

**SENATE BILL No. 217**

By Committee on Judiciary

2-8

1 AN ACT concerning the unlawful use of electronic tracking systems or  
2 tracking information; relating to stalking; providing criminal penalties  
3 for the conduct of utilizing any electronic tracking system or acquiring  
4 tracking information to determine the targeted person's location,  
5 movement or travel patterns when done as part of an unlawful course of  
6 conduct; authorizing orders to prohibit such conduct under the Kansas  
7 family law code, the revised Kansas code for care of children, the  
8 protection from abuse act and the protection from stalking, sexual  
9 assault or human trafficking act; amending K.S.A. 38-2243, 38-2244  
10 and 38-2255 and K.S.A. 2022 Supp. 21-5427, 23-2707, 60-3107 and  
11 60-31a06 and repealing the existing sections.  
12

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

14 Section 1. K.S.A. 2022 Supp. 21-5427 is hereby amended to read as  
15 follows: 21-5427. (a) Stalking is:

16 (1) Recklessly engaging in a course of conduct targeted at a specific  
17 person which would cause a reasonable person in the circumstances of the  
18 targeted person to fear for such person's safety, or the safety of a member  
19 of such person's immediate family and the targeted person is actually  
20 placed in such fear;

21 (2) engaging in a course of conduct targeted at a specific person with  
22 knowledge that the course of conduct will place the targeted person in fear  
23 for such person's safety or the safety of a member of such person's  
24 immediate family;

25 (3) after being served with, or otherwise provided notice of, any  
26 protective order included in K.S.A. 21-3843, prior to its repeal or K.S.A.  
27 2022 Supp. 21-5924, and amendments thereto, that prohibits contact with a  
28 targeted person, recklessly engaging in at least one act listed in subsection  
29 (f)(1) that violates the provisions of the order and would cause a  
30 reasonable person to fear for such person's safety, or the safety of a  
31 member of such person's immediate family and the targeted person is  
32 actually placed in such fear; or

33 (4) intentionally engaging in a course of conduct targeted at a specific  
34 child under the age of 14 that would cause a reasonable person in the  
35 circumstances of the targeted child, or a reasonable person in the  
36 circumstances of an immediate family member of such child, to fear for

1 such child's safety.

2 (b) Stalking as defined in:

3 (1) Subsection (a)(1) is a:

4 (A) Class A person misdemeanor, except as provided in subsection  
5 (b)(1)(B); and

6 (B) severity level 7, person felony upon a second or subsequent  
7 conviction;

8 (2) subsection (a)(2) is a:

9 (A) Class A person misdemeanor, except as provided in subsection  
10 (b)(2)(B); and

11 (B) severity level 5, person felony upon a second or subsequent  
12 conviction;

13 (3) subsection (a)(3) is a:

14 (A) Severity level 9, person felony, except as provided in subsection  
15 (b)(3)(B); and

16 (B) severity level 5, person felony, upon a second or subsequent  
17 conviction; and

18 (4) subsection (a)(4) is a:

19 (A) Severity level 7, person felony, except as provided in subsection  
20 (b)(4)(B); and

21 (B) severity level 4, person felony, upon a second or subsequent  
22 conviction.

23 (c) For the purposes of this section, a person served with a protective  
24 order as defined by K.S.A. 21-3843, prior to its repeal or K.S.A. 2022  
25 Supp. 21-5924, and amendments thereto, or a person who engaged in acts  
26 which would constitute stalking, after having been advised by a law  
27 enforcement officer, that such person's actions were in violation of this  
28 section, shall be presumed to have acted knowingly as to any like future  
29 act targeted at the specific person or persons named in the order or as  
30 advised by the officer.

31 (d) In a criminal proceeding under this section, a person claiming an  
32 exemption, exception or exclusion has the burden of going forward with  
33 evidence of the claim.

34 (e) The present incarceration of a person alleged to be violating this  
35 section shall not be a bar to prosecution under this section.

36 (f) As used in this section:

37 (1) "Course of conduct" means two or more acts over a period of  
38 time, however short, which evidence a continuity of purpose. A course of  
39 conduct shall not include constitutionally protected activity nor conduct  
40 that was necessary to accomplish a legitimate purpose independent of  
41 making contact with the targeted person. A course of conduct shall include,  
42 but not be limited to, any of the following acts or a combination thereof:

43 (A) Threatening the safety of the targeted person or a member of such

1 person's immediate family;

2 (B) following, approaching or confronting the targeted person or a  
3 member of such person's immediate family;

4 (C) appearing in close proximity to, or entering the targeted person's  
5 residence, place of employment, school or other place where such person  
6 can be found, or the residence, place of employment or school of a  
7 member of such person's immediate family;

8 (D) causing damage to the targeted person's residence or property or  
9 that of a member of such person's immediate family;

10 (E) placing an object on the targeted person's property or the property  
11 of a member of such person's immediate family, either directly or through  
12 a third person;

13 (F) causing injury to the targeted person's pet or a pet belonging to a  
14 member of such person's immediate family;

15 (G) *utilizing any electronic tracking system or acquiring tracking*  
16 *information to determine the targeted person's location, movement or*  
17 *travel patterns; and*

18 (H) any act of communication;

19 (2) "communication" means to impart a message by any method of  
20 transmission, including, but not limited to: Telephoning, personally  
21 delivering, sending or having delivered, any information or material by  
22 written or printed note or letter, package, mail, courier service or electronic  
23 transmission, including electronic transmissions generated or  
24 communicated via a computer;

25 (3) "computer" means a programmable, electronic device capable of  
26 accepting and processing data;

27 (4) "conviction" includes being convicted of a violation of K.S.A. 21-  
28 3438, prior to its repeal, this section or a law of another state which  
29 prohibits the acts that this section prohibits; and

30 (5) "immediate family" means:

31 (A) Father, mother, stepparent, child, stepchild, sibling, spouse or  
32 grandparent of the targeted person;

33 (B) any person residing in the household of the targeted person; or

34 (C) any person involved in an intimate relationship with the targeted  
35 person.

36 Sec. 2. K.S.A. 2022 Supp. 23-2707 is hereby amended to read as  
37 follows: 23-2707. (a) *Permissible orders*. After the filing of a petition for  
38 divorce, annulment or separate maintenance, and during the pendency of  
39 the action until the entry of final judgment the judge assigned to hear the  
40 action may, without requiring bond, make, modify, vacate and enforce by  
41 attachment, orders ~~which~~ *that*.

42 (1) Jointly restrain the parties with regard to disposition of the  
43 property of the parties and provide for the use, occupancy, management

1 and control of that property, *including, but not limited to, utilizing any*  
2 *electronic tracking system or acquiring tracking information to determine*  
3 *the other person's location, movement or travel patterns;*

4 (2) restrain the parties from molesting or interfering with the privacy  
5 or rights of each other;

6 (3) provide for the legal custody and residency of and parenting time  
7 with the minor children and the support, if necessary, of either party and of  
8 the minor children during the pendency of the action;

9 (4) require mediation between the parties on issues, including, but not  
10 limited to, child custody, residency, division of property, parenting time  
11 and development of a parenting plan;

12 (5) make provisions, if necessary, for the expenses of the suit,  
13 including reasonable attorney's fees, that will insure to either party  
14 efficient preparation for the trial of the case;

15 (6) require an investigation by court service officers into any issue  
16 arising in the action; or

17 (7) require that each parent execute any and all documents, including  
18 any releases, necessary so that both parents may obtain information from  
19 and to communicate with any health insurance provider regarding the  
20 health insurance coverage provided by such health insurance provider to  
21 the child. The provisions of this paragraph shall apply irrespective of  
22 which parent owns, subscribes or pays for such health insurance coverage.

23 (b) *Ex parte orders.* Orders authorized by subsections (a)(1), (2), (3),  
24 (4) and (7) may be entered after ex parte hearing upon compliance with  
25 rules of the supreme court, except that no ex parte order shall have the  
26 effect of changing the residency of a minor child from the parent who has  
27 had the sole de facto residency of the child to the other parent unless there  
28 is sworn testimony to support a showing of extraordinary circumstances. If  
29 an interlocutory order is issued ex parte, the court shall hear a motion to  
30 vacate or modify the order within 14 days of the date on which a party  
31 requests a hearing whether to vacate or modify the order. In the absence,  
32 disability, or disqualification of the judge assigned to hear the action, any  
33 other judge of the district court may make any order authorized by this  
34 section, including vacation or modification or any order issued by the  
35 judge assigned to hear the action.

36 (c) *Support orders.* (1) An order of support obtained pursuant to this  
37 section may be enforced by an order of garnishment as provided in this  
38 section.

39 (2) No order of garnishment shall be issued under this section unless:  
40 (A) Fourteen or more days have elapsed since the order of support was  
41 served upon the party required to pay the support; and (B) the order of  
42 support contained a notice that the order of support may be enforced by  
43 garnishment and that the party has a right to request an opportunity for a

1 hearing to contest the issuance of an order of garnishment, if the hearing is  
2 requested by motion filed within seven days after service of the order of  
3 support upon the party. If a hearing is requested, the court shall hold the  
4 hearing within seven days after the motion requesting the hearing is filed  
5 with the court or at a later date agreed to by the parties.

6 (3) No bond shall be required for the issuance of an order of  
7 garnishment pursuant to this section. Except as provided in this section,  
8 garnishments authorized by this section shall be subject to the procedures  
9 and limitations applicable to other orders of garnishment authorized by  
10 law.

11 (4) A party desiring to have the order of garnishment issued shall file  
12 an affidavit with the clerk of the district court stating that:

13 (A) The order of support contained the notice required by this  
14 subsection;

15 (B) fourteen or more days have elapsed since the order of support  
16 was served upon the party required to pay the support; and

17 (C) either no hearing was requested on the issuance of an order of  
18 garnishment within the seven days after service of the order of support  
19 upon the party required to pay the same or a hearing was requested and  
20 held and the court did not prohibit the issuance of an order of garnishment.

21 (d) If an interlocutory order for legal custody, residency or parenting  
22 time is sought, the party seeking such order shall file a proposed temporary  
23 parenting plan as provided by K.S.A. 2022 Supp. 23-3211, and  
24 amendments thereto, at the time such order is sought. If any motion is filed  
25 to modify any such interlocutory orders, or in opposition to a request for  
26 issuance of interlocutory orders, that party shall attach to such motion or  
27 opposition a proposed alternative parenting plan.

28 (e) *Service of process.* Service of process served under subsection (a)  
29 (1) and (2) shall be by personal service and not by certified mail return  
30 receipt requested.

31 Sec. 3. K.S.A. 38-2243 is hereby amended to read as follows: 38-  
32 2243. (a) Upon notice and hearing, the court may issue an order directing  
33 who shall have temporary custody and may modify the order during the  
34 pendency of the proceedings as will best serve the child's welfare.

35 (b) A hearing pursuant to this section shall be held within 72 hours,  
36 excluding Saturdays, Sundays, legal holidays, and days on which the  
37 office of the clerk of the court is not accessible, following a child having  
38 been taken into protective custody.

39 (c) Whenever it is determined that a temporary custody hearing is  
40 required, the court shall immediately set the time and place for the hearing.  
41 Notice of a temporary custody hearing shall be given to all parties and  
42 interested parties.

43 (d) Notice of the temporary custody hearing shall be given at least 24

1 hours prior to the hearing. The court may continue the hearing to afford the  
2 24 hours prior notice or, with the consent of the party or interested party,  
3 proceed with the hearing at the designated time. If an order of temporary  
4 custody is entered and the parent or other person having custody of the  
5 child has not been notified of the hearing, did not appear or waive  
6 appearance and requests a rehearing, the court shall rehear the matter  
7 without unnecessary delay.

8 (e) Oral notice may be used for giving notice of a temporary custody  
9 hearing where there is insufficient time to give written notice. Oral notice  
10 is completed upon filing a certificate of oral notice.

11 (f) The court may enter an order of temporary custody after  
12 determining there is probable cause to believe that the:

13 (1) Child is dangerous to self or to others;

14 (2) child is not likely to be available within the jurisdiction of the  
15 court for future proceedings;

16 (3) health or welfare of the child may be endangered without further  
17 care;

18 (4) child has been subjected to human trafficking or aggravated  
19 human trafficking, as defined by K.S.A. 2022 Supp. 21-5426, and  
20 amendments thereto, or commercial sexual exploitation of a child, as  
21 defined by K.S.A. 2022 Supp. 21-6422, and amendments thereto;

22 (5) child is experiencing a mental health crisis and is in need of  
23 treatment; or

24 (6) child committed an act which, if committed by an adult, would  
25 constitute a violation of K.S.A. 2022 Supp. 21-6419, and amendments  
26 thereto.

27 (g) (1) Whenever the court determines the necessity for an order of  
28 temporary custody the court may place the child in the temporary custody  
29 of:

30 (A) A parent or other person having custody of the child and may  
31 enter a restraining order pursuant to subsection (h);

32 (B) a person, other than the parent or other person having custody,  
33 who shall not be required to be licensed under article 5 of chapter 65 of the  
34 Kansas Statutes Annotated, and amendments thereto;

35 (C) a youth residential facility;

36 (D) a shelter facility;

37 (E) a staff secure facility, notwithstanding any other provision of law,  
38 if the child has been subjected to human trafficking or aggravated human  
39 trafficking, as defined by K.S.A. 2022 Supp. 21-5426, and amendments  
40 thereto, or commercial sexual exploitation of a child, as defined by K.S.A.  
41 2022 Supp. 21-6422, and amendments thereto, or the child committed an  
42 act which, if committed by an adult, would constitute a violation of K.S.A.  
43 2022 Supp. 21-6419, and amendments thereto;

1 (F) after written authorization by a community mental health center, a  
2 juvenile crisis intervention center, as described in K.S.A. 65-536, and  
3 amendments thereto; or

4 (G) the secretary, if the child is 15 years of age or younger, or 16 or  
5 17 years of age if the child has no identifiable parental or family resources  
6 or shows signs of physical, mental, emotional or sexual abuse.

7 (2) If the secretary presents the court with a plan to provide services  
8 to a child or family which the court finds will assure the safety of the  
9 child, the court may only place the child in the temporary custody of the  
10 secretary until the court finds the services are in place. The court shall  
11 have the authority to require any person or entity agreeing to participate in  
12 the plan to perform as set out in the plan. When the child is placed in the  
13 temporary custody of the secretary, the secretary shall have the  
14 discretionary authority to place the child with a parent or to make other  
15 suitable placement for the child. When the child is placed in the temporary  
16 custody of the secretary and the child has been subjected to human  
17 trafficking or aggravated human trafficking, as defined by K.S.A. 2022  
18 Supp. 21-5426, and amendments thereto, or commercial sexual  
19 exploitation of a child, as defined by K.S.A. 2022 Supp. 21-6422, and  
20 amendments thereto, or the child committed an act which, if committed by  
21 an adult, would constitute a violation of K.S.A. 2022 Supp. 21-6419, and  
22 amendments thereto, the secretary shall have the discretionary authority to  
23 place the child in a staff secure facility, notwithstanding any other  
24 provision of law. When the child is presently alleged, but not yet  
25 adjudicated to be a child in need of care solely pursuant to K.S.A. 38-  
26 2202(d)(9) or (d)(10), and amendments thereto, the child may be placed in  
27 a secure facility, but the total amount of time that the child may be held in  
28 such facility under this section and K.S.A. 38-2242, and amendments  
29 thereto, shall not exceed 24 hours, excluding Saturdays, Sundays, legal  
30 holidays, and days on which the office of the clerk of the court is not  
31 accessible. The order of temporary custody shall remain in effect until  
32 modified or rescinded by the court or an adjudication order is entered but  
33 not exceeding 60 days, unless good cause is shown and stated on the  
34 record.

35 (h) If the court issues an order of temporary custody, the court may  
36 also enter an order restraining any alleged perpetrator of physical, sexual,  
37 mental or emotional abuse of the child from residing in the child's home;  
38 visiting, contacting, harassing or intimidating the child; or attempting to  
39 visit, contact, harass or intimidate the child, other family members or  
40 witnesses. Such restraining order shall be served by personal service  
41 pursuant to K.S.A. 38-2237(a), and amendments thereto, on any alleged  
42 perpetrator to whom the order is directed.

43 (i) (1) The court shall not enter the initial order removing a child from

1 the custody of a parent pursuant to this section unless the court first finds  
2 probable cause that: (A) (i) The child is likely to sustain harm if not  
3 immediately removed from the home;

4 (ii) allowing the child to remain in home is contrary to the welfare of  
5 the child; or

6 (iii) immediate placement of the child is in the best interest of the  
7 child; and

8 (B) reasonable efforts have been made to maintain the family unit and  
9 prevent the unnecessary removal of the child from the child's home or that  
10 an emergency exists which threatens the safety to the child.

11 (2) Such findings shall be included in any order entered by the court.  
12 If the child is placed in the custody of the secretary, upon making the order  
13 the court shall provide the secretary with a written copy.

14 (j) If the court enters an order of temporary custody that provides for  
15 placement of the child with a person other than the parent, the court shall  
16 make a child support determination pursuant to K.S.A. 38-2277, and  
17 amendments thereto.

18 (k) *For the purposes of this section, "harassing or intimidating" and*  
19 *"harass or intimidate" includes, but is not limited to, utilizing any*  
20 *electronic tracking system or acquiring tracking information to determine*  
21 *the targeted person's location, movement or travel patterns.*

22 Sec. 4. K.S.A. 38-2244 is hereby amended to read as follows: 38-  
23 2244. (a) At any time after filing a petition, but prior to an adjudication,  
24 the court may enter an order for continuance and informal supervision  
25 without an adjudication if no party objects. Upon granting the continuance,  
26 the court shall include in the order any conditions with which the parties  
27 and interested parties are expected to comply and provide the parties and  
28 interested parties with a copy of the order. The conditions may include  
29 appropriate dispositional alternatives authorized by K.S.A. 38-2255, and  
30 amendments thereto.

31 (b) An order for informal supervision may remain in force for a  
32 period of up to six months and may be extended, upon hearing, for an  
33 additional six-month period for a total of one year. For a child under an  
34 order for informal supervision who remains in the custody of such child's  
35 parent, such one-year period may be extended if no party objects, upon  
36 hearing, for up to an additional one year, with reviews by the court  
37 occurring at least every six months.

38 (c) The court after notice and hearing may revoke or modify the order  
39 with respect to a party or interested party upon a showing that the party or  
40 interested party, being subject to the order for informal supervision, has  
41 substantially failed to comply with the terms of the order, or that  
42 modification would be in the best interests of the child. Upon revocation,  
43 proceedings shall resume pursuant to this code.



1 (d) Persons subject to the order for informal supervision who  
2 successfully complete the terms and period of supervision shall not again  
3 be proceeded against in any court based solely upon the allegations in the  
4 original petition and the proceedings shall be dismissed.

5 (e) If the court issues an order for informal supervision pursuant to  
6 this section, the court may also enter an order restraining any alleged  
7 perpetrator of physical, mental or emotional abuse or sexual abuse of the  
8 child from residing in the child's home, visiting, contacting, harassing or  
9 intimidating the child, other family member or witness; or attempting to  
10 visit, contact, harass or intimidate the child, other family member or  
11 witness. The restraining order shall be served by personal service pursuant  
12 to subsection (a) of K.S.A. 38-2237, and amendments thereto, on any  
13 alleged perpetrator to whom the order is directed.

14 (f) Lack of service on a parent shall not preclude an informal  
15 supervision under the provisions of this section. If an order of informal  
16 supervision is entered which effects change in custody, any parent not  
17 served pursuant to K.S.A. 38-2237, and amendments thereto, who has not  
18 consented to the informal supervision, may request reconsideration of the  
19 order of informal supervision. The court shall hear the request without  
20 unnecessary delay. If the informal supervision order effects a change in  
21 custody, efforts to accomplish service pursuant to K.S.A. 38-2237, and  
22 amendments thereto, shall continue.

23 (g) *For the purposes of this section, "harassing or intimidating" and*  
24 *"harass or intimidate" includes, but is not limited to, utilizing any*  
25 *electronic tracking system or acquiring tracking information to determine*  
26 *the targeted person's location, movement or travel patterns.*

27 Sec. 5. K.S.A. 38-2255 is hereby amended to read as follows: 38-  
28 2255. (a) *Considerations.* Prior to entering an order of disposition, the  
29 court shall give consideration to:

- 30 (1) The child's physical, mental and emotional condition;
- 31 (2) the child's need for assistance;
- 32 (3) the manner in which the parent participated in the abuse, neglect  
33 or abandonment of the child;
- 34 (4) any relevant information from the intake and assessment process;  
35 and
- 36 (5) the evidence received at the dispositional hearing.

37 (b) *Custody with a parent.* The court may place the child in the  
38 custody of either of the child's parents subject to terms and conditions  
39 which the court prescribes to assure the proper care and protection of the  
40 child, including, but not limited to:

- 41 (1) Supervision of the child and the parent by a court services officer;
- 42 (2) participation by the child and the parent in available programs  
43 operated by an appropriate individual or agency; and

1 (3) any special treatment or care which the child needs for the child's  
2 physical, mental or emotional health and safety.

3 (c) *Removal of a child from custody of a parent.* The court shall not  
4 enter the initial order removing a child from the custody of a parent  
5 pursuant to this section unless the court first finds probable cause that: (1)  
6 (A) The child is likely to sustain harm if not immediately removed from  
7 the home;

8 (B) allowing the child to remain in home is contrary to the welfare of  
9 the child; or

10 (C) immediate placement of the child is in the best interest of the  
11 child; and

12 (2) reasonable efforts have been made to maintain the family unit and  
13 prevent the unnecessary removal of the child from the child's home or that  
14 an emergency exists which threatens the safety to the child.

15 The court shall not enter an order removing a child from the custody of  
16 a parent pursuant to this section based solely on the finding that the parent  
17 is homeless.

18 (d) *Custody of a child removed from the custody of a parent.* If the  
19 court has made the findings required by subsection (c), the court shall  
20 enter an order awarding custody to: A relative of the child or to a person  
21 with whom the child has close emotional ties who shall not be required to  
22 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,  
23 and amendments thereto; any other suitable person; a shelter facility; a  
24 youth residential facility; a staff secure facility, notwithstanding any other  
25 provision of law, if the child has been subjected to human trafficking or  
26 aggravated human trafficking, as defined by K.S.A. 2022 Supp. 21-5426,  
27 and amendments thereto, or commercial sexual exploitation of a child, as  
28 defined by K.S.A. 2022 Supp. 21-6422, and amendments thereto, or the  
29 child committed an act which, if committed by an adult, would constitute a  
30 violation of K.S.A. 2022 Supp. 21-6419, and amendments thereto; or, if  
31 the child is 15 years of age or younger, or 16 or 17 years of age if the child  
32 has no identifiable parental or family resources or shows signs of physical,  
33 mental, emotional or sexual abuse, to the secretary. Custody awarded  
34 under this subsection shall continue until further order of the court.

35 (1) When custody is awarded to the secretary, the secretary shall  
36 consider any placement recommendation by the court and notify the court  
37 of the placement or proposed placement of the child within 10 days of the  
38 order awarding custody. After providing the parties or interested parties  
39 notice and opportunity to be heard, the court may determine whether the  
40 secretary's placement or proposed placement is contrary to the welfare or  
41 in the best interests of the child. In making that determination the court  
42 shall consider the health and safety needs of the child and the resources  
43 available to meet the needs of children in the custody of the secretary. If

1 the court determines that the placement or proposed placement is contrary  
2 to the welfare or not in the best interests of the child, the court shall notify  
3 the secretary, who shall then make an alternative placement.

4 (2) The custodian designated under this subsection shall notify the  
5 court in writing at least 10 days prior to any planned placement with a  
6 parent. The written notice shall state the basis for the custodian's belief that  
7 placement with a parent is no longer contrary to the welfare or best interest  
8 of the child. Upon reviewing the notice, the court may allow the custodian  
9 to proceed with the planned placement or may set the date for a hearing to  
10 determine if the child shall be allowed to return home. If the court sets a  
11 hearing on the matter, the custodian shall not return the child home without  
12 written consent of the court.

13 (3) The court may grant any person reasonable rights to visit the child  
14 upon motion of the person and a finding that the visitation rights would be  
15 in the best interests of the child.

16 (4) The court may enter an order restraining any alleged perpetrator  
17 of physical, mental or emotional abuse or sexual abuse of the child from:  
18 Residing in the child's home; visiting, contacting, harassing or intimidating  
19 the child, other family member or witness; or attempting to visit, contact,  
20 harass or intimidate the child, other family member or witness. Such  
21 restraining order shall be served by personal service pursuant to K.S.A.  
22 38-2237(a), and amendments thereto, on any alleged perpetrator to whom  
23 the order is directed.

24 (5) The court shall provide a copy of any orders entered within 10  
25 days of entering the order to the custodian designated under this  
26 subsection.

27 (e) *Further determinations regarding a child removed from the home.*  
28 If custody has been awarded under subsection (d) to a person other than a  
29 parent, a permanency plan shall be provided or prepared pursuant to  
30 K.S.A. 38-2264, and amendments thereto. If a permanency plan is  
31 provided at the dispositional hearing, the court may determine whether  
32 reintegration is a viable alternative or, if reintegration is not a viable  
33 alternative, whether the child should be placed for adoption or a permanent  
34 custodian appointed. In determining whether reintegration is a viable  
35 alternative, the court shall consider:

36 (1) Whether a parent has been found by a court to have committed  
37 one of the following crimes or to have violated the law of another state  
38 prohibiting such crimes or to have aided and abetted, attempted, conspired  
39 or solicited the commission of one of these crimes: (A) Murder in the first  
40 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2022 Supp. 21-5402,  
41 and amendments thereto; (B) murder in the second degree, K.S.A. 21-  
42 3402, prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments  
43 thereto; (C) capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A.

1 2022 Supp. 21-5401, and amendments thereto; (D) voluntary  
2 manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 2022 Supp.  
3 21-5404, and amendments thereto; or (E) a felony battery that resulted in  
4 bodily injury;

5 (2) whether a parent has subjected the child or another child to  
6 aggravated circumstances;

7 (3) whether a parent has previously been found to be an unfit parent  
8 in proceedings under this code or in comparable proceedings under the  
9 laws of another state or the federal government;

10 (4) whether the child has been in the custody of the secretary and  
11 placed with neither parent for 15 of the most recent 22 months beginning  
12 60 days after the date on which a child in the secretary's custody was  
13 removed from the child's home;

14 (5) whether the parents have failed to work diligently toward  
15 reintegration;

16 (6) whether the secretary has provided the family with services  
17 necessary for the safe return of the child to the home; and

18 (7) whether it is reasonable to expect reintegration to occur within a  
19 time frame consistent with the child's developmental needs.

20 (f) *Proceedings if reintegration is not a viable alternative.* If the court  
21 determines that reintegration is not a viable alternative, proceedings to  
22 terminate parental rights and permit placement of the child for adoption or  
23 appointment of a permanent custodian shall be initiated unless the court  
24 finds that compelling reasons have been documented in the case plan why  
25 adoption or appointment of a permanent custodian would not be in the best  
26 interests of the child. If compelling reasons have not been documented, the  
27 county or district attorney shall file a motion within 30 days to terminate  
28 parental rights or a motion to appoint a permanent custodian within 30  
29 days and the court shall hold a hearing on the motion within 90 days of its  
30 filing. No hearing is required when the parents voluntarily relinquish  
31 parental rights or consent to the appointment of a permanent custodian.

32 (g) *Additional Orders.* In addition to or in lieu of any other order  
33 authorized by this section:

34 (1) The court may order the child and the parents of any child who  
35 has been adjudicated a child in need of care to attend counseling sessions  
36 as the court directs. The expense of the counseling may be assessed as an  
37 expense in the case. No mental health provider shall charge a greater fee  
38 for court-ordered counseling than the provider would have charged to the  
39 person receiving counseling if the person had requested counseling on the  
40 person's own initiative.

41 (2) If the court has reason to believe that a child is before the court  
42 due, in whole or in part, to the use or misuse of alcohol or a violation of  
43 K.S.A. 2022 Supp. 21-5701 through 21-5717, and amendments thereto, by

1 the child, a parent of the child, or another person responsible for the care  
2 of the child, the court may order the child, parent of the child or other  
3 person responsible for the care of the child to submit to and complete an  
4 alcohol and drug evaluation by a qualified person or agency and comply  
5 with any recommendations. If the evaluation is performed by a  
6 community-based alcohol and drug safety program certified pursuant to  
7 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or  
8 other person responsible for the care of the child shall pay a fee not to  
9 exceed the fee established by that statute. If the court finds that the child  
10 and those legally liable for the child's support are indigent, the fee may be  
11 waived. In no event shall the fee be assessed against the secretary.

12 (3) If child support has been requested and the parent or parents have  
13 a duty to support the child, the court may order one or both parents to pay  
14 child support and, when custody is awarded to the secretary, the court shall  
15 order one or both parents to pay child support. The court shall determine,  
16 for each parent separately, whether the parent is already subject to an order  
17 to pay support for the child. If the parent is not presently ordered to pay  
18 support for any child who is subject to the jurisdiction of the court and the  
19 court has personal jurisdiction over the parent, the court shall order the  
20 parent to pay child support in an amount determined under K.S.A. 38-  
21 2277, and amendments thereto. Except for good cause shown, the court  
22 shall issue an immediate income withholding order pursuant to K.S.A.  
23 2022 Supp. 23-3101 et seq., and amendments thereto, for each parent  
24 ordered to pay support under this subsection, regardless of whether a payor  
25 has been identified for the parent. A parent ordered to pay child support  
26 under this subsection shall be notified, at the hearing or otherwise, that the  
27 child support order may be registered pursuant to K.S.A. 38-2279, and  
28 amendments thereto. The parent shall also be informed that, after  
29 registration, the income withholding order may be served on the parent's  
30 employer without further notice to the parent and the child support order  
31 may be enforced by any method allowed by law. Failure to provide this  
32 notice shall not affect the validity of the child support order.

33 (h) *For the purposes of this section, "harassing or intimidating" and*  
34 *"harass or intimidate" includes, but is not limited to, utilizing any*  
35 *electronic tracking system or acquiring tracking information to determine*  
36 *the targeted person's location, movement or travel patterns.*

37 Sec. 6. K.S.A. 2022 Supp. 60-3107 is hereby amended to read as  
38 follows: 60-3107. (a) The court may approve any consent agreement to  
39 bring about a cessation of abuse of the plaintiff or minor children or grant  
40 any of the following orders:

41 (1) Restraining the defendant from abusing, molesting or interfering  
42 with the privacy or rights of the plaintiff or of any minor children of the  
43 parties, *including, but not limited to, utilizing any electronic tracking*

1 *system or acquiring tracking information to determine the other person's*  
2 *location, movement or travel patterns.* Such order shall contain a statement  
3 that if such order is violated, such violation may constitute assault as  
4 defined in ~~subsection (a) of K.S.A. 2022 Supp. 21-5412(a)~~, and  
5 amendments thereto, battery as defined in ~~subsection (a) of K.S.A. 2022~~  
6 ~~Supp. 21-5413(a)~~, and amendments thereto, domestic battery as defined in  
7 K.S.A. 2022 Supp. 21-5414, and amendments thereto, and violation of a  
8 protective order as defined in K.S.A. 2022 Supp. 21-5924, and  
9 amendments thereto.

10 (2) Granting possession of the residence or household to the plaintiff  
11 to the exclusion of the defendant, and further restraining the defendant  
12 from entering or remaining upon or in such residence or household,  
13 subject to the limitation of subsection (d). Such order shall contain a  
14 statement that if such order is violated, such violation shall constitute  
15 criminal trespass as defined in ~~subsection (a)(1)(C) of K.S.A. 2022 Supp.~~  
16 ~~21-5808(a)(1)(C)~~, and amendments thereto, and violation of a protective  
17 order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto.  
18 The court may grant an order, which shall expire 60 days following the  
19 date of issuance, restraining the defendant from cancelling utility service  
20 to the residence or household.

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

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

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

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

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

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

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

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

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

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

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

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

9 (c) Any order entered under the protection from abuse act shall not be  
10 subject to modification on ex parte application or on motion for temporary  
11 orders in any action filed pursuant to K.S.A. 60-1601 et seq., prior to their  
12 transfer or repeal, or article 22 or 27 of chapter 23 of the Kansas Statutes  
13 Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and  
14 amendments thereto. Orders previously issued in an action filed pursuant  
15 to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or  
16 27 of chapter 23 of the Kansas Statutes Annotated, and amendments  
17 thereto, or K.S.A. 38-1101 et seq., and amendments thereto, shall be  
18 subject to modification under the protection from abuse act only as to  
19 those matters subject to modification by the terms of K.S.A. 2022 Supp.  
20 23-3201 through 23-3207 and 23-3218 and article 27 of chapter 23 of the  
21 Kansas Statutes Annotated, and amendments thereto, and on sworn  
22 testimony to support a showing of good cause. Immediate and present  
23 danger of abuse to the plaintiff or minor children shall constitute good  
24 cause. If an action is filed pursuant to K.S.A. 2022 Supp. 23-3201 through  
25 23-3207 or 23-3218 or article 22 or 27 of chapter 23 of the Kansas Statutes  
26 Annotated, and amendments thereto, during the pendency of a proceeding  
27 filed under the protection from abuse act or while an order issued under  
28 the protection from abuse act is in effect, the court, on final hearing or on  
29 agreement of the parties, may issue final orders authorized by K.S.A. 2022  
30 Supp. 23-3201 through 23-3207 and 23-3218 and articles 22 and 27 of  
31 chapter 23 of the Kansas Statutes Annotated, and amendments thereto, that  
32 are inconsistent with orders entered under the protection from abuse act.  
33 Any inconsistent order entered pursuant to this subsection shall be specific  
34 in its terms, reference the protection from abuse order and parts thereof  
35 being modified and a copy thereof shall be filed in both actions. The court  
36 shall consider whether the actions should be consolidated in accordance  
37 with K.S.A. 60-242, and amendments thereto. Any custody or parenting  
38 time order, or order relating to the best interests of a child, issued pursuant  
39 to the revised Kansas code for care of children or the revised Kansas  
40 juvenile justice code, shall be binding and shall take precedence over any  
41 such custody or parenting order involving the same child issued under the  
42 protection from abuse act, until jurisdiction under the revised Kansas code  
43 for care of children or the revised Kansas juvenile justice code is

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

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

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

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

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

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

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

38 (h) If a person enters or remains on premises or property violating an  
39 order issued pursuant to subsection (a)(2), such violation shall constitute  
40 criminal trespass as defined in ~~subsection (a)(1)(C) of K.S.A. 2022 Supp.~~  
41 ~~21-5808(a)(1)(C),~~ and amendments thereto, and violation of a protective  
42 order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto.  
43 If a person abuses, molests or interferes with the privacy or rights of



1 another violating an order issued pursuant to subsection (a)(1), such  
2 violation may constitute assault as defined in ~~subsection (a)~~ of K.S.A.  
3 2022 Supp. 21-5412(a), and amendments thereto, battery as defined in  
4 ~~subsection (a)~~ of K.S.A. 2022 Supp. 21-5413(a), and amendments thereto,  
5 domestic battery as defined in K.S.A. 2022 Supp. 21-5414, and  
6 amendments thereto, and violation of a protective order as defined in  
7 K.S.A. 2022 Supp. 21-5924, and amendments thereto.

8 Sec. 7. K.S.A. 2022 Supp. 60-31a06 is hereby amended to read as  
9 follows: 60-31a06. (a) The court may issue a protection from stalking,  
10 sexual assault or human trafficking order granting any one or more of the  
11 following orders:

12 (1) Restraining the defendant from following, harassing, telephoning,  
13 contacting or otherwise communicating with the victim. The order shall  
14 contain a statement that, if the order is violated, the violation may  
15 constitute stalking as defined in K.S.A. 2022 Supp. 21-5427, and  
16 amendments thereto, and violation of a protective order as defined in  
17 K.S.A. 2022 Supp. 21-5924, and amendments thereto.

18 (2) Restraining the defendant from abusing, molesting or interfering  
19 with the privacy *or* rights of the victim. The order shall contain a statement  
20 that, if the order is violated, the violation may constitute stalking as  
21 defined in K.S.A. 2022 Supp. 21-5427, and amendments thereto, assault as  
22 defined in K.S.A. 2022 Supp. 21-5412(a), and amendments thereto, battery  
23 as defined in K.S.A. 2022 Supp. 21-5413(a), and amendments thereto, and  
24 violation of a protective order as defined in K.S.A. 2022 Supp. 21-5924,  
25 and amendments thereto.

26 (3) Restraining the defendant from entering upon or in the victim's  
27 residence or the immediate vicinity thereof. The order shall contain a  
28 statement that, if the order is violated, the violation shall constitute  
29 criminal trespass as defined in K.S.A. 2022 Supp. 21-5808(a)(1)(C), and  
30 amendments thereto, and violation of a protective order as defined in  
31 K.S.A. 2022 Supp. 21-5924, and amendments thereto.

32 (4) Restraining the defendant from committing or attempting to  
33 commit a sexual assault upon the victim. The order shall contain a  
34 statement that, if the order is violated, the violation shall constitute  
35 violation of a protective order as defined in K.S.A. 2022 Supp. 21-5924,  
36 and amendments thereto. The order shall also contain a statement that, if  
37 the order is violated, the violation may constitute a sex offense under  
38 article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments  
39 thereto, and the accused may be prosecuted, convicted of and punished for  
40 such sex offense.

41 (5) Restraining the defendant from following, harassing, telephoning,  
42 contacting, recruiting, harboring, transporting, or committing or attempting  
43 to commit human trafficking upon the human trafficking victim, or

1 otherwise communicating with the human trafficking victim. The order  
2 shall contain a statement that, if the order is violated, the violation shall  
3 constitute violation of a protective order as defined in K.S.A. 2022 Supp.  
4 21-5924, and amendments thereto. The order shall also contain a statement  
5 that, if the order is violated, the violation may constitute an offense under  
6 chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and  
7 the accused may be prosecuted, convicted of and punished for such  
8 offense.

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

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

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

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

24 (1) Violated a valid protection order;

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

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

30 No service fee shall be required for a motion filed pursuant to this  
31 subsection.

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

34 (f) The court shall assess costs against the defendant and may award  
35 attorney fees to the victim in any case in which the court issues a  
36 protection from stalking, sexual assault or human trafficking order  
37 pursuant to this act. The court may award attorney fees to the defendant in  
38 any case where the court finds that the petition to seek relief pursuant to  
39 this act is without merit.

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

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

43 (2) a party from appearing at a scheduled court or administrative

1 hearing; or

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

5 *(h) For the purposes of this section, "harassing" or "interfering with*  
6 *the privacy" includes, but is not limited to, utilizing any electronic*  
7 *tracking system or acquiring tracking information to determine the*  
8 *targeted person's location, movement or travel patterns.*

9 Sec. 8. K.S.A. 38-2243, 38-2244 and 38-2255 and K.S.A. 2022 Supp.  
10 21-5427, 23-2707, 60-3107 and 60-31a06 are hereby repealed.

11 Sec. 9. This act shall take effect and be in force from and after its  
12 publication in the statute book.