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MEMORANDUM

To: Chairman Barker
Members of the House Committee on Federal and State Affairs

From: Jason B. Long, Senior Assistant Revisor

Date: February 14, 2017

Subject: HB 2145 – Unlawful possession of firearms by certain individuals.

House Bill No. 2145 (HB 2145) amends K.S.A. 21-6301 to make possession of a firearm by certain individuals a crime. Subsection (a) of the statute currently provides a list of 14 types of conduct that constitute criminal use of a weapon. HB 2145 would add four additional actions to that list. These additional prohibitions are currently prohibited under federal law.

First, it would be unlawful to possess a firearm while the individual is a fugitive from justice. Under HB 2145, a "fugitive from justice" is defined as any person having knowledge that a warrant for the commission of a felony has been issued for the apprehension of such person.

Second, it would be unlawful to possess a firearm while the individual is an alien who is illegally or unlawfully in the United States. A person's status as an unlawful alien present in the United States would be determined by federal immigration law.

Third, it would be unlawful to possess a firearm while the individual is subject to a protection from abuse or protection from stalking order. There are three specific elements defining this crime: (1) the individual received notice and was provided an opportunity to participate in a hearing prior to the order being issued; (2) the order restrains the individual from harassing, stalking, or threatening an intimate partner, or child of the individual or intimate partner; and (3) the order includes a finding that the individual poses a credible threat to the physical safety of the intimate partner or child, or explicitly prohibits use, attempted use, or threatened use of physical force against the intimate partner or child. The term "intimate

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partner" is defined in the bill as a spouse, former spouse, parent of a child of the individual, or cohabitant or former cohabitant of the individual.

Fourth, it would be unlawful to possess a firearm if the individual, within the past five years, has been convicted of a misdemeanor for a domestic violence offense. Current state law, K.S.A. 21-6304, prohibits possession of a firearm by an individual convicted of a felony domestic violence offense. This new provision would make misdemeanor crimes subject to a 5-year ban on firearm possession. Under the bill "domestic violence" is defined as the use or attempted use of physical force or threatened use of a deadly weapon committed by a person against a spouse, former spouse, child, co-parent, cohabitant, former cohabitant, or similarly situated person.

If enacted the provisions of HB 2145 would be effective on July 1, 2017.