

**HOUSE BILL No. 2614**

By Representative Ballard

2-7

1 AN ACT concerning firearms; creating the gun violence restraining order  
2 act; authorizing the issuance of protective orders prohibiting firearm  
3 acquisition and possession.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

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

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

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

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

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

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

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

33 (1) The spouse of the defendant.

34 (2) A former spouse of the defendant.

35 (3) An individual who has a child in common with the defendant.

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

1 defendant.

2 (5) An individual who resides or has resided in the same household  
3 with the individual.

4 (6) A family member.

5 (7) Another individual who has a close relationship with the  
6 defendant. If the plaintiff files a complaint under this paragraph, the  
7 plaintiff shall state in the complaint sufficient facts to allow the court to  
8 determine whether the individual has a close relationship with the  
9 defendant.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (1) That the restrained individual shall not purchase or possess a  
18 firearm.

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

25 (3) A statement that violation of the order will subject the restrained  
26 individual to immediate arrest and the civil and criminal contempt powers  
27 of the court.

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

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

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

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

1 of service on the restrained individual:

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

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

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

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

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

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

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

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

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

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

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

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

1 firearms.

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

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

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

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

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

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

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

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

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

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

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

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