

SESSION OF 2012

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2613**

As Agreed to March 29, 2012

Brief*

HB 2613 would require courts to extend protection from abuse and protection from stalking orders for at least two years and allow extension up to the lifetime of a defendant if, after the defendant has been personally served with a copy of the motion to extend the order and has had an opportunity to present evidence at a hearing on the motion and cross-examine witnesses, it is determined by a preponderance of the evidence that the defendant has either previously violated a valid protection order or been convicted of a person felony or conspiracy, criminal solicitation, or attempt of a person felony, committed against the plaintiff or any member of the plaintiff's household. Violation of an extended protection order would be a severity level 6, person felony. The bill would provide that no service fee would be required for a motion for an extended protection order.

Additionally, the bill would amend the definition of the crime of unlawful sexual relations. This crime occurs when the defendant engages in consensual sexual intercourse, lewd fondling or touching, or sodomy with a person who is not married to the offender in certain situations assigned. Currently, one such provision prohibits the targeted behavior by an employee of the Department of Social and Rehabilitation Services (SRS) or by the employee of a contractor providing services to an SRS institution, when such behavior is directed toward a person 16 years of age or

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older who is a patient in such institution. The bill would broaden this subsection by adding language applying the prohibition to the employee of any SRS contractor, when the behavior is directed toward a person 16 years of age or older who is a patient in an SRS institution or is in the custody of the SRS.

Further, the bill would add a subsection prohibiting such behavior by a worker, volunteer, or other person in a position of authority in a family foster home licensed by the Department of Health and Environment, when such behavior is directed toward a person 16 years of age or older who is a foster child in the care of such family foster home.

The bill also would clarify that the term “teacher,” as used in the statute, includes coaches. Finally, the bill would reorganize some sections of the statute to improve the statute's overall clarity.

Conference Committee Action

The House acceded to the Senate's amendments to HB 2613, and the Conference Committee agreed to add the provisions of SB 279, concerning unlawful sexual relations.

Background

In the House Committee on Corrections and Juvenile Justice, representatives of the Attorney General's Office and the Kansas Coalition Against Sexual and Domestic Violence, in addition to a private citizen, appeared in support of HB 2613. The Committee amended the bill to change violation of an extended protection order from a level 5 to a level 6, person felony. Additionally, the Committee amended the bill to add conspiracy and criminal solicitation of a person felony to the list of crimes that would allow for an extended protection order and to require that the person felony, or the conspiracy, criminal solicitation, or attempt thereof be committed against

the plaintiff or any member of the plaintiff's household. Finally, the Committee restored to current law an amendment in the bill, as introduced, that would have required personal service under the Protection From Abuse Act and Protection From Stalking Act.

In the Senate Committee on Judiciary, Senator Dick Kelsey, a representative of the Attorney General's Office, and a private citizen appeared in support of the bill. No opponents offered testimony. The Committee amended the bill by adding provisions that would require personal service of a motion for an extended protection order to the defendant and give the defendant an opportunity to cross-examine witnesses at a hearing on the motion. It also amended the bill to clarify that the court shall extend the protective order if it finds by a preponderance of the evidence that the defendant either has previously violated a valid protection order or has been convicted of a person felony or any conspiracy, criminal solicitation, or attempt thereof committed against the plaintiff or any member of the plaintiff's household.

SB 279 was introduced by the Senate Judiciary Committee at the request of Attorney General Derek Schmidt. In the Senate Judiciary Committee, a representative of the Attorney General and the Kansas Bureau of Investigation spoke in support of the bill. The Committee amended the bill to clarify language and organization of the statute, and to apply the new subsection to volunteers, generally, rather than to "regular" volunteers. The Committee recommended the bill be passed as amended.

The revised fiscal note for HB 2613 indicates passage of the bill would result in an increase of 5 to 15 adult prison beds in FY 2013 and an increase of 24 to 71 adult prison beds by FY 2022.

The fiscal note for SB 279 states enactment would result in one to two additional prison admissions each year; one to two additional prison beds needed by the end of FY 2013;

two to five additional prison beds needed by the end of FY 2022; and two to four additional journal entries each year.

As the number of male inmates currently exceeds capacity, passage may result in additional contract or construction costs.

Lifetime protection orders; unlawful sexual relations

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