

**SENATE BILL No. 265**

By Committee on Ways and Means

2-16

1 AN ACT concerning crimes, punishment and criminal procedure;  
2 *{relating to restitution; requiring a person convicted of an offense*  
3 *that resulted in the incapacitation or death of a victim who is the*  
4 *parent or guardian of a minor child to pay restitution in the form of*  
5 *child support;}* relating to violation of a protective order; increasing  
6 criminal penalties for repeat violations; amending K.S.A. 2022 Supp.  
7 21-5924 and repealing the existing section.  
8

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

10 *{New Section 1. (a) Notwithstanding any provision of law to the*  
11 *contrary, if a defendant is convicted of an offense that resulted in the*  
12 *incapacitation or death of a victim who is the parent or guardian of a*  
13 *minor child, then the court shall order the defendant to pay restitution in*  
14 *the form of reasonable and necessary support of each minor child of the*  
15 *victim until each minor child reaches 18 years of age and has graduated*  
16 *from high school, or the class of which the minor child is a member*  
17 *when the child reaches 18 years of age has graduated from high school.*

18 *(b) When determining the amount of support that is reasonable and*  
19 *necessary for the support of the child, the court shall consider all*  
20 *relevant factors, including, but not limited to:*

21 *(1) The age of the child;*

22 *(2) the financial needs and resources of the child;*

23 *(3) the financial resources and needs of the surviving parent or*  
24 *guardian of the child or the financial resources of the state if the child is*  
25 *in the custody of the secretary for children and families;*

26 *(4) the standard of living to which the child is accustomed;*

27 *(5) the physical and emotional condition of the child and the child's*  
28 *educational needs;*

29 *(6) the child's legal custody and residency; and*

30 *(7) the reasonable child care expenses of the surviving parent or*  
31 *guardian.*

32 *(c) The court shall order the support payments be paid to the child's*  
33 *parent or guardian. The court's order shall be enforced as a judgment of*  
34 *restitution pursuant to K.S.A. 20-169, and amendments thereto, and*  
35 *K.S.A. 2022 Supp. 21-6604(b)(2), and amendments thereto. Payments*  
36 *shall continue until the entire arrearage is paid in full.*

1        ***(d) (1) If the victim or the victim's family brings a civil action***  
 2 ***against the defendant prior to the court ordering the defendant to pay***  
 3 ***the restitution described in this section and the victim or the victim's***  
 4 ***family obtains a judgment in such action, then the restitution described***  
 5 ***in this section shall not be ordered.***

6        ***(2) If the court enters an order pursuant to this section and the***  
 7 ***victim or the victim's family subsequently brings a civil action against***  
 8 ***the defendant and obtains a judgment in such action, then the order***  
 9 ***entered pursuant to this section shall be offset by the amount of the***  
 10 ***judgment in such action.***

11        ***(e) This section shall be a part of and supplemental to the Kansas***  
 12 ***code of criminal procedure.***

13        Section 1: ~~{Sec. 2.}~~ K.S.A. 2022 Supp. 21-5924 is hereby amended to  
 14 read as follows: 21-5924. (a) Violation of a protective order is knowingly  
 15 violating:

16        (1) A protection from abuse order issued pursuant to K.S.A. 60-3105,  
 17 60-3106 or 60-3107, and amendments thereto;

18        (2) a protective order issued by a court or tribunal of any state or  
 19 Indian tribe that is consistent with the provisions of 18 U.S.C. § 2265, ~~and~~  
 20 ~~amendments thereto;~~

21        (3) a restraining order issued pursuant to *K.S.A. 38-2243, 38-2244 or*  
 22 *38-2255, and amendments thereto, or K.S.A. 2022 Supp. 23-2707, 38-*  
 23 *2243, 38-2244 or 38-2255, and amendments thereto, or K.S.A. 60-1607,*  
 24 *prior to its transfer;*

25        (4) an order issued in this or any other state as a condition of pretrial  
 26 release, diversion, probation, suspended sentence, postrelease supervision  
 27 or at any other time during the criminal case that orders the person to  
 28 refrain from having any direct or indirect contact with another person;

29        (5) an order issued in this or any other state as a condition of release  
 30 after conviction or as a condition of a supersedeas bond pending  
 31 disposition of an appeal, that orders the person to refrain from having any  
 32 direct or indirect contact with another person; or

33        (6) a protection from stalking, sexual assault or human trafficking  
 34 order issued pursuant to K.S.A. 60-31a05 or 60-31a06, and amendments  
 35 thereto.

36        (b) (1) *Except as provided in subsection (b)(2), violation of a*  
 37 *protective order is a:*

38        (A) Class A person misdemeanor, except as provided in subsection ~~(b)~~  
 39 ~~(2)~~ *(b)(1)(B); and*

40        (B) *severity level 7, person felony upon a second or subsequent*  
 41 *conviction.*

42        (2) Violation of an extended protective order as described in K.S.A.  
 43 60-3107(e)(2), ~~and amendments thereto, and K.S.A. 60-31a06(d), and~~

1 amendments thereto, is a:

2 (A) Severity level 6, person felony, *except as provided in subsection*  
3 *(b)(2)(B); and*

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

6 (c) No protective order, as set forth in this section, shall be construed  
7 to prohibit an attorney, or any person acting on such attorney's behalf, who  
8 is representing the defendant in any civil or criminal proceeding, from  
9 contacting the protected party for a legitimate purpose within the scope of  
10 the civil or criminal proceeding. The attorney, or person acting on such  
11 attorney's behalf, shall be identified in any such contact.

12 (d) As used in this section, "order" includes any order issued by a  
13 municipal or district court.

14 ~~Sec. 2: {3,}~~ K.S.A. 2022 Supp. 21-5924 is hereby repealed.

15 ~~Sec. 3: {4,}~~ This act shall take effect and be in force from and after its  
16 publication in the statute book.