

2012 Kansas Statutes

21-5910. Civil remedies; court orders authorized; penalties; pretrial release. (a) In its discretion and upon good cause, which may include, but is not limited to, the declaration of a party's attorney, to believe that intimidation or dissuasion of any victim or witness has occurred or is reasonably likely to occur, any court having jurisdiction over any civil or criminal matter may issue any reasonable order necessary to remedy or prevent the intimidation or dissuasion, including, but not limited to, an order that:

(1) Any person before the court, including but not limited to a party, subpoenaed witness or other person entering the courtroom of the court, not violate any provision of this section or K.S.A. 2012 Supp. 21-5909, and amendments thereto;

(2) any person described in this section maintain a prescribed geographic distance from any specified witness or victim;

(3) any person described in this section have no communication whatsoever with any specified witness or victim, except through an attorney under such reasonable restrictions as the court imposes;

(4) calls for a hearing to determine if an order described in subsection (a)(1), (a)(2) or (a)(3) should be issued; or

(5) a particular law enforcement agency within the jurisdiction of the court provide protection for a victim or witness.

(b) Actions by a law enforcement agency pursuant to an order issued under subsection (a)(5) shall be considered to be police protection within the exemption from liability under the Kansas tort claims act for damages resulting from the failure to provide, or the method of providing, police protection.

(c) Violation of an order entered pursuant to subsection (a) may be punished in any of the following ways:

(1) In the manner provided by K.S.A. 2012 Supp. 21-5909, and amendments thereto, when applicable;

(2) as a contempt of the court making the order. No finding of contempt shall be a bar to prosecution for a violation of K.S.A. 2012 Supp. 21-5909, and amendments thereto, but:

(A) Any person held in contempt shall be entitled to have any punishment imposed for contempt to be credited against any sentence imposed upon conviction of a violation of K.S.A. 2012 Supp. 21-5909, and amendments thereto; and

(B) any conviction or acquittal of a violation of subsection (a) or K.S.A. 2012 Supp. 21-5909, and amendments thereto, shall be a bar to subsequent punishment for contempt arising out of the same act; or

(3) by revocation of any form of pretrial release of a criminal defendant or by the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding the defendant into custody. After a hearing and upon a showing by clear and convincing evidence, the court, in its sound discretion, may order the revocation whether the violation was committed by the defendant personally or in any way caused or encouraged it to be committed.

(d) (1) Any pretrial release of any criminal defendant, whether on bail or under another form of recognizance, shall be considered as a matter of law to include a condition that the defendant will not commit, cause to be committed or knowingly permit to be committed, on the defendant's behalf, any violation of this section or K.S.A. 2012 Supp. 21-5909, and amendments thereto. Knowing violation of that condition is subject to the sanction provided by subsection (c)(3) whether or not the defendant was the subject of an order under subsection (a).

(2) Any receipt for any bail or bond given by any court, or by any surety or bondsman and any written promise to appear on one's own recognizance shall contain notice of the provisions of subsection (d)(1) in a conspicuous location.

(3) Any pretrial release of any criminal defendant whether on bail or under another form of recognizance who requests and is entitled to the assistance of counsel under the provisions of K.S.A. 22-4503, and amendments thereto, shall be considered as a matter of law to include a condition that the defendant shall pay the application fee prescribed by K.S.A. 22-4529, and amendments thereto, and the failure to pay such fee shall constitute a violation of this section. Knowing violation of such condition is subject to the sanction provided by subsection (c)(3) whether or not the defendant was the subject of an order under subsection (a).

History: L. 2010, ch. 136, § 135; July 1, 2011.