

chance in court to present evidence and cross examine witnesses.

The clerk of the district court will have the forms you will need to file either of these motions. You may also find it helpful to talk with an advocate at this time to get further assistance and tips on safety planning.

## What Are Some Other Things I Should Know?

A Temporary PFSSAHT order may not be enforceable until the defendant is aware of the order, generally through being personally served by the local sheriff. If the defendant violates the temporary order before it is served, you can still call law enforcement. The law enforcement officer may not be able to arrest the defendant for violating an order he has not been served with, but law enforcement can still protect you. For instance, they may be able to serve the order or they may arrest the defendant for other illegal conduct.

Your order is only a piece of paper. It will not protect you if the defendant should decide to physically attack you. Talk to your local domestic and sexual violence program about creating a safety plan for you and your child/ren.

An advocate may be available to help you with the filing of your petition, accompany you to court, provide you with information and help you with safety planning. Call your local program for assistance. Contact information for programs can be found on our website at [www.kcsdv.org/find-help](http://www.kcsdv.org/find-help).

## Are You Being Stalked?

- If you believe you are in danger, consider what might be safe places for you to go, such as: police stations, residences unknown to the stalker, domestic violence shelters, churches, or public areas where the stalker might be less inclined to make a disturbance. Call 911.
- Document the stalking, including times, dates, locations, witnesses, and photos.
- Keep a list of important telephone numbers readily available.
- Formulate a safety plan, including keeping extra

necessities at another location and contacting critical people about the stalking.

## Keeping a Stalking Incident Log

Maintaining a complete record of any stalking behavior the defendant (or a third party on the defendant's behalf) engages in can aid a victim in seeking a PFSSAHT. Since stalking is considered a course of conduct, being able to establish multiple instances is crucial. Providing specific information on these instances can help the court in determining the plaintiff's credibility as well as whether a protection order is appropriate. The following information should be kept in your log:

- Date of incident
- Time and place the incident occurred
- Description of the incident
- Any witnesses to the incident
- Police report number and responding officer (if applicable)
- Some detail about the day which could be later corroborated such as the weather

## Special Issues Concerning Immigrant Victims - Can I get a PFSSAHT order if I am not a U.S. citizen?

**YES.** Regardless of your immigration status, you have a right to be protected.

While you are entitled to this protection as provided by law, there is always a potential that you may face some immigration consequence when interacting with the police and your local courts. You should ALWAYS speak to a competent immigration attorney before taking ANY legal action, including filing for a Protection from Stalking, Sexual Assault or Human Trafficking Order.

## Sexual Assault Can Include:

- Unwanted sexual touching or contact;
- Penetration (penile, digital, or with any other object);
  - Vaginal, anal, or oral;
- Any sexual touching of a minor (under 16 years old).

## What is consent?

- Consent should be freely given and informed, and a person can change his or her mind at any time.
- Consent is more than yes or no. It is a dialogue about desires, needs, and levels of comfort with different sexual interactions.
- Consent CANNOT be given if:
  - a person is incapacitated or unconscious because of drugs or alcohol;
  - a person is under 16 years of age;
  - an individual has a cognitive or mental disability severe enough to make them incapable of consenting;
  - a person is in fear for their safety or wellbeing.

**You and your children  
deserve to be safe.**

**In an Emergency, Call 911**

**ALWAYS KEEP YOUR COPY OF THE  
PFSSAHTA ORDER WITH YOU!**

**For 24/7 support, contact:  
Kansas Crisis Hotline  
1-888-END-ABUSE (1-888-363-2287)**

**To find the Kansas Sexual and Domestic  
Violence Advocacy Program nearest you visit:  
[www.kcsdv.org/find-help](http://www.kcsdv.org/find-help)**

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8/18

# What you need to know about The Protection From Stalking, Sexual Assault or Human Trafficking Act in Kansas

 **Kansas  
Coalition**  
against sexual &  
domestic violence

[kcsdv.org](http://kcsdv.org)  
[facebook.com/kcsdv](https://facebook.com/kcsdv)

## What is a Protection From Stalking, Sexual Assault or Human Trafficking Order and Who May Qualify?

A Protection From Stalking, Sexual Assault or Human Trafficking (PFSSAHT) order is a civil court order that is intended to protect victims of stalking, sexual assault, and human trafficking.

First, let's discuss how to obtain a Protection From Stalking Order. You do not have to have a prior or current intimate relationship with the person you want restrained, but you do have to prove that the person is stalking you. Oftentimes, however, persons are stalked by a former or current intimate partner.

The Protection From Stalking, Sexual Assault, or Human Trafficking Act contains three definitions that are important to consider if you want to file for a Protection from Stalking Order:

- First, "stalking" is defined as the "intentional harassment of another person that places the other person in reasonable fear for that person's safety."
- Second, "harassment" is 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."
- Finally, stalking must include a "course of conduct" on the part of the stalker, consisting of two or more separate acts over a period of time, however short, showing a "continuity of purpose" that would cause a reasonable person to suffer substantial emotional distress.

The three definitions above should be read together when considering whether you qualify for a Protection from Stalking order.

Next, how does someone obtain a Protection From Sexual Assault Order? You do not have to have a prior or current personal relationship with the person you want restrained. However, you will be required to prove that a sexual assault occurred by a preponderance of the evidence, or that it is more likely than not that the alleged

sexual assault occurred.

The Protection from Stalking, Sexual Assault, or Human Trafficking Act defines "sexual assault" as: a nonconsensual sexual act; or an attempted sexual act against another by force, threat of force, duress or when the person is incapable of giving consent. Further, the statute requires proof of one sexual assault incident in order to qualify for the order.

Finally, how does someone obtain a Protection from Human Trafficking Order? You do not have to have a prior or current personal relationship with the person you want restrained. You will be required to prove that you have been a victim of human trafficking by a preponderance of the evidence, or that it is more likely than not that the human trafficking occurred.

The Protection from Stalking, Sexual Assault, or Human Trafficking Act defines human trafficking as set forth in statutory law. For more information about human trafficking and whether you may qualify for a Protection from Human Trafficking Order, contact the domestic and sexual violence program nearest you (go to [www.kcsdv.org/find-help](http://www.kcsdv.org/find-help)).

### How do I Apply for a PFSSAHT Order?

- You may get an application (called a petition) from the district court clerk's office, your local domestic and sexual violence program or find the form online at [www.kscourts.org](http://www.kscourts.org)
- At a minimum, the petition must include the following:
  - your name
  - the name of the stalker/defendant
  - the dates on which the stalking, sexual assault, or human trafficking behavior occurred AND
  - for a Protection from Stalking Order: the acts committed by the defendant that you believe to be stalking (at least two incidents)OR

for a Protection from Sexual Assault or Human Trafficking Order: a brief description of the incident of sexual assault or human trafficking. Includ-

ing specific facts, dates, and locations.

- You must swear to the content of the petition by signing the petition.
- If you are a parent or an adult living with a child who is being stalked, sexually assaulted or a victim of human trafficking, you may apply for a PFSSAHT order on behalf of the minor.

For Protection from Human Trafficking ONLY: the minor's court-appointed legal custodian, court-appointed legal guardian, a county or district attorney, or the attorney general may also apply for an order on behalf of the minor.

- If the petition is being brought on behalf of a minor, it must be filed in the county where the stalking, sexual assault, or human trafficking occurred.
- There is no court cost for filing a PFSSAHT petition.

When you file the petition, you may be asked to talk with the judge about why you think the temporary protection order is necessary. In some courts, the clerk will present your petition to the judge and will let you know if a temporary order has been granted.

If the temporary order is granted, it will be valid until the date of the final hearing. You will be given a date and time within 21 days for the final hearing. Even if you are not granted a temporary order, the court should still set a final hearing.

Remember, the temporary order is only valid until the final hearing. You must appear at the final hearing if you want the judge to issue a final PFSSAHT order valid for up to one year. If you do not want the order to continue, you should contact the court in writing well in advance or, better yet, appear at the hearing and ask to have the case dismissed.

At the final hearing, you will be asked to appear and provide evidence about why you need a PFSSAHT order. This evidence might include: the dates and times that you were stalked, sexually assaulted or a victim of human trafficking; letters or notes that you received from the defendant; witnesses of the stalking, sexual assault, or human trafficking behavior; how these behaviors made

you feel; or any other evidence showing you were intentionally harassed and placed in fear for your personal safety (for a Protection From Stalking order).

The defendant will be given notice of the final hearing. If the defendant attends the hearing, he or she will also be allowed to present evidence.

At the end of the final hearing the judge will decide whether to grant your request for a final PFSSAHT Order.

### What Can Happen Under a PFSSAHT Order?

When you are granted a PFSSAHT order, the Court may order any or all of the following:

- That the defendant not follow, harass, telephone, contact or otherwise communicate with you.
- That the defendant not abuse, molest or interfere with your privacy rights.
- That the defendant not enter upon or in your residence or be in the immediate vicinity of your residence.
- Order any other acts deemed necessary by the court to protect you. If there is a special safety concern you have, tell the judge so that he or she can address your concern under this provision.

### How Long Does the Final PFSSAHT Order Last?

The judge may issue a final PFSSAHT order that is valid for up to a year. If you want to have the order extended for another year, before the order expires, you must file a motion (paperwork) with the court asking for the extension. The defendant must be served with notice of this motion and given an opportunity to respond.

If the defendant has violated a protection order or committed a person felony crime against you or a member of your household, you may be able to ask for an extension of at least two years and up to the lifetime of the defendant by filing a motion (paperwork) with the court. This paperwork must be sworn to be true by signing it, a copy of the paperwork must be personally served on the defendant, and the defendant must be given the