

## HOUSE BILL No. 2473

By Representative Kelley

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9 AN ACT concerning crimes, criminal procedure and punishment; relat-  
10 ing to stalking; amending K.S.A. 60-31a06 and K.S.A. 2006 Supp. 75-  
11 52,148 and repealing the existing sections; also repealing K.S.A. 2006  
12 Supp. 21-3438.

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

15 Section 1. (a) Stalking is engaging in a course of conduct directed at  
16 a specific person when it is known or should be known that the course  
17 of conduct would cause a reasonable person to:

- 18 (1) Fear for such person's safety or the safety of a third person; or  
19 (2) suffer other emotional distress.

20 (b) Stalking is a severity level 10, person felony. The following en-  
21 hancements shall apply in appropriate cases:

22 (1) When a person who violates subsection (a) was prohibited by an  
23 order issued pursuant to the protection from stalking act, K.S.A. 60-31a01  
24 through 60-31a09, and amendments thereto, a temporary restraining or-  
25 der or an injunction from engaging in the behavior described in subsec-  
26 tion (a) against the same victim at the time of the act, the severity level  
27 shall be increased by one level;

28 (2) when a person who violates subsection (a) has a previous convic-  
29 tion for a violation of subsection (a) within the last 10 years, the severity  
30 level shall be increased by one level;

31 (3) when a person uses force or a weapon or threatens the use of  
32 force or a weapon during a violation of subsection (a), the severity level  
33 shall be increased by one level; and

34 (4) when the victim of a violation of subsection (a) is less than 18  
35 years of age, the severity level shall be increased by one level.

36 (c) In any prosecution under this section, it shall not be a defense  
37 that:

38 (1) The defendant was not given actual notice that the course of con-  
39 duct was unwanted; or

40 (2) the defendant did not intend to cause the victim fear or other  
41 emotional distress.

42 (d) A defendant may be prosecuted for stalking in this jurisdiction so  
43 long as one of the acts that is part of the course of conduct was initiated

1 in or had effect on the victim in this jurisdiction.

2 (e) As used in this section:

3 (1) "Course of conduct" means two or more acts, including, but not  
4 limited to, acts in which the stalker directly, indirectly or through third  
5 parties, by any action, method, device or means, follows, monitors, ob-  
6 serves, surveils, threatens or communicates to or about a person, or in-  
7 terferes with a person's property;

8 (2) "emotional distress" means significant mental suffering or distress  
9 that may, but does not necessarily, require medical or other professional  
10 treatment or counseling; and

11 (3) "reasonable person" means a reasonable person in the victim's  
12 circumstances.

13 Sec. 2. K.S.A. 60-31a06 is hereby amended to read as follows: 60-  
14 31a06. (a) The court may issue a protection from stalking order granting  
15 any of the following orders:

16 (1) Restraining the defendant from following, harassing, telephoning,  
17 contacting or otherwise communicating with the victim. Such order shall  
18 contain a statement that if such order is violated such violation may con-  
19 stitute stalking as provided in ~~K.S.A. 21-3438~~ *section 1*, and amendments  
20 thereto, and violation of a protective order as provided in K.S.A. 2005  
21 Supp. 21-3843, and amendments thereto.

22 (2) Restraining the defendant from abusing, molesting or interfering  
23 with the privacy rights of the victim. Such order shall contain a statement  
24 that if such order is violated, such violation may constitute stalking as  
25 provided in ~~K.S.A. 21-3438~~ *section 1*, and amendments thereto, assault  
26 as provided in K.S.A. 21-3408, and amendments thereto, battery as pro-  
27 vided in K.S.A. 21-3412, and amendments thereto, and violation of a  
28 protective order as provided in K.S.A. 2005 Supp. 21-3843, and amend-  
29 ments thereto.

30 (3) Restraining the defendant from entering upon or in the victim's  
31 residence or the immediate vicinity thereof. Such order shall contain a  
32 statement that if such order is violated, such violation shall constitute  
33 criminal trespass as provided in subsection (a)(1)(C) of K.S.A. 21-3721,  
34 and amendments thereto, and violation of a protective order as provided  
35 in K.S.A. 2005 Supp. 21-3843, and amendments thereto.

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

38 (b) A protection from stalking order shall remain in effect until mod-  
39 ified or dismissed by the court and shall be for a fixed period of time not  
40 to exceed one year, except that, on motion of the plaintiff, such period  
41 may be extended for one additional year. Before the expiration of an order  
42 for protection from stalking, a victim, or a parent on behalf of the victim,  
43 may request an extension of the protection from stalking order for up to

1 one additional year on showing of continuing threat of stalking.

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

4 (d) The court shall assess costs against the defendant and may award  
5 attorney fees to the victim in any case in which the court issues a protec-  
6 tion from stalking order pursuant to this act. The court may award attor-  
7 ney fees to the defendant in any case where the court finds that the  
8 petition to seek relief pursuant to this act is without merit.

9 Sec. 3. K.S.A. 2006 Supp. 75-52,148 is hereby amended to read as  
10 follows: 75-52,148. (a) The department of corrections shall be required  
11 to review and report on the following serious offenses committed by sex  
12 offenders, as defined by K.S.A. 22-4902, and amendments thereto, while  
13 such offenders are in the custody of the secretary of corrections:

14 (1) Murder in the first degree, as provided in K.S.A. 21-3401, and  
15 amendments thereto;

16 (2) murder in the second degree, as provided in K.S.A. 21-3402, and  
17 amendments thereto;

18 (3) capital murder, as provided in K.S.A. 21-3439, and amendments  
19 thereto;

20 (4) rape, as provided in K.S.A. 21-3502, and amendments thereto;

21 (5) aggravated criminal sodomy, as provided in K.S.A. 21-3506, and  
22 amendments thereto;

23 (6) sexual exploitation of a child, as provided in K.S.A. 21-3516, and  
24 amendments thereto;

25 (7) kidnapping as provided in K.S.A. 21-3420, and amendments  
26 thereto;

27 (8) aggravated kidnapping, as provided in K.S.A. 21-3421, and  
28 amendments thereto;

29 (9) criminal restraint, as provided in K.S.A. 21-3424, and amend-  
30 ments thereto;

31 (10) indecent solicitation of a child, as provided in K.S.A. 21-3510,  
32 and amendments thereto;

33 (11) aggravated indecent solicitation of a child, as provided in K.S.A.  
34 21-3511, and amendments thereto;

35 (12) indecent liberties with a child, as provided in K.S.A. 21-3503,  
36 and amendments thereto;

37 (13) aggravated indecent liberties with a child, as provided in K.S.A.  
38 21-3504, and amendments thereto;

39 (14) criminal sodomy, as provided in K.S.A. 21-3505, and amend-  
40 ments thereto;

41 (15) aggravated child abuse, as provided in K.S.A. 21-3609, and  
42 amendments thereto;

43 (16) aggravated robbery, as provided in K.S.A. 21-3427, and amend-

- 1 ments thereto;
- 2 (17) burglary, as provided in K.S.A. 21-3715, and amendments  
3 thereto;
- 4 (18) aggravated burglary, as provided in K.S.A. 21-3716, and amend-  
5 ments thereto;
- 6 (19) theft, as provided in K.S.A. 21-3701, and amendments thereto;
- 7 (20) vehicular homicide, as provided in K.S.A. 21-3405, and amend-  
8 ments thereto;
- 9 (21) involuntary manslaughter while driving under the influence, as  
10 provided in K.S.A. 21-3442, and amendments thereto; or
- 11 (22) stalking, as provided in ~~K.S.A. 21-3438~~ *section 1*, and amend-  
12 ments thereto.
- 13 (b) The secretary of corrections shall submit such report to the  
14 speaker of the house of representatives and the president of the senate  
15 annually, beginning January 1, 2007.
- 16 Sec. 4. K.S.A. 60-31a06 and K.S.A. 2006 Supp. 21-3438 and 75-  
17 52,148 are hereby repealed.
- 18 Sec. 5. This act shall take effect and be in force from and after its  
19 publication in the statute book.