

HOUSE BILL No. 2733

By Committee on Federal and State Affairs

3-5

1 AN ACT concerning firearms; relinquishment thereof pursuant to certain
2 court orders; criminal penalties; amending K.S.A. 2019 Supp. 22-3426,
3 60-3107 and 60-31a06 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) The court shall issue an order requiring the
7 defendant to relinquish all firearms in the defendant's custody, control or
8 possession and any concealed carry license issued to the defendant upon:

9 (1) The court's issuance of a qualifying protection order against such
10 defendant; or

11 (2) the conviction of the defendant for domestic battery as described
12 in K.S.A. 2019 Supp. 21-5414, and amendments thereto, or any
13 misdemeanor for a domestic violence offense as defined in K.S.A. 2019
14 Supp. 21-6301, and amendments thereto.

15 (b) A defendant subject to a relinquishment order issued pursuant to
16 this section shall:

17 (1) Relinquish all firearms in the defendant's custody, control or
18 possession to the sheriff of the county in which the court issuing such
19 relinquishment order is located or to a licensed federal firearms dealer; and

20 (2) relinquish any concealed carry license issued to the defendant to
21 the sheriff of the county in which the court issuing such relinquishment
22 order is located.

23 (c) (1) If the defendant is physically present in court at the time a
24 relinquishment order is entered against the defendant, the defendant shall
25 comply with the provisions of subsection (b) within 24 hours after such
26 relinquishment order is entered.

27 (2) If the defendant is not physically present in court at the time a
28 relinquishment order is entered against the defendant, such order shall be
29 personally served on the defendant by a law enforcement officer or, if
30 personal service by a law enforcement officer is not possible, in
31 accordance with K.S.A. 60-301 et seq., and amendments thereto.

32 (3) If the order is personally served on the defendant, the law
33 enforcement officer serving such order shall require that the defendant
34 immediately surrender all firearms in the defendant's custody, control or
35 possession and any concealed carry license issued to the defendant. The
36 law enforcement officer shall conduct any search of the defendant

1 permitted by law for such firearms or license. The law enforcement officer
2 shall take possession of any such firearms and license that are
3 relinquished, in plain sight or discovered pursuant to a lawful search.

4 (4) The defendant shall relinquish, in accordance with subsection (b),
5 any firearms in the defendant's custody, control or possession and any
6 concealed carry license issued to the defendant that are not relinquished to
7 or removed by a law enforcement officer at the time of service within 24
8 hours after service of the order.

9 (d) A law enforcement officer or licensed federal firearms dealer who
10 takes possession of a firearm or concealed carry license pursuant to this
11 section shall issue a proof of relinquishment or removal to the defendant.
12 The proof of relinquishment or removal shall include:

13 (1) The name of the defendant;

14 (2) the date such firearm or concealed carry license was relinquished
15 or removed;

16 (3) the identification number of any relinquished or removed
17 concealed carry license; and

18 (4) the make, model and serial number of any relinquished or
19 removed firearm.

20 (e) Within 48 hours after issuance of a relinquishment order pursuant
21 to subsection (a), a defendant subject to such order shall:

22 (1) File one or more proofs of relinquishment or removal showing
23 that all firearms previously in the defendant's custody, control or
24 possession and any concealed carry license issued to the defendant were
25 relinquished or removed by a law enforcement officer pursuant to
26 subsection (c), and attest to the court that the defendant does not currently
27 have any firearms in the defendant's custody, control or possession and
28 does not currently possess a concealed carry license; or

29 (2) attest to the court that:

30 (A) At the time the relinquishment order was issued, the defendant
31 did not have any firearms in the defendant's custody, control or possession
32 and did not possess any concealed carry license; and

33 (B) the defendant does not currently have any firearms in the
34 defendant's custody, control or possession and does not currently possess a
35 concealed carry license.

36 (f) If the defendant fails to file any proofs of relinquishment or
37 removal or any attestations as required under subsection (e) within 48
38 hours from the issuance of a relinquishment order, the clerk of the court
39 that issued such order shall notify the sheriff of the county in which the
40 court is located that the defendant has failed to make any such filings with
41 the court. Upon receipt of such notification, the sheriff shall make a good
42 faith effort to determine whether there is evidence that the defendant has
43 failed to relinquish any firearm in the defendant's custody, control or

1 possession or any concealed carry license issued to the defendant, as
2 required under the relinquishment order.

3 (g) A relinquishment order shall be effective either for the duration of
4 the qualifying protective order issued against the defendant or for that
5 period of time during which it is unlawful for the defendant to possess a
6 firearm under K.S.A. 2019 Supp. 21-6301 or 21-6304, and amendments
7 thereto.

8 (h) At any point while a relinquishment order is in effect, the
9 plaintiff, the district attorney or county attorney, or a law enforcement
10 officer may file an affidavit with the court that issued the order alleging
11 that the defendant subject to such order has a firearm in the defendant's
12 custody, control or possession or possesses a concealed carry license.
13 Upon the filing of such affidavit, the court shall determine whether
14 probable cause exists to believe that the defendant has a firearm in the
15 defendant's custody, control or possession or possesses a concealed carry
16 license. If the court finds that such probable cause exists, the court shall
17 issue a search warrant for such firearm or concealed carry license in
18 accordance with K.S.A. 22-2502, and amendments thereto.

19 (i) Except as provided in subsection (j), upon expiration or
20 termination of a relinquishment order and at the request of the defendant,
21 any items that were relinquished or removed by the sheriff shall be
22 returned to the defendant, provided the sheriff conducts a state and
23 national criminal history records check that conforms to applicable federal
24 standards, including an inquiry of the national instant criminal background
25 check system, and confirms that the defendant is not currently prohibited
26 from possessing or receiving a firearm under state or federal law.

27 (j) A sheriff may dispose of any firearms relinquished by a defendant
28 pursuant to a relinquishment order issued under subsection (a)(2) only
29 after the defendant is notified of the pending disposal of any such firearm,
30 and the proceeds from the disposal of any such firearm, less the cost to the
31 sheriff for taking possession of, storing and disposing of any such firearm,
32 shall be paid to the defendant.

33 (k) If a person other than a defendant claims title to a firearm
34 relinquished to or removed by the sheriff, and such person is determined
35 by the sheriff to be the lawful owner of such firearm, the sheriff shall
36 return the firearm to the lawful owner if: (1) The lawful owner agrees to
37 maintain, keep or store such firearm in a manner such that no person who
38 is prohibited from possessing or receiving firearms under state or federal
39 law shall have access to or control of such firearm; and (2) the sheriff
40 conducts a state and national criminal history records check that conforms
41 to applicable federal standards, including an inquiry of the national instant
42 criminal background check system, to confirm that the lawful owner is not
43 currently prohibited from possessing or receiving a firearm under state or

1 federal law.

2 (1) As used in this section:

3 (1) "Concealed carry license" means a license to carry concealed
4 handguns issued pursuant to the personal and family protection act, K.S.A.
5 75-7c01 et seq., and amendments thereto, or by any other jurisdiction.

6 (2) "Defendant" means:

7 (A) A person subject to a qualifying protection order; or

8 (B) a person convicted of domestic battery as described in K.S.A.
9 2019 Supp. 21-5414, and amendments thereto, or any misdemeanor for a
10 domestic violence offense as defined in K.S.A. 2019 Supp. 21-6301, and
11 amendments thereto.

12 (3) "Intimate partner" means, with respect to a person, the spouse of
13 the person, a former spouse of the person, an individual who is a parent of
14 a child of the person, an individual who cohabitates or has cohabitated
15 with the person or an individual with whom the person is involved or has
16 been involved in a dating relationship as defined in K.S.A. 2019 Supp. 21-
17 5111, and amendments thereto.

18 (4) "Plaintiff" means a person who successfully petitions for a
19 qualifying protection order.

20 (5) "Qualifying protection order" means an order issued under the
21 protection from abuse act, K.S.A. 60-3101 et seq., and amendments
22 thereto, or the protection from stalking, sexual assault or human trafficking
23 act, K.S.A. 60-31a01 et seq., and amendments thereto, and that:

24 (A) Was issued after a hearing, of which the defendant received
25 actual notice and at which the defendant had an opportunity to participate;

26 (B) restrains the defendant from harassing, stalking or threatening an
27 intimate partner of the defendant, or a child of the defendant or such
28 intimate partner, or engaging in other conduct that would place an intimate
29 partner in reasonable fear of bodily injury to the partner or the child; and

30 (C) (i) Includes a finding that the defendant represents a credible
31 threat to the physical safety of such intimate partner or child; or

32 (ii) by its terms explicitly prohibits the use, attempted use or
33 threatened use of physical force against such intimate partner or child that
34 would reasonably be expected to cause bodily injury.

35 New Sec. 2. (a) It shall be unlawful for a person to possess a firearm
36 or concealed carry license issued to such person while there is a
37 relinquishment order issued pursuant to section 1, and amendments
38 thereto, in effect against such person.

39 (b) Violation of this section is a severity level 8, nonperson felony.

40 (c) It is not a violation of this section if the person is possessing,
41 carrying or otherwise transporting a firearm or a concealed carry license
42 for the sole purpose of relinquishing such firearm or concealed carry
43 license in accordance with section 1(b) or (c), and amendments thereto, if:

1 (1) The person is in possession of a written relinquishment order
2 issued by a court and such order was issued within the previous 24 hours;

3 (2) any firearm being transported is unloaded; and

4 (3) the person transports the firearm or concealed carry license
5 directly to the sheriff of the county in which the court that issued the
6 relinquishment order is located or, in the case of a firearm, directly to a
7 licensed federal firearms dealer.

8 (d) As used in this section, the term "concealed carry license" means
9 a license to carry concealed handguns issued pursuant to the personal and
10 family protection act, K.S.A. 75-7c01 et seq., and amendments thereto, or
11 by any other jurisdiction.

12 (e) The provisions of this section shall be a part of and supplemental
13 to the Kansas criminal code.

14 Sec. 3. K.S.A. 2019 Supp. 22-3426 is hereby amended to read as
15 follows: 22-3426. (a) When judgment is rendered or sentence of
16 imprisonment is imposed, upon a plea or verdict of guilty, a record thereof
17 shall be made upon the journal of the court, reflecting, if applicable,
18 conviction or other judgment, the sentence if imposed, and the
19 commitment, which record among other things shall contain a statement of
20 the crime charged, and under what statute; the plea or verdict and the
21 judgment rendered or sentence imposed, and under what statute, and a
22 statement that the defendant was duly represented by counsel naming such
23 counsel, or a statement that the defendant has stated on the record or in
24 writing that the defendant did not want representation of counsel.

25 (b) If defendant is sentenced to the custody of the secretary of
26 corrections the journal entry shall record, in a judgment form, if used, all
27 the information required under K.S.A. 2019 Supp. 21-6711, and
28 amendments thereto, unless such section is not applicable.

29 (c) It shall be the duty of the court personally to examine the journal
30 entry and to sign the same.

31 (d) For felony convictions for crimes committed on or after July 1,
32 1993, in addition to the provisions of subsections (a) through (c), the
33 journal entry shall contain the following information:

34 (1) Court case number;

35 (2) Kansas bureau of investigation number;

36 (3) case transaction number;

37 (4) court O.R.I. number;

38 (5) the type of counsel;

39 (6) type of trial, if any;

40 (7) pretrial status of the offender;

41 (8) the date of the sentencing hearing;

42 (9) a listing of offenses for which the defendant is convicted;

43 (10) the criminal history classification;

1 (11) the sentence imposed for each offense including postrelease or
2 probation supervision durations;

3 (12) whether the sentences run concurrently or consecutively;

4 (13) amount of credit for time spent incarcerated;

5 (14) period ordered in county jail as a condition of probation;

6 (15) a listing of offenses in which a departure sentence is imposed;

7 (16) type of departure sentence; and

8 (17) factors cited as a basis for departure sentence.

9 The journal entry shall be recorded on a form approved by the Kansas
10 sentencing commission.

11 *(e) For convictions of domestic battery as described in K.S.A. 2019*
12 *Supp. 21-5414, and amendments thereto, and any misdemeanor for a*
13 *domestic violence offense as defined in K.S.A. 2019 Supp. 21-6301, and*
14 *amendments thereto, in addition to the provisions of subsections (a)*
15 *through (d), the court shall issue a relinquishment order against the*
16 *defendant pursuant to section 1, and amendments thereto.*

17 Sec. 4. K.S.A. 2019 Supp. 60-3107 is hereby amended to read as
18 follows: 60-3107. (a) The court may approve any consent agreement to
19 bring about a cessation of abuse of the plaintiff or minor children or grant
20 any of the following orders:

21 (1) Restraining the defendant from abusing, molesting or interfering
22 with the privacy or rights of the plaintiff or of any minor children of the
23 parties. Such order shall contain a statement that if such order is violated,
24 such violation may constitute assault as defined in ~~subsection (a)~~ of K.S.A.
25 2019 Supp. 21-5412(a), and amendments thereto, battery as defined in
26 ~~subsection (a)~~ of K.S.A. 2019 Supp. 21-5413(a), and amendments thereto,
27 domestic battery as defined in K.S.A. 2019 Supp. 21-5414, and
28 amendments thereto, and violation of a protective order as defined in
29 K.S.A. 2019 Supp. 21-5924, and amendments thereto.

30 (2) Granting possession of the residence or household to the plaintiff
31 to the exclusion of the defendant, and further restraining the defendant
32 from entering or remaining upon or in such residence or household,
33 subject to the limitation of subsection (d). Such order shall contain a
34 statement that if such order is violated, such violation shall constitute
35 criminal trespass as defined in ~~subsection (a)(1)(C)~~ of K.S.A. 2019 Supp.
36 21-5808(a)(1)(C), and amendments thereto, and violation of a protective
37 order as defined in K.S.A. 2019 Supp. 21-5924, and amendments thereto.
38 The court may grant an order, which shall expire 60 days following the
39 date of issuance, restraining the defendant from cancelling utility service
40 to the residence or household.

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

43 (4) Awarding temporary custody and residency and establishing

1 temporary parenting time with regard to minor children.

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

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

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

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

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

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

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

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

23 (2) the plaintiff had reasonable notice of the written cross or counter
24 petition by personal service as provided in ~~subsection (d) of~~ K.S.A. 60-
25 3104(d), and amendments thereto; and

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

29 (c) Any order entered under the protection from abuse act shall not be
30 subject to modification on ex parte application or on motion for temporary
31 orders in any action filed pursuant to K.S.A. 60-1601 et seq., prior to their
32 transfer or repeal, ~~or~~ article 22 or 27 of chapter 23 of the Kansas Statutes
33 Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and
34 amendments thereto. Orders previously issued in an action filed pursuant
35 to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or
36 27 of chapter 23 of the Kansas Statutes Annotated, and amendments
37 thereto, or K.S.A. 38-1101 et seq., and amendments thereto, shall be
38 subject to modification under the protection from abuse act only as to
39 those matters subject to modification by the terms of K.S.A. 2019 Supp.
40 23-3201 through 23-3207 and 23-3218, *and amendments thereto*, and
41 article 27 of chapter 23 of the Kansas Statutes Annotated, and amendments
42 thereto, and on sworn testimony to support a showing of good cause.
43 Immediate and present danger of abuse to the plaintiff or minor children

1 shall constitute good cause. If an action is filed pursuant to K.S.A. 2019
2 Supp. 23-3201 through 23-3207 or 23-3218, *and amendments thereto*, or
3 article 22 or 27 of chapter 23 of the Kansas Statutes Annotated, and
4 amendments thereto, during the pendency of a proceeding filed under the
5 protection from abuse act or while an order issued under the protection
6 from abuse act is in effect, the court, on final hearing or on agreement of
7 the parties, may issue final orders authorized by K.S.A. 2019 Supp. 23-
8 3201 through 23-3207 and 23-3218, *and amendments thereto*, and articles
9 22 and 27 of chapter 23 of the Kansas Statutes Annotated, and
10 amendments thereto, that are inconsistent with orders entered under the
11 protection from abuse act. Any inconsistent order entered pursuant to this
12 subsection shall be specific in its terms, reference the protection from
13 abuse order and parts thereof being modified and a copy thereof shall be
14 filed in both actions. The court shall consider whether the actions should
15 be consolidated in accordance with K.S.A. 60-242, and amendments
16 thereto. Any custody or parenting time order, or order relating to the best
17 interests of a child, issued pursuant to the revised Kansas code for care of
18 children or the revised Kansas juvenile justice code, shall be binding and
19 shall take precedence over any such custody or parenting order involving
20 the same child issued under the protection from abuse act, until
21 jurisdiction under the revised Kansas code for care of children or the
22 revised Kansas juvenile justice code is terminated. Any inconsistent
23 custody or parenting order issued in the revised Kansas code for care of
24 children case or the revised Kansas juvenile justice code case shall be
25 specific in its terms, reference any preexisting protection from abuse order
26 and the custody being modified, and a copy of such order shall be filed in
27 the preexisting protection from abuse case.

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

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

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

40 (2) Upon verified motion of the plaintiff and after the defendant has
41 been personally served with a copy of the motion and has had an
42 opportunity to present evidence and cross-examine witnesses at a hearing
43 on the motion, if the court determines by a preponderance of the evidence

1 that the defendant has violated a valid protection order or: (A) Has
2 previously violated a valid protection order⁵; or (B) has been convicted of
3 a person felony or any conspiracy, criminal solicitation or attempt thereof,
4 under the laws of Kansas or the laws of any other jurisdiction which are
5 substantially similar to such person felony, committed against the plaintiff
6 or any member of the plaintiff's household, the court shall extend a
7 protective order for not less than two additional years and may extend the
8 protective order up to the lifetime of the defendant. No service fee shall be
9 required for a motion filed pursuant to this subsection.

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

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

14 (h) If a person enters or remains on premises or property violating an
15 order issued pursuant to subsection (a)(2), such violation shall constitute
16 criminal trespass as defined in ~~subsection (a)(1)(C) of K.S.A. 2019 Supp.~~
17 ~~21-5808(a)(1)(C)~~, and amendments thereto, and violation of a protective
18 order as defined in K.S.A. 2019 Supp. 21-5924, and amendments thereto.
19 If a person abuses, molests or interferes with the privacy or rights of
20 another violating an order issued pursuant to subsection (a)(1), such
21 violation may constitute assault as defined in ~~subsection (a) of K.S.A.~~
22 ~~2019 Supp. 21-5412(a)~~, and amendments thereto, battery as defined in
23 ~~subsection (a) of K.S.A. 2019 Supp. 21-5413(a)~~, and amendments thereto,
24 domestic battery as defined in K.S.A. 2019 Supp. 21-5414, and
25 amendments thereto, and violation of a protective order as defined in
26 K.S.A. 2019 Supp. 21-5924, and amendments thereto.

27 (i) (1) *Upon the issuance of a qualifying protection from abuse order*
28 *against a defendant, the court shall issue a relinquishment order against*
29 *such defendant pursuant to section 1, and amendments thereto.*

30 (2) *As used in this subsection, the term "qualifying protection from*
31 *abuse order" means a protection from abuse order that:*

32 (A) *Was issued after a hearing, of which the defendant received*
33 *actual notice and at which the defendant had an opportunity to*
34 *participate;*

35 (B) *restrains the defendant from harassing, stalking or threatening an*
36 *intimate partner of the defendant, or a child of the defendant or such*
37 *intimate partner; or engaging in other conduct that would place an*
38 *intimate partner in reasonable fear of bodily injury to the partner or the*
39 *child; and*

40 (C) (i) *Includes a finding that the defendant represents a credible*
41 *threat to the physical safety of such intimate partner or child; or*

42 (ii) *by its terms explicitly prohibits the use, attempted use or*
43 *threatened use of physical force against such intimate partner or child that*

1 *would reasonably be expected to cause bodily injury.*

2 Sec. 5. K.S.A. 2019 Supp. 60-31a06 is hereby amended to read as
3 follows: 60-31a06. (a) The court may issue a protection from stalking,
4 sexual assault or human trafficking order granting any one or more of the
5 following orders:

6 (1) Restraining the defendant from following, harassing, telephoning,
7 contacting or otherwise communicating with the victim. The order shall
8 contain a statement that, if the order is violated, the violation may
9 constitute stalking as defined in K.S.A. 2019 Supp. 21-5427, and
10 amendments thereto, and violation of a protective order as defined in
11 K.S.A. 2019 Supp. 21-5924, and amendments thereto.

12 (2) Restraining the defendant from abusing, molesting or interfering
13 with the privacy rights of the victim. The order shall contain a statement
14 that, if the order is violated, the violation may constitute stalking as
15 defined in K.S.A. 2019 Supp. 21-5427, and amendments thereto, assault as
16 defined in K.S.A. 2019 Supp. 21-5412(a), and amendments thereto, battery
17 as defined in K.S.A. 2019 Supp. 21-5413(a), and amendments thereto, and
18 violation of a protective order as defined in K.S.A. 2019 Supp. 21-5924,
19 and amendments thereto.

20 (3) Restraining the defendant from entering upon or in the victim's
21 residence or the immediate vicinity thereof. The order shall contain a
22 statement that, if the order is violated, the violation shall constitute
23 criminal trespass as defined in K.S.A. 2019 Supp. 21-5808(a)(1)(C), and
24 amendments thereto, and violation of a protective order as defined in
25 K.S.A. 2019 Supp. 21-5924, and amendments thereto.

26 (4) Restraining the defendant from committing or attempting to
27 commit a sexual assault upon the victim. The order shall contain a
28 statement that, if the order is violated, the violation shall constitute
29 violation of a protective order as defined in K.S.A. 2019 Supp. 21-5924,
30 and amendments thereto. The order shall also contain a statement that, if
31 the order is violated, the violation may constitute a sex offense under
32 article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments
33 thereto, and the accused may be prosecuted, convicted of and punished for
34 such sex offense.

35 (5) Restraining the defendant from following, harassing, telephoning,
36 contacting, recruiting, harboring, transporting, or committing or attempting
37 to commit human trafficking upon the human trafficking victim, or
38 otherwise communicating with the human trafficking victim. The order
39 shall contain a statement that, if the order is violated, the violation shall
40 constitute violation of a protective order as defined in K.S.A. 2019 Supp.
41 21-5924, and amendments thereto. The order shall also contain a statement
42 that, if the order is violated, the violation may constitute an offense under
43 chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and

1 the accused may be prosecuted, convicted of and punished for such
 2 offense.

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

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

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

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

- 18 (1) Violated a valid protection order;
- 19 (2) previously violated a valid protection order; or
- 20 (3) been convicted of a person felony or any conspiracy, criminal
 21 solicitation or attempt thereof, under the laws of Kansas or the laws of any
 22 other jurisdiction which are substantially similar to such person felony,
 23 committed against the plaintiff or any member of the plaintiff's household.

24 No service fee shall be required for a motion filed pursuant to this
 25 subsection.

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

28 (f) The court shall assess costs against the defendant and may award
 29 attorney fees to the victim in any case in which the court issues a
 30 protection from stalking, sexual assault or human trafficking order
 31 pursuant to this act. The court may award attorney fees to the defendant in
 32 any case where the court finds that the petition to seek relief pursuant to
 33 this act is without merit.

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

- 36 (1) Contact between the attorneys representing the parties;
- 37 (2) a party from appearing at a scheduled court or administrative
 38 hearing; or
- 39 (3) a defendant or defendant's attorney from sending the plaintiff
 40 copies of any legal pleadings filed in court relating to civil or criminal
 41 matters presently relevant to the plaintiff.

42 (h) (1) *Upon the issuance of a qualifying protection from stalking,*
 43 *sexual assault or human trafficking order against a defendant, the court*

1 shall issue a relinquishment order against such defendant pursuant to
2 section 1, and amendments thereto.

3 (2) As used in this subsection:

4 (A) "Intimate partner" means, with respect to a person, the spouse of
5 the person, a former spouse of the person, an individual who is a parent of
6 a child of the person or an individual who cohabitates or has cohabitated
7 with the person.

8 (B) "Qualifying protection from stalking, sexual assault or human
9 trafficking order" means a protection from stalking, sexual assault or
10 human trafficking order that:

11 (i) Was issued after a hearing, of which the defendant received actual
12 notice and at which the defendant had an opportunity to participate;

13 (ii) restrains the defendant from harassing, stalking or threatening an
14 intimate partner of the defendant, or a child of the defendant or such
15 intimate partner; or engaging in other conduct that would place an
16 intimate partner in reasonable fear of bodily injury to the partner or the
17 child; and

18 (iii) (a) Includes a finding that the defendant represents a credible
19 threat to the physical safety of such intimate partner or child; or

20 (b) by its terms explicitly prohibits the use, attempted use or
21 threatened use of physical force against such intimate partner or child that
22 would reasonably be expected to cause bodily injury.

23 Sec. 6. K.S.A. 2019 Supp. 22-3426, 60-3107 and 60-31a06 are
24 hereby repealed.

25 Sec. 7. This act shall take effect and be in force from and after its
26 publication in the statute book.