the restrained individual is served with or receives actual notice of the order and that motion forms and filing instructions are available from the clerk of the court, if such order is issued under section 3, and amendments thereto;

(3) a statement that violation of the order will subject the restrained individual to immediate arrest and the civil and criminal contempt powers of the court; and

(4) an expiration date that is not more than one year from the date of issuance.

(b) In the discretion of the court, a gun violence restraining order may include an order to a law enforcement agency to seize firearms in the possession of the restrained individual. An order issued under this subsection shall specifically describe the firearms to be seized. The court may also order that a law enforcement agency seizing firearms under this subsection may seize any other firearms discovered that belong to or are in the possession of the restrained individual.

(c) A gun violence restraining order is effective and enforceable immediately after it is served on the restrained individual or after the restrained individual receives actual notice of the order. The order may be enforced anywhere in this state by a law enforcement agency that receives a true copy of the order, is shown a copy of it or has verified its existence.

Sec. 5. A court that issues a gun violence restraining order shall do all of the following immediately after issuance and without requiring a proof

of service on the restrained individual:

(a) Provide a true copy of the order to the law enforcement agency designated under section 4, and amendments thereto; and

(b) provide the plaintiff with at least two true copies of the order.

(c) If the restrained individual is identified in the complaint as an individual described in section 2, and amendments thereto, notify the individual's employer, if known, of the existence of the order.

Sec. 6. (a) A gun violence restraining order shall be served on the restrained individual by any method. If the restrained individual has not been served, a law enforcement officer or clerk of the court who knows that the order exists may, at any time, serve the restrained individual with a true copy of the order or advise the restrained individual of the existence of the order, the specific conduct enjoined, the penalties for violating the order and where the restrained individual may obtain a copy of the order.

(b) The person who serves a gun violence restraining order or gives oral notice of the order shall file proof of service or proof of oral notice with the clerk of the court that issued the order.

(c) The clerk of the court shall immediately notify the law enforcement agency designated under section 4, and amendments thereto, if either of the following occurs:

(1) The clerk of the court receives proof that the restrained individual has been served; or

(2) the order is rescinded, modified or extended.

Sec. 7. (a) If a gun violence restraining order has not been served on the restrained individual, a law enforcement agency or officer responding to a call alleging a violation of the order shall serve the restrained individual with a true copy of the order or advise the restrained individual of the existence of the order, the specific conduct enjoined, the penalties for violating the order and where the restrained individual may obtain a copy of the order.

(b) Except as provided in subsection (c), the law enforcement officer shall enforce the order and immediately enter or cause to be entered into the law enforcement information network that the restrained individual has actual notice of the order. The law enforcement officer also shall comply with section 6, and amendments thereto.

(c) The law enforcement officer shall give the restrained individual an opportunity to comply with the gun violence restraining order before the law enforcement officer makes a custodial arrest for violation of the order. The failure by the restrained individual to immediately comply with the order is grounds for an immediate custodial arrest.

(d) The law enforcement agency ordered to seize a firearm under section 4, and amendments thereto, may seize any firearm identified in the order from any place or from any individual who has possession of such

firearms.

(e) The law enforcement agency may also seize any other firearms discovered that are owned by or in the possession of the restrained individual if so provided in the gun violence restraining order, or if allowed under other applicable law.

(f) A law enforcement officer who seizes any firearm under this section shall give a receipt for the firearm to the individual from whom it was taken, specifying the firearm in detail. If no individual is present at the time of seizure, the officer shall leave the receipt in the place where such officer found such firearms.

(g) The law enforcement agency that seizes a firearm under this section shall retain the firearm subject to an order of the court that issued the gun violence restraining order under which the firearm was seized. In addition to any other order that the court determines is appropriate, the court shall order that the firearm be returned to the restrained individual when the restrained individual is no longer prohibited from owning a firearm or that the firearm be transferred to a federally licensed firearm dealer if the restrained individual sells or transfers ownership of the firearm to such dealer.

(h) If the location to be searched during the seizure of a firearm under this section is jointly occupied by multiple individuals, and a firearm is located during the search, and it is determined that the firearm is owned by an individual other than the restrained individual, the law enforcement agency shall not seize the firearm if all of the following conditions are satisfied:

(1) The firearm is stored so that the restrained individual does not have access to or control of the firearm; and

(2) there is no evidence of unlawful possession of the firearm by the owner.

(i) If the location to be searched during the seizure of a firearm under this section is jointly occupied by multiple individuals, and a gun safe is located at the location, and it is determined that the gun safe is owned by an individual other than the restrained individual and a valid search warrant has not been obtained, the law enforcement agency shall not search the gun safe except in the owner's presence or with the owner's consent.

(j) If any individual other than the restrained individual claims title to a firearm seized under this section, the firearm shall be returned to the claimant if the court determines that the claimant is the lawful owner.

Sec. 8. (a) The plaintiff may move the court to issue, or the court on its own motion may issue, one or more extended gun violence restraining orders, each effective for up to one year after the expiration of the preceding order. The court shall only issue an extended order if there is

probable cause to believe that the restrained individual continues to pose a significant risk of personal injury to self or others by possessing a firearm. The plaintiff or the court, as applicable, shall give the restrained individual written notice of a hearing on a motion to extend the order.

(b) An individual who refuses or fails to comply with a gun violence restraining order is subject to the criminal contempt powers of the court. A plaintiff who knowingly makes a false statement to the court in the complaint or in support of the complaint is subject to the contempt powers of the court.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.