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March 5, 2012

Honorable Tim Owens
Chairman, Senate Judiciary Committee
Room 559-S
State Capital Building
300 SW 10th Avenue
Topeka, Kansas 66612

Re: House Bill 2613

Dear Chairmen Owens:

I have been an attorney practicing primarily in the area of family law for the past thirty four years in Wichita. As such I am actively involved with the Sedgwick County District Court.

Since its introduction into the family law arena in 2002, the Protection From Stalking statute has become a frequently used and abused law. In Sedgwick County, the volume of Protection From Stalking cases has required the creation of an entire special docket on Thursday mornings. Sadly, although these actions require substantial court clerical time and the attention of two retired judges, there is not even a filing fee required to initiate a Protection From Stalking Action. While the initial concept that someone should be able to easily obtain a restraining order against a stalker, the Protection From Stalking statute has turned into a tool for abuse.

Plaintiffs frequently fail to show up for the hearings. Many of the defendants also do not attend. The sheer volume limits the quality of the hearings that are conducted. I have personally had to defend a client who resided in a condominium community, where after an extensive hearing, the Court found that the Plaintiff was attempting to use the Protection from Stalking Act for a corporate purpose, to keep my client from attending association meetings.

Several years ago, I attempted to amend the Protection from Abuse statute to put a six month time window, within which the two required acts must have occurred. I thought that made good sense. Unfortunately, the abuse advocates took the position that if a legislator favored the bill, they must be in favor of abuse. That quickly killed my amendment.

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We are now faced with House Bill 2613. My first objection deals with Section 4, K. S.A. Supp 2011 Supp. 60-31a04. This would allow the Plaintiff to file these actions anywhere in the state regardless of where the defendant was or where the alleged act occurred. I cannot imagine a more likely tool for abuse. This greatly insures the likelihood that a defendant will not appear to defend.

My second objection is with Section (d), K.S.A. 69-31a04, which would continue the provision that there is not filing fee for a Protection from Stalking case. In this time of severe budgetary constraints, there should be some filing fee to offset the additional clerical and judicial costs of dealing with these actions. Plaintiffs have no investment in their cases without a filing fee.

My last objection deals with the lifetime restraining order contained in Section 5 (d) of the bill. My thought is that these protective orders are the products of a fairly summary process which generally involve people who do not have an attorney. In the context of Protection From Stalking situation, I consider a lifetime no contact order as an opportunity for abuse. If I felt that there were more safe guards, I might not be so concerned. On top of that it appears that the bill would also increase the sentencing level for violation of an extended protective order to a level 6 felony.

In conclusion I urge you not adopt the provisions of this bill that pertain to the Protection from Stalking.

Very truly yours,

LAW OFFICE OF CHARLES F. HARRIS

BY:


CHARLES F. HARRIS