

Office of Attorney General Steve Six  
Model Law Enforcement Policy on Stalking



Developed in partnership with:  
Kansas Law Enforcement Training Center

This model policy was developed to assist law enforcement entities throughout the state in creating effective policies for response to stalking behavior and to meet the law enforcement policy requirements of House Substitute for Senate Bill 414. The committee is comprised of the following members:

Dorothy Stucky Halley, Chair  
Director of Victims Services Division  
Office of Attorney General Steve Six

Kevin Graham  
Assistant Attorney General  
Office of Attorney General Steve Six

Ed Klumpp  
Chief of Police, Retired  
Topeka Police Department  
Chair, KACP & KPOA Legislative  
Committees

Randal Wilson  
Chief of Police  
Mission, KS

Joseph Nagy  
Lieutenant  
Johnson County Sheriff Department

Joyce Grover  
Attorney  
Kansas Coalition Against Sexual &  
Domestic Violence

Kelly Shand-Adams  
Instructor  
Kansas Law Enforcement Training  
Center

Ken Parker  
Chief of Police  
Independence, KS

Sean Wallace  
Chief of Police  
Arkansas City, KS

This committee will be reconvening in March of 2009 to review the effectiveness of the model policy, its implementation, and training implications. You are encouraged to provide feedback to any committee member, or it can be sent directly to:

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Office of Attorney General Steve Six  
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## **A MESSAGE FROM ATTORNEY GENERAL STEVE SIX**

Dear Kansas law enforcement:

This year, the legislature updated our state's stalking laws. It is important that each of us ensure that the new law is enforced and victims are protected.

I commend the work of those who served on the committee charged with developing the "Model Law Enforcement Policy on Stalking." These model policies will help law enforcement officers and agencies enforce the law and protect those victimized by stalking.

No one knows just how common stalking is—as there has been little data collected. In the United States, it is estimated that over 1 million women and 370,000 men will be stalked each year. Stalking can be very dangerous. Twenty-two percent of all stalkers sexually assault their victims. Some stalkers have even killed or seriously wounded their victims.

By working together, we can ensure that our policies for handling stalking are uniform and put victims' safety first. I look forward to working with each of you on this and other important projects.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Six", with a stylized flourish at the end.

Steve Six  
Kansas Attorney General

# DRAFT OF MODEL POLICY FOR LAW ENFORCEMENT

## House Sub. for SB 414: Required Law Enforcement Policy Regarding Allegations of Stalking

### I. TITLE

[Insert Law Enforcement Agency name]'s Policy Regarding Allegations of Stalking.

### II. PURPOSE

To emphasize the [Insert Law Enforcement Agency name]'s commitment to effectively and efficiently responding to allegations of stalking, identifying specific acts constituting offenses of stalking under applicable law, ensuring the arrest of individuals with sufficient probable cause and appropriately disseminating information to victims of stalking offenses.

### III. DISTRIBUTION

All officers and supervisors and all dispatch personnel employed by the [Insert Law Enforcement Agency name].

**NOTE: If your agency has dispatch services provided by another agency they should be included in the distribution and consideration should be given to amendment to your services agreement to include these provisions.**

### IV. REFERENCES

2008 House Substitute for SB414 (See attachment B), which amends KSA 21-3438, KSA 21-3843, KSA 60-31a06, KSA 74-5604a and KSA 74-5607a.

**NOTE: Add any local references such as city ordinances, county resolutions, or other relative policies.**

### V. DEFINITIONS

For the purposes of this policy, the following terms shall be defined pursuant to K.S.A. 2008 Supp. 21-3438.

#### A. **Stalking** means

1. [As defined at K.S.A. 2008 Supp. 21-3438(a)(1)]
  - (a) Intentionally or recklessly engaging in a course of conduct targeted at a specific person
  - (b) which would cause a reasonable person in the circumstances of the targeted person to fear for

- (1) such person's safety, or
- (2) the safety of a member of such person's immediate family
- (c) and the targeted person is actually placed in such fear;

*[First conviction under this section is a misdemeanor; second or subsequent conviction is a felony.]*

- 2. [As defined at K.S.A. 2008 Supp. 21-3438(a)(2)]
  - (a) Intentionally engaging in a course of conduct targeted at a specific person
  - (b) which the individual knows will place the targeted person in fear for
    - (1) such person's safety or
    - (2) the safety of a member of such person's immediate family;

*[First conviction under this section is a misdemeanor; second or subsequent conviction is a felony.]*

- 3. [As defined at K.S.A. 2008 Supp. 21-3438(a)(3)]
  - (a) After being served with, or otherwise provided notice of, any protective order included in K.S.A. 21-3843, and amendments thereto,
  - (b) that prohibits contact with a targeted person,
  - (c) intentionally or recklessly engaging in at least one act listed in subsection V.B. ("course of conduct") of this policy
  - (d) that violates the provisions of the order and
  - (e) would cause a reasonable person to fear for
    - (1) such person's safety, or
    - (2) the safety of a member of such person's immediate family and
  - (f) the targeted person is actually placed in such fear.

*[Stalking under this section is always a felony.]*

- B. **Course of conduct** [See K.S.A. 2008 Supp. 21-3438(f)(1)] means two or more acts regardless of the time between acts which show a continuity of purpose. A course of conduct includes, but is not limited to, any of the following acts or a combination thereof directed toward the targeted person or the targeted person's immediate family:
- (1) Threatening the safety of such person.
  - (2) Following, approaching or confronting such person.
  - (3) Appearing in close proximity to, or entering such person's residence, place of employment, school or other place where the person can be found.
  - (4) Causing damage to such person's residence or property.
  - (5) Placing an object on such person's property either directly or through a third person.
  - (6) Causing injury to such person's pet.
  - (7) Any act of communication."

A course of conduct does not include constitutionally protected activity or conduct that was necessary to accomplish a legitimate purpose independent of making contact with the targeted person.

- C. **Communication** [See K.S.A. 2008 Supp. 21-3438(f)(2) and (f)(3)] means to impart a message by any method of transmission, including, but not limited to: Telephoning, personally delivering, sending or having delivered, any information or material by written or printed note or letter, package, mail, courier service or electronic transmission, including electronic transmissions generated or communicated via a computer or other programmable device capable of processing data such as cell phone text messaging, or e-mail.
- D. **Immediate Family** [See K.S.A. 2008 Supp. 21-3438(f)(5)] means father, mother, stepparent, child, stepchild, sibling, spouse or grandparent of the targeted person; any person residing in the household of the targeted person; or any person involved in an intimate relationship with the targeted person.

## VI. **POLICY**

- A. The [Insert Law Enforcement Agency name] shall fully comply with all applicable laws governing the crime of stalking including enforcement, investigation, arrest, training, and victim support.
- B. All personnel shall comply with all applicable provisions of this policy.
- C. All personnel are encouraged to attend training regarding the identification of stalking offenses, communications with victims of stalking and effective enforcement of stalking laws.
- D. A Kansas Standard Offense Report shall be completed on all incidents where a reporting party or victim alleges another person violated the stalking laws; a copy of the Kansas Standard Offense Report shall be sent to the Kansas Bureau of Investigation.

## VII. **PROCEDURE**

- A. **Responsibilities of Dispatchers:** Upon receipt of a call/report alleging conduct that may reasonably be interpreted as an allegation of the crime of stalking, the dispatcher shall:
  - 1. Make a reasonable and prudent effort to assign a law enforcement officer to respond to the alleged stalking incident as soon as possible.
  - 2. Relay all known relevant information to the law enforcement officer assigned to the call concerning the alleged activities.
  - 3. If information has been provided to the dispatcher concerning the existence of a protection order alleged to have been violated, the dispatcher shall make reasonable and prudent efforts to ascertain the status of such protection order and the conditions imposed by the court

pursuant to such order and shall relay such information to the assigned officer responding to the call.

## **B. Responsibilities of Responding Officers**

1. When responding to a report of alleged stalking activity the officer shall attempt to gather all relevant information and evidence necessary to determine whether probable cause exists to believe a crime of stalking has occurred.
2. *Include in the report any past stalking incidents alleged by the victim to have been committed by the suspect. Include the jurisdiction in which the alleged stalking occurred and request copies of reports from other agencies when applicable.*
3. Victims shall be provided with the document in attachment A listing information state law requires them to receive.
4. *When contact is made with a suspect, warnings should be given in regards to future stalking conduct.*
5. **STALKING SUSPECT AT SCENE:** If the stalking suspect is located at the scene of an alleged crime, the officer shall consider the safety of the alleged victim, the suspect, the officer and the public at-large when deciding whether to detain and question the suspect at the scene.
6. **STALKING SUSPECT NOT AT SCENE:** If the stalking suspect is not located at the scene of an alleged crime, the officer shall make all reasonable and prudent efforts to locate and question the suspect in relation to the alleged crime.
7. If the allegation includes a violation of a restraining order, protection order, or other court order the officer shall make all reasonable and prudent efforts to ascertain whether a valid order is in place, whether the order has been lawfully served upon the suspect, what the terms of the order require and whether the information and evidence in the case will provide probable cause to believe a violation of such order has occurred. *If an order exists but has not been served, every reasonable attempt to serve the order or inform the person of the existence and restrictions included in the order shall be made. The details of those actions will be included in the report.*
8. **Arrest:**
  - a. When the suspect(s) in an alleged crime of stalking can be located, an arrest shall be made when the officer has probable cause to believe a crime related to stalking is being committed or has been committed, and has probable cause to believe the suspect(s) committed the crime.
  - b. **Procedures for Misdemeanor and Felony Cases:**
    - (1) Officers making an arrest must determine which of the three subsections of KSA 21-3438(a) was violated and make reasonable efforts to determine if the suspect has prior stalking convictions in order to determine if the suspect should be booked for a misdemeanor or felony. (See section V.A. of this policy.)

(2) In addition to the foregoing policy and procedures, officers shall follow all other pertinent statutes and policies and procedures of the agency regarding the handling of misdemeanor and felony cases.

***NOTE: In jurisdictions where a municipal ordinance is in effect mirroring K.S.A. 2008 Supp. 21-3843 (Stalking), the law enforcement agency should include a procedure in this policy directing whether misdemeanor Stalking cases will be handled through municipal or district court. In cases where the responding officer is not certain whether the case will be a misdemeanor or felony, the officer should proceed as if the case will be handled through district court.***

## **VII. EFFECTIVE DATE**

July 1, 2008

Attachment A: Information for Stalking Victims Brochure

Attachment B: 2008 HOUSE Substitute for SENATE BILL No. 414