

# PFSSA: New Legal Remedy

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# Objectives

- Participants will be able to identify the changes to the Protection from Stalking or Sexual Assault Act.
- Participants will be able to explain how collaboration with advocacy programs can benefit attorney and client.

# **What if Bears Killed One in Five People?**

<https://www.youtube.com/watch?v=LNVPkmZTQ4>

# **National trend to provide protection for sexual assault victims**

# Prior Protections

- Kerry G. v. Stacy C., Kan. App. , 386 P.3d 921 (2016)
  - Recently decided by KS Court of Appeals.
  - Found: unwanted sexual touching causes bodily injury as defined by PFSA.

# Qualifying for a Protection From Abuse Order

# Who Qualifies for a PFA?

K.S.A. 60-3102

## To Qualify:

Relationship : “intimate partners or household members” dating or have dated, reside or have resided together, or a child in common.

**AND**

- (1) cause bodily injury;
- (2) attempt bodily injury;
- (3) threat of bodily injury;
- (4) engaging in sexual contact or attempted sexual contact without consent; or
- (5) sex acts with minor under 16.

# Qualifying for a Protection From Stalking or Sexual Assault (PFSSA) Order



# Who Qualifies for a PFSSA?

## K.S.A. 60-31a02

- What's new?
  - (a) "**Sexual assault**" means:
    - A nonconsensual sexual act; or
    - An attempted sexual act against another by force, threat of force, duress, or when the other person is incapable of giving consent.

# Who Qualifies for a PFSSA?

## K.S.A. 60-31a02

- (b) "**Stalking**" means an **intentional harassment** of another person that places the other person in **reasonable fear** for that person's safety.
- (c) "**Harassment**" means a knowing and intentional **course of conduct** directed at a specific person that seriously alarms, annoys, torments or terrorizes the person, and that serves **no legitimate purpose**. Harassment shall include...
- (d) "**Course of conduct**" means conduct consisting of **two or more separate acts over a period of time**, however short, evidencing a continuity of purpose which would cause a **reasonable person** to suffer substantial emotional distress. Constitutionally protected activity is not included within the meaning of "course of conduct."

# Remedies

## PFA

- Prevent contact by defendant
- **Give petitioner access to home or require suitable housing**
- **Prevent utilities from being turned off**
- **Order support payments**
- **Order temporary custody and parenting time**
- Anything else the judge deems necessary to ensure safety

## PFSSA


- Prevent contact by defendant
- **Prevent defendant from coming on or around the home or workplace**
- Anything else the judge deems necessary to ensure safety

# Kansas Judicial Council

kansasjudicialcouncil.org/Forms/ProtectionAbuse\_Forms12.shtml

## Kansas Judicial Council

Improving the administration of justice.



### Protection from Abuse Forms

[Back to Legal Forms](#)

The Judicial Council has statutory authority to prescribe the protection from abuse forms. See [K.S.A. 60-3104 \(c\)](#). Forms are available in PDF and Microsoft Word.

**Note:** To view and print some of these documents you need special software, available for free at [Adobe Acrobat® Reader™](#).

**IF YOU HAVE QUESTIONS AFTER READING THE INSTRUCTIONS PROVIDED IN THE PACKET, PLEASE SEEK THE ADVICE OF AN ATTORNEY.** The Kansas Bar Association's [lawyer referral service](#) provides answers to many questions such as how to find a lawyer, services available to the public, and the potential fees and costs involved.

**PROTECTION FROM ABUSE FORMS:**

- General Instructions for Those Seeking a Protection from Abuse Order [MS Word](#) | [PDF](#) (07/17)
- Protection from Abuse Confidential Form [MS Word](#) | [PDF](#) (07/01/12)
- Information for Law Enforcement [MS Word](#) | [PDF](#) (07/17)
- Petition for Protection from Abuse Order [MS Word](#) | [PDF](#) (07/17)
- Minor Defendant Addendum [MS Word](#) | [PDF](#) (07/01/12)
- Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) Affidavit [MS Word](#) | [PDF](#) (07/01/12)
- Answer [MS Word](#) | [PDF](#) (07/01/12)
- Counter-Petition for Protection from Abuse Order [MS Word](#) | [PDF](#) (07/17)
- Emergency Order - Protection from Abuse [MS Word](#) | [PDF](#) (07/01/12)
- Summons and Notice of Hearing for Protection Order [MS Word](#) | [PDF](#) (07/01/12)
- Temporary Order - Protection from Abuse [MS Word](#) | [PDF](#) (07/01/12)
- Final Order - Protection from Abuse [MS Word](#) | [PDF](#) (07/17)
- Final Order - Protection from Abuse (Mutual Order) [MS Word](#) | [PDF](#) (07/17)

# Violation of Civil PO

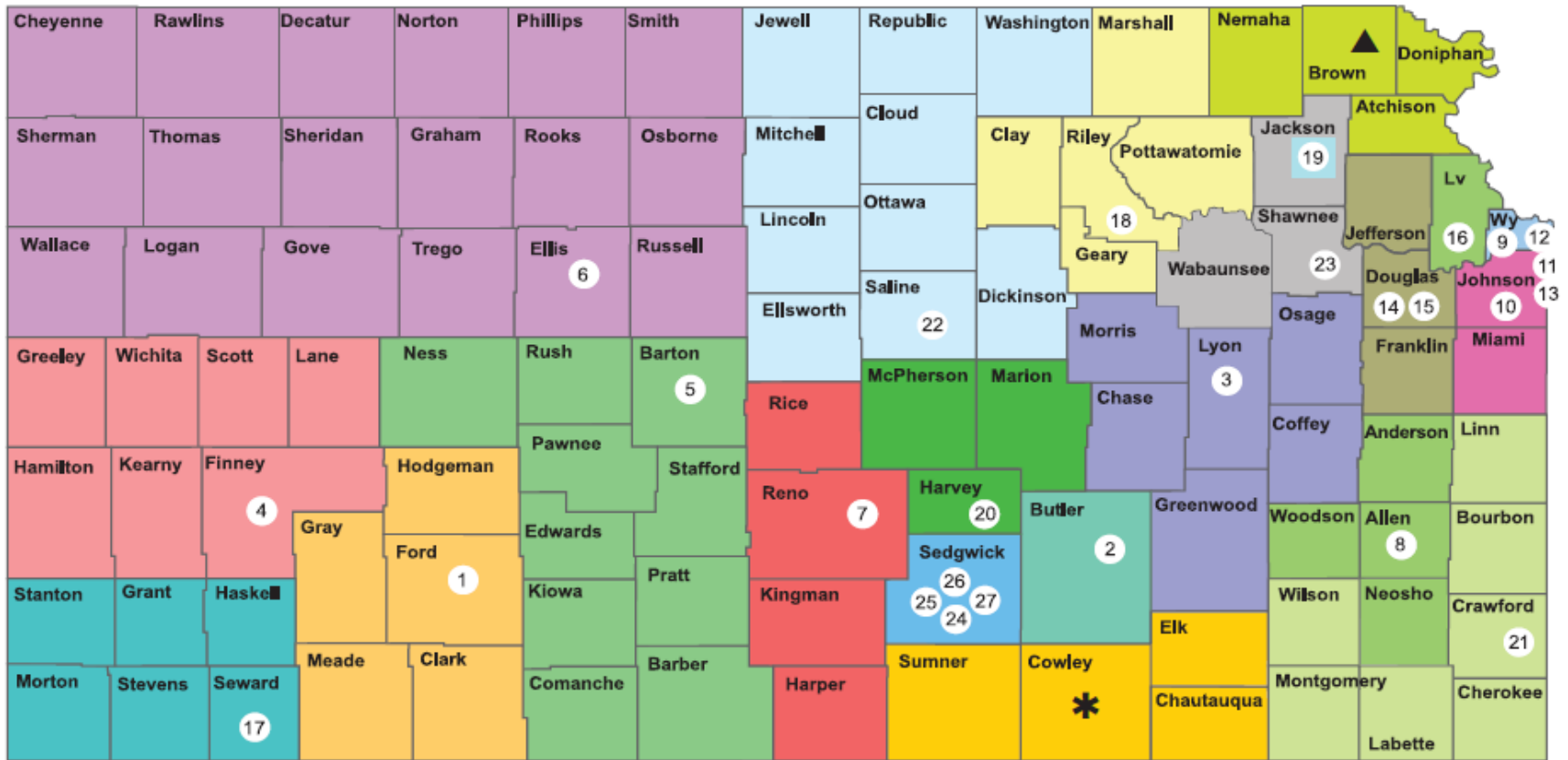
- If the order is issued for **one year**, violating this order will constitute a **misdemeanor** crime. 2016 Supp. K.S.A. § 21-5924
- Violating an extended order for **two years and up to the lifetime of the defendant** is a severity level 6 person **felony**. 2012 Supp. K.S.A. § 21-5924(6)(b)(2)

# Additional Case Law

- **Dreiling v. Dreiling** Kan. App. , 394 P.3d 150 (2017)
  - Appealed trial court judgment extending PFA for an additional 2 years.
  - Argument: failure to exercise discretionary authority to exclude minor children.
  - Reversed and remanded to consider motion to amend order to exclude children.

# **ATTORNEYS WORKING WITH ADVOCATES**

# kcsdv.org





# KCSDV Member Program Services

- Crisis intervention
- Support groups
- Hotline services
- Personal advocacy
- Shelter
- Resource and referral

\*All services are free and confidential



# The Advocates' Role

- Screening
- Shelter and safety planning
- Refer to community resources
- Empowerment based advocacy
- Court advocacy

# What do advocates not do?

- Provide evidence or testimony (VAWA)
- Work as a go-between for attorney and client
- Triage and triangulate
- Relay messages (unless an emergency)
- Tell or force the client to participate in services/comply with court orders
- Report client behavior to attorney

# LAV Project at KCSDV

- Provides legal assistance to sexual assault victims
- Assistance includes family law matters, housing, employment, among others
- KCSDV pays attorney directly
- Pro bono/low bono services to clients

# Contact Us

**785-232-9784**

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