

KDVA Legislative Update

October 27, 2009

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Bills KDVA Supports:

BR 145

Representative Joni Jenkins (also, BR 133, Representative Jodi Richards)

Domestic Violence Protective Orders Amend KRS 403.720 relating to domestic violence orders to include dating partners among the class of persons allowed to obtain domestic violence protective orders; amend KRS 431.005 relating to arrests by peace officers to reference the definition of "unmarried couple" including dating partners in KRS 403.720.

KDVA position: KDVA supports this legislation. (This is our primary legislative objective.)

BR 262

Representative Denham

Domestic violence Amend KRS 403.725 to prohibit joint mediation, conciliation, or counseling requirements within an emergency protective order or a domestic violence order; amend KRS 403.740 to allow an emergency protective order to remain in effect until the domestic violence hearing, with only the summons needing to be reissued in the event of a lack of service upon the adverse party; amend KRS 403.750 to require counseling in all cases for persons against whom a domestic violence order is entered; amend KRS 403.7505 to recognize batterer intervention services within the scope of certifies counseling services; amend KRS 403.763 to increase the penalty for a third or subsequent violation of an emergency protective order or a domestic violence order to a Class D felony; create a new section of KRS Chapter 511 to create the crime of domestic violence shelter trespass.

KDVA position: KDVA supports this legislation with the understanding that it will not have a negative impact on funds going to support victim services.

BR 341

Representative Denham

Strangulation Amend KRS 500.080 to include loss of consciousness within the definition of physical injury; amend KRS 508.020 to include intentionally or wantonly causing physical injury by means of strangulation within the offense of assault in the second degree.

KDVA Position: KDVA supports this legislation.

BR 251

Speaker Greg Stumbo

GPS Monitoring of DVO Respondents Requires high-risk respondents (the court will determine which respondents are designated “high risk”) to wear a GPS monitor for as long as the domestic violence protective order is in effect.

KDVA position: KDVA supports any measure that will increase the safety of victims of domestic violence. However, KDVA is working with the sponsor to ensure that the bill does not have “unintended” consequences that will be detrimental to victims and has raised the following questions (and submitted them to Speaker Stumbo’s office) concerning the legislation.

Questions:

1. Section 4. (3) specifies that exclusion zones relate to residence, school or place of employment and only to other locations if there is a “demonstrable danger to the petitioner or a child.”
 - What happens if the petitioner and the respondent live or work near each other or if the school is near the respondent’s work or residence? Would this require a plan in place to make one or the other of the parties move or change jobs? (This may be particularly true in rural areas with few employers or in urban neighborhoods.)
 - If both parties are in “Walmart” and the petitioner’s beeper goes off that the respondent is within so many feet (not in an exclusion zone) How would the respondent know he was in violation-- would his device also go off? How would law enforcement respond since it could either be an accident or stalking?
2. Section 5. (2) (g) states that “any restrictions to be placed on the respondent’s movements are not confidential but are a public record.”
 - Does this mean that the petitioner’s address, where her children go to school and where she works become public record? I guess the tradeoff for the petitioner to letting the respondent know where she lives and works (I’m assuming that the exclusion zone around these places will be relatively small?) is that she will know when the respondent is nearby. Once these locations are public record however, what would stop the respondent from sending a friend or family member after her?
3. Section 5. (4) states that in “determining whether to order a respondent’s participation” the court shall “obtain and consider the respondent’s criminal history...

conduct an assessment of the respondent's past record of violence.... And obtain a record of any past emergency protective orders....”

- Will this level of scrutiny occur for all respondents or just selected ones? (It would be great if they gathered this information about all respondents, but from my experience with courts and protective order legislation that would probably be stated more clearly — if that's the intent).

4. How will this process work if the respondent has custody (hopefully he won't) or visitation with children? Can exchange of children, etc., be worked out?

5. This change in legislation will have an impact on the petitioner's need for an attorney (a significant added expense for the victim). Currently, in Kentucky you can get a protective order without an attorney but since this will “up the stakes” for the respondent, he will probably have an attorney — meaning that she will need one as well.

6. Section 5. (6) (a) states that the court shall “order the entity that operates the global positioning monitoring system to notify the petitioner, the court, and the appropriate local law enforcement agency named in the order if the respondent violates ...”

- Some of Kentucky's largest cities are on borders — if someone lives in Northern Kentucky and works in Cincinnati can the exclusion zones cover multi-states jurisdictions?
- Won't the monitoring entity need to contact local law enforcement where the violation occurs as well as law enforcement where the order was issued?

7. Kentucky has two military bases within the state. Can military personnel be required to wear bracelets?

BR 202

Senator Julie Denton

Sexual Abuse of Inmates Amend KRS 510.110, relating to sexual abuse in the first degree, to prohibit certain persons employed by or associated with an agency or facility responsible for detention or treatment from having sexual contact with persons incarcerated, supervised, evaluated, or treated by those agencies; amend KRS 510.120 to conform.

KDVA position: KDVA supports this legislation.

BR 2 (Bill not attached.)

Representative Jim Wayne

Tax Reform Amend KRS 141.020 to increase the tax rate on income over \$75,000; amend KRS 141.066 to establish a refundable earned income tax credit at 15 percent

of the federal credit; amend KRS 140.130 to decouple from the federal estate tax phase-out; amend KRS 139.010, 139.200, and 139.480 to make selected services subject to sales tax; amend KRS 141.0205 to recognize changes to income tax credits; make income tax provisions apply to tax years beginning on or after January 1, 2010, make estate tax provisions effective for deaths on or after August 1, 2010; make sales tax provisions effective July 1, 2010.

KDVA position: KDVA supports Representative Wayne's tax reform legislation.

Bills to Watch

BR 65

Representative Ron Crimm

Temporary Custody Amend KRS 403.200, relating to temporary orders, to permit a court to provide for wage assignment and automatic electronic transfer of funds for payment of spousal maintenance; amend KRS 403.270, relating to custodial issues, to add the promotion of a healthy relationship between the child and other custodian or parent as a factor for the consideration of awarding custody of children; amend KRS 530.050, relating to nonsupport and flagrant nonsupport, to add spouse and former spouse.

KDVA position: Monitor

BR 230

Representative Linda Belcher

Child Custody Amend KRS 620.090 to provide that children who are in temporary custody for a period not exceeding 45 days from the date of the removal from his home may be in the custody of the Cabinet for Health and Family Services or with another appropriate person or agency.

KDVA position: Monitor