

HOUSE BILL No. 2251

By Committee on Federal and State Affairs

2-5

1 AN ACT concerning firearms; relinquishment thereof pursuant to certain
2 court orders; criminal penalties; amending K.S.A. 2020 Supp. 22-3426,
3 60-3107 and 60-31a06 and repealing the existing sections.

4 201

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

6 New Section 1. (a) The court shall issue an order requiring the
7 defendant to relinquish all firearms in the defendant's custody, control or
8 possession, and any concealed carry license issued to the defendant upon:

9 (1) The court's issuance of a qualifying protection order against such
10 defendant; or

11 (2) the conviction of the defendant for domestic battery as described
12 in K.S.A. 2020 Supp. 21-5414, and amendments thereto, or any
13 misdemeanor for a domestic violence offense as defined in K.S.A. 2020
14 Supp. 21-6301, and amendments thereto.

15 (b) A defendant subject to a relinquishment order issued pursuant to
16 this section shall:

17 (1) Relinquish all firearms in the defendant's custody, control or
18 possession to the sheriff of the county in which the court issuing such
19 relinquishment order is located, or to a licensed federal firearms dealer;
20 and

21 (2) relinquish any concealed carry license issued to the defendant to
22 the sheriff of the county in which the court issuing such relinquishment
23 order is located.

24 (c) (1) If the defendant is physically present in court at the time a
25 relinquishment order is entered against the defendant, the defendant shall
26 comply with the provisions of subsection (b) within 24 hours after such
27 relinquishment order is entered.

28 (2) If the defendant is not physically present in court at the time a
29 relinquishment order is entered against the defendant, such order shall be
30 personally served on the defendant by a law enforcement officer, or if
31 personal service by a law enforcement officer is not possible, in
32 accordance with K.S.A. 60-301 et seq., and amendments thereto.

33 (3) If the order is personally served on the defendant, the law
34 enforcement officer serving such order shall require that the defendant
35 immediately surrender all firearms in the defendant's custody, control or
36 possession, and any concealed carry license issued to the defendant. The

1 law enforcement officer shall conduct any search of the defendant
2 permitted by law for such firearms or license. The law enforcement officer
3 shall take possession of any such firearms and license that are
4 relinquished, in plain sight or discovered pursuant to a lawful search.

5 (4) The defendant shall relinquish, in accordance with subsection (b),
6 any firearms in the defendant's custody, control or possession, and any
7 concealed carry license issued to the defendant that are not relinquished to
8 or removed by a law enforcement officer at the time of service within 24
9 hours after service of the order.

10 (d) A law enforcement officer or licensed federal firearms dealer who
11 takes possession of a firearm or concealed carry license pursuant to this
12 section shall issue a proof of relinquishment or removal to the defendant.
13 The proof of relinquishment or removal shall include:

14 (1) The name of the defendant;

15 (2) the date such firearm or concealed carry license was relinquished
16 or removed;

17 (3) the identification number of any relinquished or removed
18 concealed carry license; and

19 (4) the make, model and serial number of any relinquished or
20 removed firearm.

21 (e) Within 48 hours after issuance of a relinquishment order pursuant
22 to subsection (a), a defendant subject to such order shall:

23 (1) File one or more proofs of relinquishment or removal showing
24 that all firearms previously in the defendant's custody, control or
25 possession, and any concealed carry license issued to the defendant, were
26 relinquished or removed by a law enforcement officer pursuant to
27 subsection (c), and attest to the court that the defendant does not currently
28 have any firearms in the defendant's custody, control or possession, and
29 does not currently possess a concealed carry license; or

30 (2) attest to the court that:

31 (A) At the time the relinquishment order was issued, the defendant
32 did not have any firearms in the defendant's custody, control or possession,
33 and did not possess any concealed carry license; and

34 (B) the defendant does not currently have any firearms in the
35 defendant's custody, control or possession, and does not currently possess
36 a concealed carry license.

37 (f) If the defendant fails to file any proofs of relinquishment or
38 removal or any attestations as required under subsection (e) after 48 hours
39 from the issuance of a relinquishment order, the clerk of the court that
40 issued such order shall notify the sheriff of the county in which the court is
41 located that the defendant has failed to make any such filings with the
42 court. Upon receipt of such notification, the sheriff shall make a good faith
43 effort to determine whether there is evidence that the defendant has failed

1 to relinquish any firearm in the defendant's custody, control or possession,
2 or any concealed carry license issued to the defendant, as required under
3 the relinquishment order.

4 (g) A relinquishment order shall be effective for either the duration of
5 the qualifying protective order issued against the defendant, or for that
6 period of time during which it is unlawful for the defendant to possess a
7 firearm under K.S.A. 2020 Supp. 21-6301 or 21-6304, and amendments
8 thereto.

9 (h) At any point while a relinquishment order is in effect, the
10 plaintiff, the district attorney or county attorney, or a law enforcement
11 officer may file an affidavit with the court that issued the order alleging
12 that the defendant subject to such order has a firearm in the defendant's
13 custody, control or possession, or possesses a concealed carry license.
14 Upon the filing of such affidavit, the court shall determine whether
15 probable cause exists to believe that the defendant has a firearm in the
16 defendant's custody, control or possession, or possesses a concealed carry
17 license. If the court finds that such probable cause exists, the court shall
18 issue a search warrant for such firearm or concealed carry license in
19 accordance with K.S.A. 22-2502, and amendments thereto.

20 (i) Except as provided in subsection (j), upon expiration or
21 termination of a relinquishment order and at the request of the defendant,
22 any items that were relinquished or removed by the sheriff shall be
23 returned to the defendant, provided the sheriff conducts a state and
24 national criminal history records check that conforms to applicable federal
25 standards, including an inquiry of the national instant criminal background
26 check system and confirms that the defendant is not currently prohibited
27 from possessing or receiving a firearm under state or federal law.

28 (j) A sheriff may dispose of any firearms relinquished by a defendant
29 pursuant to a relinquishment order issued under subsection (a)(2) only
30 after the defendant is notified of the pending disposal of any such firearm,
31 and the proceeds from the disposal of any such firearm, less the cost to the
32 sheriff for taking possession of, storing and disposing of any such firearm,
33 shall be paid to the defendant.

34 (k) If a person other than a defendant claims title to a firearm
35 relinquished to or removed by the sheriff, and such person is determined
36 by the sheriff to be the lawful owner of such firearm, the sheriff shall
37 return the firearm to the lawful owner if: (1) The lawful owner agrees to
38 maintain, keep or store such firearm in a manner such that no person who
39 is prohibited from possessing or receiving firearms under state or federal
40 law shall have access to or control of such firearm; and (2) the sheriff
41 conducts a state and national criminal history records check that conforms
42 to applicable federal standards, including an inquiry of the national instant
43 criminal background check system, to confirm that the lawful owner is not

1 currently prohibited from possessing or receiving a firearm under state or
2 federal law.

3 (l) As used in this section:

4 (1) "Concealed carry license" means a license to carry concealed
5 handguns issued pursuant to the personal and family protection act, K.S.A.
6 75-7c01 et seq., and amendments thereto, or by any other jurisdiction.

7 (2) "Defendant" means:

8 (A) A person subject to a qualifying protection order; or

9 (B) a person convicted of domestic battery as described in K.S.A.
10 2020 Supp. 21-5414, and amendments thereto, or any misdemeanor for a
11 domestic violence offense as defined in K.S.A. 2020 Supp. 21-6301, and
12 amendments thereto.

13 (3) "Intimate partner" means, with respect to a person, the spouse of
14 the person, a former spouse of the person, an individual who is a parent of
15 a child of the person, an individual who cohabitates or has cohabitated
16 with the person or an individual with whom the person is involved or has
17 been involved in a dating relationship as defined in K.S.A. 2020 Supp. 21-
18 5111, and amendments thereto.

19 (4) "Plaintiff" means a person who successfully petitions for a
20 qualifying protection order.

21 (5) "Qualifying protection order" means an order issued under the
22 protection from abuse act, K.S.A. 60-3101 et seq., and amendments
23 thereto, or the protection from stalking, sexual assault or human trafficking
24 act, K.S.A. 60-31a01 et seq., and amendments thereto, and that:

25 (A) Was issued after a hearing, of which the defendant received
26 actual notice, and at which the defendant had an opportunity to participate;

27 (B) restrains the defendant from harassing, stalking or threatening an
28 intimate partner of the defendant, or a child of the defendant or such
29 intimate partner, or engaging in other conduct that would place an intimate
30 partner in reasonable fear of bodily injury to the partner or the child; and

31 (C) (i) Includes a finding that the defendant represents a credible
32 threat to the physical safety of such intimate partner or child; or

33 (ii) by its terms explicitly prohibits the use, attempted use or
34 threatened use of physical force against such intimate partner or child that
35 would reasonably be expected to cause bodily injury.

36 New Sec. 2. (a) It shall be unlawful for a person to possess a firearm
37 or concealed carry license issued to such person while there is a
38 relinquishment order issued pursuant to section 1, and amendments
39 thereto, in effect against such person.

40 (b) Violation of this section is a severity level 8, nonperson felony.

41 (c) It is not a violation of this section if the person is possessing,
42 carrying or otherwise transporting a firearm or a concealed carry license
43 for the sole purpose of relinquishing such firearm or concealed carry

1 license in accordance with section 1(b) or (c), and amendments thereto, if:

2 (1) The person is in possession of a written relinquishment order
3 issued by a court and such order was issued within the previous 24 hours;

4 (2) any firearm being transported is unloaded; and

5 (3) the person transports the firearm or concealed carry license
6 directly to the sheriff of the county in which the court that issued the
7 relinquishment order is located, or, in the case of a firearm, directly to a
8 licensed federal firearms dealer.

9 (d) As used in this section, the term "concealed carry license" means
10 a license to carry concealed handguns issued pursuant to the personal and
11 family protection act, K.S.A. 75-7c01 et seq., and amendments thereto, or
12 by any other jurisdiction.

13 (e) The provisions of this section shall be a part of and supplemental
14 to the Kansas criminal code.

15 Sec. 3. K.S.A. 2020 Supp. 22-3426 is hereby amended to read as
16 follows: 22-3426. (a) When judgment is rendered or sentence of
17 imprisonment is imposed, upon a plea or verdict of guilty, a record thereof
18 shall be made upon the journal of the court, reflecting, if applicable,
19 conviction or other judgment, the sentence if imposed, and the
20 commitment, which record among other things shall contain a statement of
21 the crime charged, and under what statute; the plea or verdict and the
22 judgment rendered or sentence imposed, and under what statute, and a
23 statement that the defendant was duly represented by counsel naming such
24 counsel, or a statement that the defendant has stated on the record or in
25 writing that the defendant did not want representation of counsel.

26 (b) If defendant is sentenced to the custody of the secretary of
27 corrections the journal entry shall record, in a judgment form, if used, all
28 the information required under K.S.A. 2020 Supp. 21-6711, and
29 amendments thereto, unless such section is not applicable.

30 (c) It shall be the duty of the court personally to examine the journal
31 entry and to sign the same.

32 (d) For felony convictions for crimes committed on or after July 1,
33 1993, in addition to the provisions of subsections (a) through (c), the
34 journal entry shall contain the following information:

35 (1) Court case number;

36 (2) Kansas bureau of investigation number;

37 (3) case transaction number;

38 (4) court O.R.I. number;

39 (5) the type of counsel;

40 (6) type of trial, if any;

41 (7) pretrial status of the offender;

42 (8) the date of the sentencing hearing;

43 (9) a listing of offenses for which the defendant is convicted;

- 1 (10) the criminal history classification;
- 2 (11) the sentence imposed for each offense including postrelease or
- 3 probation supervision durations;
- 4 (12) whether the sentences run concurrently or consecutively;
- 5 (13) amount of credit for time spent incarcerated;
- 6 (14) period ordered in county jail as a condition of probation;
- 7 (15) a listing of offenses in which a departure sentence is imposed;
- 8 (16) type of departure sentence; and
- 9 (17) factors cited as a basis for departure sentence.

10 The journal entry shall be recorded on a form approved by the Kansas
 11 sentencing commission.

12 *(e) For convictions of domestic battery as described in K.S.A. 2020*
 13 *Supp. 21-5414, and amendments thereto, and any misdemeanor for a*
 14 *domestic violence offense as defined in K.S.A. 2020 Supp. 21-6301, and*
 15 *amendments thereto, in addition to the provisions of subsections (a)*
 16 *through (d), the court shall issue a relinquishment order against the*
 17 *defendant pursuant to section 1, and amendments thereto.*

18 Sec. 4. K.S.A. 2020 Supp. 60-3107 is hereby amended to read as
 19 follows: 60-3107. (a) The court may approve any consent agreement to
 20 bring about a cessation of abuse of the plaintiff or minor children or grant
 21 any of the following orders:

22 (1) Restraining the defendant from abusing, molesting or interfering
 23 with the privacy or rights of the plaintiff or of any minor children of the
 24 parties. Such order shall contain a statement that if such order is violated,
 25 such violation may constitute assault as defined in ~~subsection (a) of~~ K.S.A.
 26 2020 Supp. 21-5412(a), and amendments thereto, battery as defined in
 27 ~~subsection (a) of~~ K.S.A. 2020 Supp. 21-5413(a), and amendments thereto,
 28 domestic battery as defined in K.S.A. 2020 Supp. 21-5414, and
 29 amendments thereto, and violation of a protective order as defined in
 30 K.S.A. 2020 Supp. 21-5924, and amendments thereto.

31 (2) Granting possession of the residence or household to the plaintiff
 32 to the exclusion of the defendant, and further restraining the defendant
 33 from entering or remaining upon or in such residence or household,
 34 subject to the limitation of subsection (d). Such order shall contain a
 35 statement that if such order is violated, such violation shall constitute
 36 criminal trespass as defined in ~~subsection (a)(1)(C) of~~ K.S.A. 2020 Supp.
 37 21-5808(a)(1)(C), and amendments thereto, and violation of a protective
 38 order as defined in K.S.A. 2020 Supp. 21-5924, and amendments thereto.
 39 The court may grant an order, which shall expire 60 days following the
 40 date of issuance, restraining the defendant from cancelling utility service
 41 to the residence or household.

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

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

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

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

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

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

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

18 (10) Ordering or restraining any other acts deemed necessary to
19 promote the safety of the plaintiff or of any minor children of the parties.

20 (b) No protection from abuse order shall be entered against the
21 plaintiff unless:

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

24 (2) the plaintiff had reasonable notice of the written cross or counter
25 petition by personal service as provided in ~~subsection (d) of~~ K.S.A. 60-
26 3104(d), and amendments thereto; and

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

30 (c) Any order entered under the protection from abuse act shall not be
31 subject to modification on ex parte application or on motion for temporary
32 orders in any action filed pursuant to K.S.A. 60-1601 et seq., prior to their
33 transfer or repeal, or article 22 or 27 of chapter 23 of the Kansas Statutes
34 Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and
35 amendments thereto. Orders previously issued in an action filed pursuant
36 to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or
37 27 of chapter 23 of the Kansas Statutes Annotated, and amendments
38 thereto, or K.S.A. 38-1101 et seq., and amendments thereto, shall be
39 subject to modification under the protection from abuse act only as to
40 those matters subject to modification by the terms of K.S.A. 2020 Supp.
41 23-3201 through 23-3207 and 23-3218 and article 27 of chapter 23 of the
42 Kansas Statutes Annotated, and amendments thereto, and on sworn
43 testimony to support a showing of good cause. Immediate and present

1 danger of abuse to the plaintiff or minor children shall constitute good
2 cause. If an action is filed pursuant to K.S.A. 2020 Supp. 23-3201 through
3 23-3207 or 23-3218 or article 22 or 27 of chapter 23 of the Kansas Statutes
4 Annotated, and amendments thereto, during the pendency of a proceeding
5 filed under the protection from abuse act or while an order issued under
6 the protection from abuse act is in effect, the court, on final hearing or on
7 agreement of the parties, may issue final orders authorized by K.S.A. 2020
8 Supp. 23-3201 through 23-3207 and 23-3218 and articles 22 and 27 of
9 chapter 23 of the Kansas Statutes Annotated, and amendments thereto, that
10 are inconsistent with orders entered under the protection from abuse act.
11 Any inconsistent order entered pursuant to this subsection shall be specific
12 in its terms, reference the protection from abuse order and parts thereof
13 being modified and a copy thereof shall be filed in both actions. The court
14 shall consider whether the actions should be consolidated in accordance
15 with K.S.A. 60-242, and amendments thereto. Any custody or parenting
16 time order, or order relating to the best interests of a child, issued pursuant
17 to the revised Kansas code for care of children or the revised Kansas
18 juvenile justice code, shall be binding and shall take precedence over any
19 such custody or parenting order involving the same child issued under the
20 protection from abuse act, until jurisdiction under the revised Kansas code
21 for care of children or the revised Kansas juvenile justice code is
22 terminated. Any inconsistent custody or parenting order issued in the
23 revised Kansas code for care of children case or the revised Kansas
24 juvenile justice code case shall be specific in its terms, reference any
25 preexisting protection from abuse order and the custody being modified,
26 and a copy of such order shall be filed in the preexisting protection from
27 abuse case.

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

33 (e) Subject to the provisions of subsections (b), (c) and (d), a
34 protective order or approved consent agreement shall remain in effect until
35 modified or dismissed by the court and shall be for a fixed period of time
36 not to exceed one year, except as provided in subsection (e)(1) and (e)(2).

37 (1) Upon motion of the plaintiff, such period may be extended for one
38 additional year.

39 (2) Upon verified motion of the plaintiff and after the defendant has
40 been personally served with a copy of the motion and has had an
41 opportunity to present evidence and cross-examine witnesses at a hearing
42 on the motion, if the court determines by a preponderance of the evidence
43 that the defendant has violated a valid protection order or (A) has

1 previously violated a valid protection order, or (B) has been convicted of a
2 person felony or any conspiracy, criminal solicitation or attempt thereof,
3 under the laws of Kansas or the laws of any other jurisdiction which are
4 substantially similar to such person felony, committed against the plaintiff
5 or any member of the plaintiff's household, the court shall extend a
6 protective order for not less than two additional years and may extend the
7 protective order up to the lifetime of the defendant. No service fee shall be
8 required for a motion filed pursuant to this subsection.

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

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

13 (h) If a person enters or remains on premises or property violating an
14 order issued pursuant to subsection (a)(2), such violation shall constitute
15 criminal trespass as defined in ~~subsection (a)(1)(C) of K.S.A. 2020 Supp.~~
16 ~~21-5808(a)(1)(C)~~, and amendments thereto, and violation of a protective
17 order as defined in K.S.A. 2020 Supp. 21-5924, and amendments thereto.
18 If a person abuses, molests or interferes with the privacy or rights of
19 another violating an order issued pursuant to subsection (a)(1), such
20 violation may constitute assault as defined in ~~subsection (a) of K.S.A.~~
21 ~~2020 Supp. 21-5412(a)~~, and amendments thereto, battery as defined in
22 ~~subsection (a) of K.S.A. 2020 Supp. 21-5413(a)~~, and amendments thereto,
23 domestic battery as defined in K.S.A. 2020 Supp. 21-5414, and
24 amendments thereto, and violation of a protective order as defined in
25 K.S.A. 2020 Supp. 21-5924, and amendments thereto.

26 (i) (1) *Upon the issuance of a qualifying protection from abuse order*
27 *against a defendant, the court shall issue a relinquishment order against*
28 *such defendant pursuant to section 1, and amendments thereto.*

29 (2) *As used in this subsection, the term "qualifying protection from*
30 *abuse order" means a protection from abuse order that:*

31 (A) *Was issued after a hearing, of which the defendant received*
32 *actual notice, and at which the defendant had an opportunity to*
33 *participate;*

34 (B) *restrains the defendant from harassing, stalking or threatening an*
35 *intimate partner of the defendant, or a child of the defendant or such*
36 *intimate partner; or engaging in other conduct that would place an*
37 *intimate partner in reasonable fear of bodily injury to the partner or the*
38 *child; and*

39 (C) (i) *includes a finding that the defendant represents a credible*
40 *threat to the physical safety of such intimate partner or child; or*

41 (ii) *by its terms explicitly prohibits the use, attempted use or*
42 *threatened use of physical force against such intimate partner or child that*
43 *would reasonably be expected to cause bodily injury.*

1 Sec. 5. K.S.A. 2020 Supp. 60-31a06 is hereby amended to read as
2 follows: 60-31a06. (a) The court may issue a protection from stalking,
3 sexual assault or human trafficking order granting any one or more of the
4 following orders:

5 (1) Restraining the defendant from following, harassing, telephoning,
6 contacting or otherwise communicating with the victim. The order shall
7 contain a statement that, if the order is violated, the violation may
8 constitute stalking as defined in K.S.A. 2020 Supp. 21-5427, and
9 amendments thereto, and violation of a protective order as defined in
10 K.S.A. 2020 Supp. 21-5924, and amendments thereto.

11 (2) Restraining the defendant from abusing, molesting or interfering
12 with the privacy rights of the victim. The order shall contain a statement
13 that, if the order is violated, the violation may constitute stalking as
14 defined in K.S.A. 2020 Supp. 21-5427, and amendments thereto, assault as
15 defined in K.S.A. 2020 Supp. 21-5412(a), and amendments thereto, battery
16 as defined in K.S.A. 2020 Supp. 21-5413(a), and amendments thereto, and
17 violation of a protective order as defined in K.S.A. 2020 Supp. 21-5924,
18 and amendments thereto.

19 (3) Restraining the defendant from entering upon or in the victim's
20 residence or the immediate vicinity thereof. The order shall contain a
21 statement that, if the order is violated, the violation shall constitute
22 criminal trespass as defined in K.S.A. 2020 Supp. 21-5808(a)(1)(C), and
23 amendments thereto, and violation of a protective order as defined in
24 K.S.A. 2020 Supp. 21-5924, and amendments thereto.

25 (4) Restraining the defendant from committing or attempting to
26 commit a sexual assault upon the victim. The order shall contain a
27 statement that, if the order is violated, the violation shall constitute
28 violation of a protective order as defined in K.S.A. 2020 Supp. 21-5924,
29 and amendments thereto. The order shall also contain a statement that, if
30 the order is violated, the violation may constitute a sex offense under
31 article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments
32 thereto, and the accused may be prosecuted, convicted of and punished for
33 such sex offense.

34 (5) Restraining the defendant from following, harassing, telephoning,
35 contacting, recruiting, harboring, transporting, or committing or attempting
36 to commit human trafficking upon the human trafficking victim, or
37 otherwise communicating with the human trafficking victim. The order
38 shall contain a statement that, if the order is violated, the violation shall
39 constitute violation of a protective order as defined in K.S.A. 2020 Supp.
40 21-5924, and amendments thereto. The order shall also contain a statement
41 that, if the order is violated, the violation may constitute an offense under
42 chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and
43 the accused may be prosecuted, convicted of and punished for such

1 offense.

2 (6) Any other order deemed necessary by the court to carry out the
3 provisions of this act.

4 (b) A protection from stalking, sexual abuse or human trafficking
5 order shall remain in effect until modified or dismissed by the court and
6 shall be for a fixed period of time not to exceed one year except as
7 provided in subsections (c) and (d).

8 (c) Upon motion of the plaintiff the court may extend the order for an
9 additional year.

10 (d) Upon verified motion of the plaintiff and after the defendant has
11 been personally served with a copy of the motion and has had an
12 opportunity to present evidence and cross-examine witnesses at a hearing
13 on the motion, the court shall extend a protective order for not less than
14 two additional years and up to a period of time not to exceed the lifetime
15 of the defendant, if the court determines by a preponderance of the
16 evidence that the defendant has:

17 (1) Violated a valid protection order;

18 (2) previously violated a valid protection order; or

19 (3) been convicted of a person felony or any conspiracy, criminal
20 solicitation or attempt thereof, under the laws of Kansas or the laws of any
21 other jurisdiction which are substantially similar to such person felony,
22 committed against the plaintiff or any member of the plaintiff's household.

23 No service fee shall be required for a motion filed pursuant to this
24 subsection.

25 (e) The court may amend its order at any time upon motion filed by
26 either party.

27 (f) The court shall assess costs against the defendant and may award
28 attorney fees to the victim in any case in which the court issues a
29 protection from stalking, sexual assault or human trafficking order
30 pursuant to this act. The court may award attorney fees to the defendant in
31 any case where the court finds that the petition to seek relief pursuant to
32 this act is without merit.

33 (g) A no contact or restraining provision in a protective order issued
34 pursuant to this section shall not be construed to prevent:

35 (1) Contact between the attorneys representing the parties;

36 (2) a party from appearing at a scheduled court or administrative
37 hearing; or

38 (3) a defendant or defendant's attorney from sending the plaintiff
39 copies of any legal pleadings filed in court relating to civil or criminal
40 matters presently relevant to the plaintiff.

41 (h) (1) *Upon the issuance of a qualifying protection from stalking,*
42 *sexual assault or human trafficking order against a defendant, the court*
43 *shall issue a relinquishment order against such defendant pursuant to*

1 *section 1, and amendments thereto.*

2 *(2) As used in this subsection:*

3 *(A) "Intimate partner" means, with respect to a person, the spouse of*
4 *the person, a former spouse of the person, an individual who is a parent of*
5 *a child of the person or an individual who cohabitates or has cohabitated*
6 *with the person.*

7 *(B) "Qualifying protection from stalking, sexual assault or human*
8 *trafficking order" means a protection from stalking, sexual assault or*
9 *human trafficking order that:*

10 *(i) Was issued after a hearing, of which the defendant received actual*
11 *notice, and at which the defendant had an opportunity to participate;*

12 *(ii) restrains the defendant from harassing, stalking or threatening an*
13 *intimate partner of the defendant, or a child of the defendant or such*
14 *intimate partner; or engaging in other conduct that would place an*
15 *intimate partner in reasonable fear of bodily injury to the partner or the*
16 *child; and*

17 *(iii) (a) includes a finding that the defendant represents a credible*
18 *threat to the physical safety of such intimate partner or child; or*

19 *(b) by its terms explicitly prohibits the use, attempted use or*
20 *threatened use of physical force against such intimate partner or child that*
21 *would reasonably be expected to cause bodily injury.*

22 *Sec. 6. K.S.A. 2020 Supp. 22-3426, 60-3107 and 60-31a06 are*
23 *hereby repealed.*

24 *Sec. 7. This act shall take effect and be in force from and after its*
25 *publication in the statute book.*