

SESSION OF 2017

SUPPLEMENTAL NOTE ON SENATE BILL NO. 101

As Amended by Senate Committee on Judiciary

Brief*

SB 101 would amend the law concerning protective orders to extend the provisions of the Protection from Abuse Act (PFAA) and Protection from Stalking Act (PFSA) to apply to victims of sexual assault. Specifically, the bill would amend the definition of “abuse” in the PFAA to include “engaging in any sexual contact or attempted sexual contact with another person without consent or when such person is incapable of giving consent.”

The bill would also amend the PFSA, renaming it the Protection from Stalking and Sexual Assault Act (PFSSAA). For the purposes of the PFSSAA, “sexual assault” would be defined as any sexual contact or attempted sexual contact with another person without consent or when such person is incapable of giving consent. The bill would add “sexual assault” throughout the Act and would allow the court to issue an order restraining the defendant from committing or attempting to commit a sexual assault upon the victim. The bill would specify the court could issue a protection from stalking or sexual assault order granting any one or more of the orders allowed by the PFSSAA, including orders restraining a defendant from harassing, abusing, or sexually assaulting a victim. The bill would require the order to include a statement that if such order is violated, the violation would constitute “violation of a protective order” and a “sex offense” as defined by the Kansas Criminal Code and the accused could be prosecuted, convicted of, and punished for such sex offense.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Finally, the bill would amend the crime of violation of a protective order to include knowingly violating a protection from sexual assault order, which would be a class A person misdemeanor.

Background

The bill was introduced by 27 senators. In the Senate Committee on Judiciary hearing, Senator Pettey; representatives of the Kansas City Police Department's Victim Services Unit, Kansas Coalition Against Sexual and Domestic Violence (KCASDV), Metropolitan Organization to Counter Sexual Assault, and Wichita Area Sexual Assault Center; survivors of sexual assault; and Washburn Law Clinic interns provided testimony in support of the bill. Representative Finney and a Johnson County deputy district attorney provided written-only proponent testimony. The proponents explained Kansas is 1 of 17 states that does not have a civil protective order for sexual assault victims. The PFAA applies to intimate partners and household members, and the PFSA applies to victims of stalking, which requires two or more separate acts over a period of time. Under this framework, proponents explained it is nearly impossible for a victim who does not know the attacker to obtain a protective order against a defendant.

A representative of 3Up of Kansas appeared as an opponent of the bill.

The Senate Committee adopted an amendment proposed by the KCASDV to reorganize subsections in the PFSSAA definitions section and clarify the court could issue a protection from stalking or sexual assault order granting any one or more of the orders currently allowed by law, including orders restraining a defendant from harassing, abusing, or sexually assaulting a victim.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Office of Judicial Administration indicates the bill could increase the number of protection from abuse and protection from stalking petitions filed in the district courts, which could cause judicial and nonjudicial staff to spend more time processing, researching, and hearing cases. Further, if additional crimes are filed there could be additional docket fee revenue. It is not possible to predict the number of additional court cases that would arise or how complex and time-consuming they would be. Therefore, a fiscal effect cannot be determined. The Office of the Attorney General states any fiscal effect resulting from the enactment of the bill would be negligible. The Kansas Sentencing Commission states the bill could have an effect on prison admissions and bed space; however, any effect would be negligible. Any fiscal effect associated with the bill is not reflected in *The FY 2018 Governor's Budget Report*.