

HB 2376
House Judiciary Committee
WRITTEN TESTIMONY
February 23, 2021
NEUTRAL

Chairman Patton and Members of the Committee,

The Kansas Coalition Against Sexual and Domestic Violence (KCSDV) is a statewide non-profit organization whose membership is the 26 sexual and domestic violence programs serving victims across Kansas. KCSDV provides information; training; and analysis and policy work on issues impacting victims of domestic and sexual violence, their families, and their communities.

KCSDV is neutral on HB 2376. KCSDV supports strong laws that protect victims of domestic violence, sexual assault, stalking, and human trafficking. KCSDV's position on HB2376 is neutral for the following reasons:

1. KCSDV suggests that the new language of “or a violation of a protective order, as defined in K.S.A. 2020 Supp. 21-5924(a)(1) or (a)(6), and amendments thereto...” is already captured in existing statute. The definition of domestic violence in K.S.A. 21-5111, and amendments thereto, currently includes the violation of a protective order when done in the context of domestic violence. Moreover, KCSDV believes that under current statute, and included in K.S.A. 21-2307, an officer can, and shall, arrest a person for whom a Protection Order is issued when/if that person violates it.
2. Additionally, KCSDV is concerned that only subsections (a)(1) and (a)(6) are included as qualifying protection orders under this amendment. By only including Kansas-issued Protection from Abuse and Protection from Stalking, Sexual Assault and Human Trafficking orders we would in effect be disqualifying tribal protection orders and out-of-state orders currently protected and enforceable in Kansas through Full Faith and Credit. For safety reasons, it is critical that these orders be included anytime there is discussion about increasing protection for victims.
3. KCSDV would support adding language to existing law, specifically in K.S.A. 21-2307, that clarifies an officer “shall not arrest the protected party” when there is a violation of a protection order. Arresting a victim in this type of situation has been found unconstitutional by the U.S. Tenth Circuit Court of Appeals but it would be a good reminder to have it included in statute.
4. KCSDV is also concerned that HB 2376 would amend K.S.A. 21-2307 (law enforcement response to domestic violence) but it is silent on K.S.A. 21-2310 (law enforcement response to stalking).
5. KCSDV is also concerned with the new language on page 2, lines 8-10, specifying a law enforcement policy that includes “procedures to keep the suspect away from the scene for a period of time if the officer determines such action is necessary to maintain the safety of all

persons involved.” This language appears to undermine the mandatory arrest language for a violation of a protection order or a criminal violation of domestic violence. If this language is referencing a situation where there is not probable cause to make an arrest, KCSDV suggests adding that specific language to this section to make it clear in policy. Also, KCSDV recommends setting a firm period of time rather than the ambiguous phrase “period of time.”

6. `Lastly, domestic violence, sexual assault, stalking and human trafficking are not crimes of “anger” nor do they happen because of the victim’s behavior. These are calculated crimes done with the intent to dominate, control and subjugate another person – most often an intimate partner. By using language that suggests the two parties are “fighting” and should be kept away from each other, we are reinforcing problematic myths that surround these dangerous crimes.

All victims deserve to be safe and KCSDV supports strategies to forward that goal. HB 2376 is clearly intended to help victims in dangerous situations; however, KCSDV is concerned that this additional language may do more harm than good.

Sincerely submitted on behalf of KCSDV,

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KCSDV