

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, **23-2224**, 23-2707, 60-
11 3107 and 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. 23-2224 is hereby amended to read as**
37 **follows: 23-2224. (a) The court, without requiring bond, may make and**
38 **enforce orders**~~which that:~~

39 **(1) Restrain the parties from molesting or interfering with the**
40 **privacy or rights of each other, including, but not limited to, utilizing any**
41 **electronic tracking system or acquiring tracking information to determine**
42 **the other person's location, movement or travel patterns;**

43 **(2) confirm the existing de facto custody of the child subject to**

1 *further order of the court, if the court has jurisdiction under K.S.A.*
2 *2022 Supp. 23-37,101 et seq., and amendments thereto;*

3 (3) *appoint an expert to conduct genetic tests for determination of*
4 *paternity as provided in K.S.A. 2022 Supp. 23-2212, and amendments*
5 *thereto;*

6 (4) *order the mother and child and alleged father to contact the*
7 *court appointed expert and provide tissue samples for testing within 30*
8 *days after service of the order;*

9 (5) *order the payment of temporary child support pursuant to*
10 *subsection (c); or*

11 (6) *the court deems appropriate under the provisions of article 22 of*
12 *chapter 23 of the Kansas Statutes Annotated, and amendments thereto.*

13 (b) (1) *Interlocutory orders authorized by this section that relate to*
14 *genetic testing may be issued ex parte, if:*

15 (A) *The appointed expert is a paternity laboratory accredited by the*
16 *American association of blood banks; and*

17 (B) *the order does not require an adverse party to make advance*
18 *payment toward the cost of the test.*

19 (2) *If such ex parte orders are issued, and if an adverse party*
20 *requests modification thereof, the court will conduct a hearing within 10*
21 *days of such request.*

22 (c) *After notice and hearing, the court shall enter an order for child*
23 *support during the pendency of the action as provided in this subsection.*
24 *The order shall be entered if the pleadings and the motion for temporary*
25 *support, if separate from the pleadings, indicate there is only one*
26 *presumed father and if probable paternity by the presumed father is*
27 *indicated by clear and convincing evidence. For purposes of this*
28 *subsection, "clear and convincing evidence" may be presented in any*
29 *form, including, but not limited to, an uncontested allegation in the*
30 *pleadings, an uncontested affidavit or an agreement between the parties.*
31 *For purposes of this subsection, "clear and convincing evidence"*
32 *means:*

33 (1) *The presumed father does not deny paternity;*

34 (2) *the mother and the presumed father were married to each other,*
35 *regardless of whether the marriage was void or voidable, at any time*
36 *between 300 days before the child's birth and the child's birth;*

37 (3) *a voluntary acknowledgment of paternity was completed by the*
38 *mother and the presumed father more than 60 days before the motion*
39 *was filed and no request to revoke the voluntary acknowledgment has*
40 *been filed; or*

41 (4) *results of genetic tests show the probability of paternity by the*
42 *presumed father is equal to or greater than 97% and the report was*
43 *received more than 20 days before the motion was filed, unless written*

1 ***notice of intent to challenge the validity of the report has been timely***
2 ***given.***

3 Sec. ~~2~~ 3. K.S.A. 2022 Supp. 23-2707 is hereby amended to read as
4 follows: 23-2707. (a) *Permissible orders.* After the filing of a petition for
5 divorce, annulment or separate maintenance, and during the pendency of
6 the action until the entry of final judgment the judge assigned to hear the
7 action may, without requiring bond, make, modify, vacate and enforce by
8 attachment, orders ~~which~~ *that*:

9 (1) Jointly restrain the parties with regard to disposition of the
10 property of the parties and provide for the use, occupancy, management
11 and control of that property, *including, but not limited to, utilizing any*
12 *electronic tracking system or acquiring tracking information to determine*
13 *the other person's location, movement or travel patterns;*

14 (2) restrain the parties from molesting or interfering with the privacy
15 or rights of each other, *including, but not limited to, utilizing any*
16 *electronic tracking system or acquiring tracking information to*
17 *determine the other person's location, movement or travel patterns;*

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

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

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

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

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

35 (b) *Ex parte orders.* Orders authorized by subsections (a)(1), (2), (3),
36 (4) and (7) may be entered after ex parte hearing upon compliance with
37 rules of the supreme court, except that no ex parte order shall have the
38 effect of changing the residency of a minor child from the parent who has
39 had the sole de facto residency of the child to the other parent unless there
40 is sworn testimony to support a showing of extraordinary circumstances. If
41 an interlocutory order is issued ex parte, the court shall hear a motion to
42 vacate or modify the order within 14 days of the date on which a party
43 requests a hearing whether to vacate or modify the order. In the absence,

1 disability, or disqualification of the judge assigned to hear the action, any
2 other judge of the district court may make any order authorized by this
3 section, including vacation or modification or any order issued by the
4 judge assigned to hear the action.

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

8 (2) No order of garnishment shall be issued under this section unless:
9 (A) Fourteen or more days have elapsed since the order of support was
10 served upon the party required to pay the support; and (B) the order of
11 support contained a notice that the order of support may be enforced by
12 garnishment and that the party has a right to request an opportunity for a
13 hearing to contest the issuance of an order of garnishment, if the hearing is
14 requested by motion filed within seven days after service of the order of
15 support upon the party. If a hearing is requested, the court shall hold the
16 hearing within seven days after the motion requesting the hearing is filed
17 with the court or at a later date agreed to by the parties.

18 (3) No bond shall be required for the issuance of an order of
19 garnishment pursuant to this section. Except as provided in this section,
20 garnishments authorized by this section shall be subject to the procedures
21 and limitations applicable to other orders of garnishment authorized by
22 law.

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

25 (A) The order of support contained the notice required by this
26 subsection;

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

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

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

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

43 Sec. ~~3~~. 4. K.S.A. 38-2243 is hereby amended to read as follows: 38-

1 2243. (a) Upon notice and hearing, the court may issue an order directing
2 who shall have temporary custody and may modify the order during the
3 pendency of the proceedings as will best serve the child's welfare.

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

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

12 (d) Notice of the temporary custody hearing shall be given at least 24
13 hours prior to the hearing. The court may continue the hearing to afford the
14 24 hours prior notice or, with the consent of the party or interested party,
15 proceed with the hearing at the designated time. If an order of temporary
16 custody is entered and the parent or other person having custody of the
17 child has not been notified of the hearing, did not appear or waive
18 appearance and requests a rehearing, the court shall rehear the matter
19 without unnecessary delay.

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

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

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

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

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

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

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

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

39 (g) (1) Whenever the court determines the necessity for an order of
40 temporary custody the court may place the child in the temporary custody
41 of:

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

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

4 (C) a youth residential facility;

5 (D) a shelter facility;

6 (E) a staff secure facility, notwithstanding any other provision of law,
7 if the child has been subjected to human trafficking or aggravated human
8 trafficking, as defined by K.S.A. 2022 Supp. 21-5426, and amendments
9 thereto, or commercial sexual exploitation of a child, as defined by K.S.A.
10 2022 Supp. 21-6422, and amendments thereto, or the child committed an
11 act which, if committed by an adult, would constitute a violation of K.S.A.
12 2022 Supp. 21-6419, and amendments thereto;

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

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

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

1 modified or rescinded by the court or an adjudication order is entered but
2 not exceeding 60 days, unless good cause is shown and stated on the
3 record.

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

12 (i) (1) The court shall not enter the initial order removing a child from
13 the custody of a parent pursuant to this section unless the court first finds
14 probable cause that: (A) (i) The child is likely to sustain harm if not
15 immediately removed from the home;

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

18 (iii) immediate placement of the child is in the best interest of the
19 child; and

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

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

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

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

34 Sec. 4. 5. K.S.A. 38-2244 is hereby amended to read as follows: 38-
35 2244. (a) At any time after filing a petition, but prior to an adjudication,
36 the court may enter an order for continuance and informal supervision
37 without an adjudication if no party objects. Upon granting the continuance,
38 the court shall include in the order any conditions with which the parties
39 and interested parties are expected to comply and provide the parties and
40 interested parties with a copy of the order. The conditions may include
41 appropriate dispositional alternatives authorized by K.S.A. 38-2255, and
42 amendments thereto.

43 (b) An order for informal supervision may remain in force for a

1 period of up to six months and may be extended, upon hearing, for an
2 additional six-month period for a total of one year. For a child under an
3 order for informal supervision who remains in the custody of such child's
4 parent, such one-year period may be extended if no party objects, upon
5 hearing, for up to an additional one year, with reviews by the court
6 occurring at least every six months.

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

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

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

26 (f) Lack of service on a parent shall not preclude an informal
27 supervision under the provisions of this section. If an order of informal
28 supervision is entered which effects change in custody, any parent not
29 served pursuant to K.S.A. 38-2237, and amendments thereto, who has not
30 consented to the informal supervision, may request reconsideration of the
31 order of informal supervision. The court shall hear the request without
32 unnecessary delay. If the informal supervision order effects a change in
33 custody, efforts to accomplish service pursuant to K.S.A. 38-2237, and
34 amendments thereto, shall continue.

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

39 ~~Sec. 6.~~ K.S.A. 38-2255 is hereby amended to read as follows: 38-
40 2255. (a) *Considerations.* Prior to entering an order of disposition, the
41 court shall give consideration to:

- 42 (1) The child's physical, mental and emotional condition;
- 43 (2) the child's need for assistance;

1 (3) the manner in which the parent participated in the abuse, neglect
2 or abandonment of the child;

3 (4) any relevant information from the intake and assessment process;
4 and

5 (5) the evidence received at the dispositional hearing.

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

10 (1) Supervision of the child and the parent by a court services officer;

11 (2) participation by the child and the parent in available programs
12 operated by an appropriate individual or agency; and

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

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

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

22 (C) immediate placement of the child is in the best interest of the
23 child; and

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

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

30 (d) *Custody of a child removed from the custody of a parent.* If the
31 court has made the findings required by subsection (c), the court shall
32 enter an order awarding custody to: A relative of the child or to a person
33 with whom the child has close emotional ties who shall not be required to
34 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
35 and amendments thereto; any other suitable person; a shelter facility; a
36 youth residential facility; a staff secure facility, notwithstanding any other
37 provision of law, if the child has been subjected to human trafficking or
38 aggravated human trafficking, as defined by K.S.A. 2022 Supp. 21-5426,
39 and amendments thereto, or commercial sexual exploitation of a child, as
40 defined by K.S.A. 2022 Supp. 21-6422, and amendments thereto, or the
41 child committed an act which, if committed by an adult, would constitute a
42 violation of K.S.A. 2022 Supp. 21-6419, and amendments thereto; or, if
43 the child is 15 years of age or younger, or 16 or 17 years of age if the child

1 has no identifiable parental or family resources or shows signs of physical,
2 mental, emotional or sexual abuse, to the secretary. Custody awarded
3 under this subsection shall continue until further order of the court.

4 (1) When custody is awarded to the secretary, the secretary shall
5 consider any placement recommendation by the court and notify the court
6 of the placement or proposed placement of the child within 10 days of the
7 order awarding custody. After providing the parties or interested parties
8 notice and opportunity to be heard, the court may determine whether the
9 secretary's placement or proposed placement is contrary to the welfare or
10 in the best interests of the child. In making that determination the court
11 shall consider the health and safety needs of the child and the resources
12 available to meet the needs of children in the custody of the secretary. If
13 the court determines that the placement or proposed placement is contrary
14 to the welfare or not in the best interests of the child, the court shall notify
15 the secretary, who shall then make an alternative placement.

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

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

28 (4) The court may enter an order restraining any alleged perpetrator
29 of physical, mental or emotional abuse or sexual abuse of the child from:
30 Residing in the child's home; visiting, contacting, harassing or intimidating
31 the child, other family member or witness; or attempting to visit, contact,
32 harass or intimidate the child, other family member or witness. Such
33 restraining order shall be served by personal service pursuant to K.S.A.
34 38-2237(a), and amendments thereto, on any alleged perpetrator to whom
35 the order is directed.

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

39 (e) *Further determinations regarding a child removed from the home.*
40 If custody has been awarded under subsection (d) to a person other than a
41 parent, a permanency plan shall be provided or prepared pursuant to
42 K.S.A. 38-2264, and amendments thereto. If a permanency plan is
43 provided at the dispositional hearing, the court may determine whether

1 reintegration is a viable alternative or, if reintegration is not a viable
2 alternative, whether the child should be placed for adoption or a permanent
3 custodian appointed. In determining whether reintegration is a viable
4 alternative, the court shall consider:

5 (1) Whether a parent has been found by a court to have committed
6 one of the following crimes or to have violated the law of another state
7 prohibiting such crimes or to have aided and abetted, attempted, conspired
8 or solicited the commission of one of these crimes: (A) Murder in the first
9 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2022 Supp. 21-5402,
10 and amendments thereto; (B) murder in the second degree, K.S.A. 21-
11 3402, prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments
12 thereto; (C) capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A.
13 2022 Supp. 21-5401, and amendments thereto; (D) voluntary
14 manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 2022 Supp.
15 21-5404, and amendments thereto; or (E) a felony battery that resulted in
16 bodily injury;

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

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

22 (4) whether the child has been in the custody of the secretary and
23 placed with neither parent for 15 of the most recent 22 months beginning
24 60 days after the date on which a child in the secretary's custody was
25 removed from the child's home;

26 (5) whether the parents have failed to work diligently toward
27 reintegration;

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

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

32 (f) *Proceedings if reintegration is not a viable alternative.* If the court
33 determines that reintegration is not a viable alternative, proceedings to
34 terminate parental rights and permit placement of the child for adoption or
35 appointment of a permanent custodian shall be initiated unless the court
36 finds that compelling reasons have been documented in the case plan why
37 adoption or appointment of a permanent custodian would not be in the best
38 interests of the child. If compelling reasons have not been documented, the
39 county or district attorney shall file a motion within 30 days to terminate
40 parental rights or a motion to appoint a permanent custodian within 30
41 days and the court shall hold a hearing on the motion within 90 days of its
42 filing. No hearing is required when the parents voluntarily relinquish
43 parental rights or consent to the appointment of a permanent custodian.

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

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

10 (2) If the court has reason to believe that a child is before the court
11 due, in whole or in part, to the use or misuse of alcohol or a violation of
12 K.S.A. 2022 Supp. 21-5701 through 21-5717, and amendments thereto, by
13 the child, a parent of the child, or another person responsible for the care
14 of the child, the court may order the child, parent of the child or other
15 person responsible for the care of the child to submit to and complete an
16 alcohol and drug evaluation by a qualified person or agency and comply
17 with any recommendations. If the evaluation is performed by a
18 community-based alcohol and drug safety program certified pursuant to
19 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or
20 other person responsible for the care of the child shall pay a fee not to
21 exceed the fee established by that statute. If the court finds that the child
22 and those legally liable for the child's support are indigent, the fee may be
23 waived. In no event shall the fee be assessed against the secretary.

24 (3) If child support has been requested and the parent or parents have
25 a duty to support the child, the court may order one or both parents to pay
26 child support and, when custody is awarded to the secretary, the court shall
27 order one or both parents to pay child support. The court shall determine,
28 for each parent separately, whether the parent is already subject to an order
29 to pay support for the child. If the parent is not presently ordered to pay
30 support for any child who is subject to the jurisdiction of the court and the
31 court has personal jurisdiction over the parent, the court shall order the
32 parent to pay child support in an amount determined under K.S.A. 38-
33 2277, and amendments thereto. Except for good cause shown, the court
34 shall issue an immediate income withholding order pursuant to K.S.A.
35 2022 Supp. 23-3101 et seq., and amendments thereto, for each parent
36 ordered to pay support under this subsection, regardless of whether a payor
37 has been identified for the parent. A parent ordered to pay child support
38 under this subsection shall be notified, at the hearing or otherwise, that the
39 child support order may be registered pursuant to K.S.A. 38-2279, and
40 amendments thereto. The parent shall also be informed that, after
41 registration, the income withholding order may be served on the parent's
42 employer without further notice to the parent and the child support order
43 may be enforced by any method allowed by law. Failure to provide this

1 notice shall not affect the validity of the child support order.

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

6 Sec. ~~6~~ 7. K.S.A. 2022 Supp. 60-3107 is hereby amended to read as
7 follows: 60-3107. (a) The court may approve any consent agreement to
8 bring about a cessation of abuse of the plaintiff or minor children or grant
9 any of the following orders:

10 (1) Restraining the defendant from abusing, molesting or interfering
11 with the privacy or rights of the plaintiff or of any minor children of the
12 parties, *including, but not limited to, utilizing any electronic tracking*
13 *system or acquiring tracking information to determine the other person's*
14 *location, movement or travel patterns.* Such order shall contain a statement
15 that if such order is violated, such violation may constitute assault as
16 defined in ~~subsection (a)~~ of K.S.A. 2022 Supp. 21-5412(a), and
17 amendments thereto, battery as defined in ~~subsection (a)~~ of K.S.A. 2022
18 Supp. 21-5413(a), and amendments thereto, domestic battery as defined in
19 K.S.A. 2022 Supp. 21-5414, and amendments thereto, and violation of a
20 protective order as defined in K.S.A. 2022 Supp. 21-5924, and
21 amendments thereto.

22 (2) Granting possession of the residence or household to the plaintiff
23 to the exclusion of the defendant, and further restraining the defendant
24 from entering or remaining upon or in such residence or household,
25 subject to the limitation of subsection (d). Such order shall contain a
26 statement that if such order is violated, such violation shall constitute
27 criminal trespass as defined in ~~subsection (a)(1)(C)~~ of K.S.A. 2022 Supp.
28 21-5808(a)(1)(C), and amendments thereto, and violation of a protective
29 order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto.
30 The court may grant an order, which shall expire 60 days following the
31 date of issuance, restraining the defendant from cancelling utility service
32 to the residence or household.

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

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

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

39 (6) Ordering support payments by a party for the support of a party's
40 minor child, if the party is the father or mother of the child, or the plaintiff,
41 if the plaintiff is married to the defendant. Such support orders shall
42 remain in effect until modified or dismissed by the court or until expiration
43 and shall be for a fixed period of time not to exceed one year. On the

1 motion of the plaintiff, the court may extend the effect of such order for 12
2 months.

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

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

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

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

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

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

15 (2) the plaintiff had reasonable notice of the written cross or counter
16 petition by personal service as provided in ~~subsection (d)~~ of K.S.A. 60-
17 3104(d), and amendments thereto; and

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

21 (c) Any order entered under the protection from abuse act shall not be
22 subject to modification on ex parte application or on motion for temporary
23 orders in any action filed pursuant to K.S.A. 60-1601 et seq., prior to their
24 transfer or repeal, or article 22 or 27 of chapter 23 of the Kansas Statutes
25 Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and
26 amendments thereto. Orders previously issued in an action filed pursuant
27 to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or
28 27 of chapter 23 of the Kansas Statutes Annotated, and amendments
29 thereto, or K.S.A. 38-1101 et seq., and amendments thereto, shall be
30 subject to modification under the protection from abuse act only as to
31 those matters subject to modification by the terms of K.S.A. 2022 Supp.
32 23-3201 through 23-3207 and 23-3218 and article 27 of chapter 23 of the
33 Kansas Statutes Annotated, and amendments thereto, and on sworn
34 testimony to support a showing of good cause. Immediate and present
35 danger of abuse to the plaintiff or minor children shall constitute good
36 cause. If an action is filed pursuant to K.S.A. 2022 Supp. 23-3201 through
37 23-3207 or 23-3218 or article 22 or 27 of chapter 23 of the Kansas Statutes
38 Annotated, and amendments thereto, during the pendency of a proceeding
39 filed under the protection from abuse act or while an order issued under
40 the protection from abuse act is in effect, the court, on final hearing or on
41 agreement of the parties, may issue final orders authorized by K.S.A. 2022
42 Supp. 23-3201 through 23-3207 and 23-3218 and articles 22 and 27 of
43 chapter 23 of the Kansas Statutes Annotated, and amendments thereto, that

1 are inconsistent with orders entered under the protection from abuse act.
2 Any inconsistent order entered pursuant to this subsection shall be specific
3 in its terms, reference the protection from abuse order and parts thereof
4 being modified and a copy thereof shall be filed in both actions. The court
5 shall consider whether the actions should be consolidated in accordance
6 with K.S.A. 60-242, and amendments thereto. Any custody or parenting
7 time order, or order relating to the best interests of a child, issued pursuant
8 to the revised Kansas code for care of children or the revised Kansas
9 juvenile justice code, shall be binding and shall take precedence over any
10 such custody or parenting order involving the same child issued under the
11 protection from abuse act, until jurisdiction under the revised Kansas code
12 for care of children or the revised Kansas juvenile justice code is
13 terminated. Any inconsistent custody or parenting order issued in the
14 revised Kansas code for care of children case or the revised Kansas
15 juvenile justice code case shall be specific in its terms, reference any
16 preexisting protection from abuse order and the custody being modified,
17 and a copy of such order shall be filed in the preexisting protection from
18 abuse case.

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

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

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

30 (2) Upon verified motion of the plaintiff and after the defendant has
31 been personally served with a copy of the motion and has had an
32 opportunity to present evidence and cross-examine witnesses at a hearing
33 on the motion, *the court shall extend a protective order for not less than*
34 *two additional years and may extend the protective order up to the lifetime*
35 *of the defendant* if the court determines by a preponderance of the
36 evidence that the defendant has: (A) Violated a valid protection order—
37 ~~(A) has;~~ (B) previously violated a valid protection order; or ~~(B) has~~ (C)
38 been convicted of a person felony or any conspiracy, criminal solicitation
39 or attempt thereof, under the laws of Kansas or the laws of any other
40 jurisdiction which are substantially similar to such person felony,
41 committed against the plaintiff or any member of the plaintiff's household;
42 ~~the court shall extend a protective order for not less than two additional~~
43 ~~years and may extend the protective order up to the lifetime of the~~

1 ~~defendant~~. No service fee shall be required for a motion filed pursuant to
2 this subsection.

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

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

7 (h) If a person enters or remains on premises or property violating an
8 order issued pursuant to subsection (a)(2), such violation shall constitute
9 criminal trespass as defined in ~~subsection (a)(1)(C) of K.S.A. 2022 Supp.~~
10 ~~21-5808(a)(1)(C)~~, and amendments thereto, and violation of a protective
11 order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto.
12 If a person abuses, molests or interferes with the privacy or rights of
13 another violating an order issued pursuant to subsection (a)(1), such
14 violation may constitute assault as defined in ~~subsection (a) of K.S.A.~~
15 ~~2022 Supp. 21-5412(a)~~, and amendments thereto, battery as defined in
16 ~~subsection (a) of K.S.A. 2022 Supp. 21-5413(a)~~, and amendments thereto,
17 domestic battery as defined in K.S.A. 2022 Supp. 21-5414, and
18 amendments thereto, and violation of a protective order as defined in
19 K.S.A. 2022 Supp. 21-5924, and amendments thereto.

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

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

30 (2) Restraining the defendant from abusing, molesting or interfering
31 with the privacy ~~or~~ rights of the victim. The order shall contain a statement
32 that, if the order is violated, the violation may constitute stalking as
33 defined in K.S.A. 2022 Supp. 21-5427, and amendments thereto, assault as
34 defined in K.S.A. 2022 Supp. 21-5412(a), and amendments thereto, battery
35 as defined in K.S.A. 2022 Supp. 21-5413(a), and amendments thereto, and
36 violation of a protective order as defined in K.S.A. 2022 Supp. 21-5924,
37 and amendments thereto.

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

1 (4) Restraining the defendant from committing or attempting to
2 commit a sexual assault upon the victim. The order shall contain a
3 statement that, if the order is violated, the violation shall constitute
4 violation of a protective order as defined in K.S.A. 2022 Supp. 21-5924,
5 and amendments thereto. The order shall also contain a statement that, if
6 the order is violated, the violation may constitute a sex offense under
7 article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments
8 thereto, and the accused may be prosecuted, convicted of and punished for
9 such sex offense.

10 (5) Restraining the defendant from following, harassing, telephoning,
11 contacting, recruiting, harboring, transporting, or committing or attempting
12 to commit human trafficking upon the human trafficking victim, or
13 otherwise communicating with the human trafficking victim. The order
14 shall contain a statement that, if the order is violated, the violation shall
15 constitute violation of a protective order as defined in K.S.A. 2022 Supp.
16 21-5924, and amendments thereto. The order shall also contain a statement
17 that, if the order is violated, the violation may constitute an offense under
18 chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and
19 the accused may be prosecuted, convicted of and punished for such
20 offense.

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

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

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

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

36 (1) Violated a valid protection order;

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

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

42 No service fee shall be required for a motion filed pursuant to this
43 subsection.

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

3 (f) The court shall assess costs against the defendant and may award
4 attorney fees to the victim in any case in which the court issues a
5 protection from stalking, sexual assault or human trafficking order
6 pursuant to this act. The court may award attorney fees to the defendant in
7 any case where the court finds that the petition to seek relief pursuant to
8 this act is without merit.

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

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

12 (2) a party from appearing at a scheduled court or administrative
13 hearing; or

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

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

21 ~~Sec.-8: 9.~~ K.S.A. 38-2243, 38-2244 and 38-2255 and K.S.A. 2022
22 Supp. 21-5427, ~~23-2224~~, 23-2707, 60-3107 and 60-31a06 are hereby
23 repealed.

24 ~~Sec.-9: 10.~~ This act shall take effect and be in force from and after its
25 publication in the statute book.