

HOUSE BILL No. 2707

By Representatives Oropeza, Alcala, Amyx, Ballard, Boatman, Bohi, Brownlee Paige, Carlin, Carmichael, Carr, Curtis, Featherston, Haskins, Hoye, Martinez, McDonald, Melton, Meyer, Mosley, Neighbor, Ohaebosim, Poskin, L. Ruiz, S. Ruiz, Sawyer, Sawyer Clayton, Schlingensiepen, Schreiber, Simmons, Stogsdill, Vaughn, Wikle, Woodard and Xu

2-4

1 AN ACT concerning the protection from abuse act; modifying the
2 definition of abuse to include certain acts or threats related to pets;
3 specifying that courts may include orders relating to pets in protection
4 orders; amending K.S.A. 60-3102, 60-3106 and 60-3107 and repealing
5 the existing sections.

6

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

8 Section 1. K.S.A. 60-3102 is hereby amended to read as follows: 60-
9 3102. As used in the protection from abuse act:

10 (a) "Abuse" means the occurrence of one or more of the following
11 acts between intimate partners or household members:

12 (1) Intentionally attempting to cause bodily injury, or intentionally or
13 recklessly causing bodily injury.

14 (2) Intentionally placing, by physical threat, another *person* in fear of
15 imminent bodily injury.

16 (3) *Intentionally or knowingly causing, attempting to cause or
17 threatening to cause physical injury to a pet with the intent to control,
18 punish, intimidate or distress another person.*

19 (4) Engaging in any sexual contact or attempted sexual contact with
20 another person without consent or when such person is incapable of giving
21 consent.

22 (4)(5) Engaging in any of the following acts with a minor under 16
23 years of age who is not the spouse of the offender:

24 (A) The act of sexual intercourse; or

25 (B) any lewd fondling or touching of the person of either the minor or
26 the offender, done or submitted to with the intent to arouse or to satisfy the
27 sexual desires of either the minor or the offender, or both.

28 (b) "Intimate partners or household members" means persons who are
29 or have been in a dating relationship, persons who reside together or who
30 have formerly resided together or persons who have had a child in
31 common.

32 (c) "Dating relationship" means a social relationship of a romantic
33 nature. A dating relationship shall be presumed if a plaintiff verifies,

1 pursuant to K.S.A. 53-601, and amendments thereto, that such relationship
2 exists. In addition to any other factors the court deems relevant, the court
3 shall consider the following factors in making a determination of whether
4 a relationship exists or existed include:

- 5 (1) Nature of the relationship;
- 6 (2) length of time the relationship existed;
- 7 (3) frequency of interaction between the parties; and
- 8 (4) time since termination of the relationship, if applicable.

9 (d) *"Pet" means a dog, cat or other animal that is domesticated and
10 kept for pleasure rather than utility.*

11 Sec. 2. K.S.A. 60-3106 is hereby amended to read as follows: 60-
12 3106. (a) Within 21 days of the filing of a petition under this act a hearing
13 shall be held at which the plaintiff must prove the allegation of abuse by a
14 preponderance of the evidence and the defendant shall have an opportunity
15 to cross-examine the petitioner's witnesses and present evidence on the
16 defendant's behalf. Upon the filing of the petition, the court shall set the
17 case for hearing and advise the parties of the right to be represented by
18 counsel.

19 (b) Prior to the hearing on the petition and upon a finding of good
20 cause shown, the court on motion of a party may enter such temporary
21 relief orders in accordance with ~~subsection (a)(1), (2), (4) or (5)~~ of K.S.A.
22 60-3107(a)(1), (2), (4), (5), (10) or (11), and amendments thereto, or any
23 combination thereof, as it deems necessary to protect the plaintiff or minor
24 children from abuse. Temporary orders may be granted ex parte.
25 Immediate and present danger of abuse to the plaintiff or minor children
26 shall constitute good cause for purposes of this section. No temporary
27 order shall have the effect of modifying an existing order granting legal
28 custody, residency, visitation or parenting time unless there is sworn
29 testimony at a hearing to support a showing of good cause.

30 (c) If a hearing under subsection (a) is continued, the court may make
31 or extend such temporary orders under subsection (b) as it deems
32 necessary.

33 Sec. 3. K.S.A. 60-3107 is hereby amended to read as follows: 60-
34 3107. (a) The court may approve any consent agreement to bring about a
35 cessation of abuse of the plaintiff or minor children or grant any of the
36 following orders:

37 (1) Restraining the defendant from abusing, molesting or interfering
38 with the privacy or rights of the plaintiff or of any minor children of the
39 parties, including, but not limited to, utilizing any electronic tracking
40 system or acquiring tracking information to determine the other person's
41 location, movement or travel patterns. Such order shall contain a statement
42 that if such order is violated, such violation may constitute assault as
43 defined in K.S.A. 21-5412(a), and amendments thereto, battery as defined

1 in K.S.A. 21-5413(a), and amendments thereto, domestic battery as
2 defined in K.S.A. 21-5414, and amendments thereto, and violation of a
3 protective order as defined in K.S.A. 21-5924, and amendments thereto.

4 (2) Granting possession of the residence or household to the plaintiff
5 to the exclusion of the defendant, and further restraining the defendant
6 from entering or remaining upon or in such residence or household,
7 subject to the limitation of subsection (d). Such order shall contain a
8 statement that if such order is violated, such violation shall constitute
9 criminal trespass as defined in K.S.A. 21-5808(a)(1)(C), and amendments
10 thereto, and violation of a protective order as defined in K.S.A. 21-5924,
11 and amendments thereto. The court may grant an order, which shall expire
12 60 days following the date of issuance, restraining the defendant from
13 cancelling utility service to the residence or household.

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

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

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

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

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

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

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

33 (10) *Ordering that the plaintiff will have custody and control of any
34 pet owned, possessed, leased, kept or held by the plaintiff, the defendant or
35 any family or household member residing in the household of the plaintiff
36 or defendant.*

37 (11) *Restraining the defendant from coming into contact with,
38 harming or killing any pet owned, possessed, leased, kept or held by the
39 plaintiff, the defendant or any family or household member residing in the
40 household of the plaintiff or defendant.*

41 (12) Ordering or restraining any other acts deemed necessary to
42 promote the safety of the plaintiff or of any minor children of the parties.

43 (b) No protection from abuse order shall be entered against the

1 plaintiff unless:

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

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

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

10 (c) (1) Any order entered under the protection from abuse act shall
11 not be modified by a subsequent ex parte or temporary order issued in any
12 action, except as provided in paragraph (4).

13 (2) (A) Any order entered under the protection from abuse act may be
14 modified by a subsequent final order pursuant to a hearing or an agreement
15 of the parties issued in any action, except as provided in paragraph (4).

16 (B) Any inconsistent order entered pursuant to this subsection shall
17 be specific in its terms and reference the protection from abuse order and
18 parts of the order being modified. A copy of the order shall be filed in both
19 actions.

20 (C) The court shall consider whether the actions should be
21 consolidated in accordance with K.S.A. 60-242, and amendments thereto.

22 (3) (A) On sworn testimony to support a showing of good cause and
23 as authorized by K.S.A. 23-3201 through 23-3207 and 23-3218, and
24 amendments thereto, orders issued under the protection from abuse act
25 may modify orders regarding legal custody, residency and parenting time
26 previously issued in an action for:

27 (i) The determination of parentage filed pursuant to article 22 of
28 chapter 23 of the Kansas Statutes Annotated, and amendments thereto, or
29 K.S.A. 38-1101 et seq. prior to their transfer or repeal; or

30 (ii) divorce, separate maintenance or annulment filed pursuant to
31 article 27 of chapter 23 of the Kansas Statutes Annotated, and amendments
32 thereto, or K.S.A. 60-1601 et seq., prior to their transfer or repeal.

33 (B) On sworn testimony to support a showing of good cause, orders
34 issued under the protection from abuse act may modify interlocutory
35 orders issued pursuant to K.S.A. 23-2707, and amendments thereto.

36 (C) For purposes of this paragraph, immediate and present danger of
37 abuse to the plaintiff or minor children shall constitute good cause.

38 (4) (A) Any legal custody or parenting time order, or order relating to
39 the best interests of a child, issued pursuant to the revised Kansas code for
40 care of children or the revised Kansas juvenile justice code, shall be
41 binding and shall take precedence over any such custody or parenting
42 order involving the same child issued under the protection from abuse act,
43 until jurisdiction under the revised Kansas code for care of children or the

1 revised Kansas juvenile justice code is terminated.

2 (B) Any inconsistent legal custody or parenting order issued in the
3 revised Kansas code for care of children case or the revised Kansas
4 juvenile justice code case shall be specific in its terms, reference any
5 preexisting protection from abuse order and the custody being modified,
6 and a copy of such order shall be filed in the preexisting protection from
7 abuse case.

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

13 (e) Subject to the provisions of subsections (b), (c) and (d), a
14 protective order or approved consent agreement shall remain in effect until
15 modified or dismissed by the court and shall be for a fixed period of time
16 not less than one year and not more than two years, except as provided in
17 paragraphs (1) and (2).

18 (1) Upon motion of the plaintiff, such period may be extended for an
19 additional period of not less than one year and not more than three years.

20 (2) Upon verified motion of the plaintiff and after the defendant has
21 been personally served with a copy of the motion and has had an
22 opportunity to present evidence and cross-examine witnesses at a hearing
23 on the motion, the court shall extend a protective order for not less than
24 one additional year and may extend the protective order up to the lifetime
25 of the defendant if the court determines by a preponderance of the
26 evidence that the defendant has: (A) Violated a valid protection order; (B)
27 previously violated a valid protection order; or (C) been convicted of a
28 person felony or any conspiracy, criminal solicitation or attempt thereof,
29 under the laws of Kansas or the laws of any other jurisdiction which are
30 substantially similar to such person felony, committed against the plaintiff
31 or any member of the plaintiff's household. No service fee shall be
32 required for a motion filed pursuant to this subsection.

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

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

37 (h) If a person enters or remains on premises or property—*violating in*
38 *violation of* an order issued pursuant to subsection (a)(2), such violation
39 shall constitute criminal trespass as defined in K.S.A. 21-5808(a)(1)(C),
40 and amendments thereto, and violation of a protective order as defined in
41 K.S.A. 21-5924, and amendments thereto. If a person abuses, molests or
42 interferes with the privacy or rights of another—*violating person in*
43 *violation of* an order issued pursuant to subsection (a)(1), such violation

1 may constitute assault as defined in K.S.A. 21-5412(a), and amendments
2 thereto, battery as defined in K.S.A. 21-5413(a), and amendments thereto,
3 domestic battery as defined in K.S.A. 21-5414, and amendments thereto,
4 and violation of a protective order as defined in K.S.A. 21-5924, and
5 amendments thereto.

6 Sec. 4. K.S.A. 60-3102, 60-3106 and 60-3107 are hereby repealed.

7 Sec. 5. This act shall take effect and be in force from and after its
8 publication in the statute book.