

Senate Substitute for HOUSE BILL No. 2065

By Committee on Judiciary

2-25

1 AN ACT concerning judges; relating to vacancies in the office of judge of
2 ~~the district court and the office of district magistrate judge; amending~~
3 ~~K.S.A. 20-2909, 20-2911, 20-2914 and 25-312a and repealing the~~
4 ~~existing sections {district magistrate judges; relating to jurisdiction;~~
5 ~~appeals; amending K.S.A. 61-3903 and K.S.A. 2013 Supp. 20-302b,~~
6 ~~22-3602, 22-3609a, 38-2273, 38-2382, 59-2401a, 60-2102, 60-2103a~~
7 ~~and 61-3902 and repealing the existing sections}.~~
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 ~~Section 1. K.S.A. 20-2909 is hereby amended to read as follows: 20-~~
11 ~~2909. (a) (1) Whenever a vacancy occurs in the office of judge of the~~
12 ~~district court in any judicial district, or whenever a vacancy will occur in~~
13 ~~such office on a specified future date, the chief justice of the supreme court~~
14 ~~promptly shall give notice of such vacancy to the chairperson of the~~
15 ~~district judicial nominating commission of such judicial district not later~~
16 ~~than 120 days following the date the vacancy occurs or will occur.~~

17 ~~(2) The chairperson, in consultation with members of the~~
18 ~~commission, within five days after receipt of such notice, shall set a~~
19 ~~schedule for accepting nominations and conducting interviews for the~~
20 ~~purpose of nominating persons for appointment to such office. It shall be~~
21 ~~the duty of the commission to nominate not less than two nor more than~~
22 ~~three persons for each office which is vacant, and shall submit the names~~
23 ~~of the persons so nominated to the governor. Any person nominated shall~~
24 ~~have the qualifications prescribed by subsection (b) of K.S.A. 20-2903,~~
25 ~~and amendments thereto, and in order to obtain the best qualified persons~~
26 ~~as nominees, the commission shall not limit its consideration of potential~~
27 ~~nominees to those persons whose names have been submitted to the~~
28 ~~commission or who have expressed a willingness to serve. The~~
29 ~~commission may authorize one or more members of the commission to~~
30 ~~tender a nomination to any qualified person in order to ascertain the~~
31 ~~person's willingness to serve if nominated, but any such tender of~~
32 ~~nomination shall be subject to final action of the commission under the~~
33 ~~conditions prescribed by subsection (b) of K.S.A. 20-2907, and~~
34 ~~amendments thereto.~~

35 ~~(3) In order that a vacancy in the office of judge of the district court~~
36 ~~does not exist for an inordinate length of time, the commission shall~~

1 ~~conduct the business of selecting nominees for appointment to such office~~
2 ~~and certifying the same to the governor as promptly and expeditiously as~~
3 ~~possible, having due regard for the importance of selecting the best~~
4 ~~possible nominees. In no event shall the commission submit its~~
5 ~~nominations to the governor more than 45 days after the date the chief~~
6 ~~justice has notified the nominating commission that a vacancy is to be~~
7 ~~filled, unless the chief justice permits an extension of such time period.~~

8 ~~(b) If there are not at least two attorneys deemed qualified by the~~
9 ~~district judicial nominating commission who reside in the judicial district~~
10 ~~and who are willing to accept the nomination to fill a vacancy in a district~~
11 ~~judge position, the nominating commission need not limit its consideration~~
12 ~~of nominees to attorneys residing in the judicial district. In cases where~~
13 ~~there is one such attorney, such attorney shall be one of the nominees~~
14 ~~submitted to the governor. If an appointee is not a resident of the judicial~~
15 ~~district at the time of appointment to a district judge position, the~~
16 ~~appointee shall establish residency in the judicial district before taking~~
17 ~~office and shall maintain such residency while holding such office.~~

18 ~~Sec. 2. K.S.A. 20-2911 is hereby amended to read as follows: 20-~~
19 ~~2911. (a) Whenever a district judicial nominating commission has~~
20 ~~submitted to the governor the required number of nominations for~~
21 ~~appointment to fill a vacancy in the office of judge of the district court, it~~
22 ~~shall be the duty of the governor to make such appointment within thirty~~
23 ~~(30) 60 days after such nominations are submitted or resubmitted to him or~~
24 ~~her the governor. If the governor fails to make the appointment within said~~
25 ~~thirty (30) 60 days, the chief justice of the supreme court shall make the~~
26 ~~appointment from among such nominees; but, except whenever any~~
27 ~~change in the nominations is made pursuant to K.S.A. 20-2910, said thirty-~~
28 ~~day and amendments thereto, such 60-day period commences on the day~~
29 ~~the nominations are resubmitted.~~

30 ~~(b) Whenever a vacancy in the office of judge of the district court~~
31 ~~exists at the time the appointment to fill such vacancy is made pursuant to~~
32 ~~this section, the appointment shall be effective at the time it is made, but~~
33 ~~where an appointment is made pursuant to this section to fill a vacancy~~
34 ~~which will occur at a future date, such appointment shall not take effect~~
35 ~~until said such future date.~~

36 ~~Sec. 3. K.S.A. 20-2914 is hereby amended to read as follows: 20-~~
37 ~~2914. (a) Whenever a vacancy shall occur in the office of district~~
38 ~~magistrate judge in any judicial district which has approved the~~
39 ~~proposition of nonpartisan selection of district court judges, or whenever a~~
40 ~~vacancy will occur in such office on a specified future date, the chief~~
41 ~~justice of the supreme court promptly shall give notice of such vacancy to~~
42 ~~the chairperson of the district judicial nominating commission of such~~
43 ~~judicial district not later than 120 days following the date the vacancy:~~

~~1 occurs or will occur. The chairperson, in consultation with members of the
2 commission, within five days after receipt of such notice, shall set a
3 schedule for accepting nominations and conducting interviews
4 for the purpose of selecting a person to fill such vacancy. Any person so
5 selected shall have the qualifications prescribed by subsection (c) of
6 K.S.A. 20-334, and amendments thereto, and in order to obtain the best
7 qualified person as a district magistrate judge, the commission shall not
8 limit its consideration of potential appointees to those persons whose
9 names have been submitted to the commission or who have expressed a
10 willingness to serve. The commission may authorize one or more members
11 of the commission to tender an appointment to any qualified person in
12 order to ascertain such person's willingness to serve if appointed. Any such
13 tender of appointment shall be subject to final action of the commission
14 under the conditions prescribed by subsection (b) of K.S.A. 20-2907, and
15 amendments thereto.~~

~~16 (b) Any appointment made pursuant to subsection (a) shall be
17 contingent upon the acceptance of such appointment by the person so
18 appointed and, if such person is not regularly admitted to practice law in
19 Kansas, the appointment shall be made on a temporary basis until such
20 person has been certified by the supreme court as qualified to hold such
21 office, in the manner provided by K.S.A. 20-337, and amendments thereto.~~

~~22 Sec. 4. K.S.A. 25-312a is hereby amended to read as follows: 25-
23 312a. Except as otherwise provided in K.S.A. 20-2903 through 20-2913,
24 and amendments thereto, whenever a vacancy occurs in the office of judge
25 of the district court, it shall be filled by appointment by the governor
26 following receipt of notice from the clerk of the supreme court, which shall
27 be given not later than 120 days following the date the vacancy occurs or
28 will occur. If the vacancy occurs on or after May 1 of the second year of
29 the term, the person so appointed shall serve for the remainder of the
30 unexpired term and until a successor is elected and qualified. If the
31 vacancy occurs before May 1 of the second year of the term, the person
32 appointed to fill the vacancy shall serve until a successor is elected and
33 qualified at the next general election to serve the remainder of the
34 unexpired term. Any appointment made by the governor as required by
35 this section shall be made within 60 days after the vacancy occurs 90 days
36 following receipt of notice from the clerk of the supreme court.~~

~~37 **§Section 1. K.S.A. 2013 Supp. 20-302b is hereby amended to read as**
38 **follows: 20-302b. (a) Subject to assignment pursuant to K.S.A. 20-329,**
39 **and amendments thereto, a district magistrate judge shall have the**
40 **jurisdiction and power, in any case in which a violation of the laws of**
41 **the state is charged, to conduct the trial of traffic infractions, cigarette**
42 **or tobacco infractions or misdemeanor charges, to conduct felony first**
43 **appearance hearings and the preliminary examination of felony charges**~~

1 *and to hear misdemeanor or felony arraignments* subject to assignment
2 pursuant to K.S.A. 20-329, and amendments thereto. *Except as otherwise*
3 *provided, in civil cases, a district magistrate judge shall have jurisdiction*
4 *over actions filed under the code of civil procedure for limited actions,*
5 *K.S.A. 61-2801 et seq., and amendments thereto, and concurrent*
6 *jurisdiction, powers and duties with a district judge. Except as otherwise*
7 *specifically provided in this subsection and subsection (b), in all other*
8 *civil cases, a district magistrate judge shall not have jurisdiction or*
9 *eognizance over the following actions:*

10 (1) Any action, other than an action seeking judgment for an
11 unsecured debt not sounding in tort and arising out of a contract for the
12 provision of goods, services or money, in which the amount in controversy,
13 exclusive of interests and costs, exceeds \$10,000. The provisions of this
14 subsection shall not apply to actions filed under the code of civil procedure
15 for limited actions, K.S.A. 61-2801 et seq., and amendments thereto. In
16 actions of replevin, the affidavit in replevin or the verified petition fixing
17 the value of the property shall govern the jurisdiction. Nothing in this
18 paragraph shall be construed as limiting the power of a district magistrate
19 judge to hear any action pursuant to the Kansas probate code or to issue
20 support orders as provided by paragraph (6) of this subsection;

21 (2) actions against any officers of the state, or any subdivisions
22 thereof, for misconduct in office;

23 (3) actions for specific performance of contracts for real estate;

24 (4) actions in which title to real estate is sought to be recovered or in
25 which an interest in real estate, either legal or equitable, is sought to be
26 established. Nothing in this paragraph shall be construed as limiting the
27 right to bring an action for forcible detainer as provided in the acts
28 contained in K.S.A. 61-3801 through 61-3808, and amendments thereto.
29 Nothing in this paragraph shall be construed as limiting the power of a
30 district magistrate judge to hear any action pursuant to the Kansas probate
31 code;

32 (5) actions to foreclose real estate mortgages or to establish and
33 foreclose liens on real estate as provided in the acts contained in article 11
34 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto;

35 (6) actions for divorce, separate maintenance or custody of minor
36 children. Nothing in this paragraph shall be construed as limiting the
37 power of a district magistrate judge to: (A) Except as provided in
38 subsection (c), hear any action pursuant to the Kansas code for care of
39 children or the revised Kansas juvenile justice code; (B) establish, modify
40 or enforce orders of support, including, but not limited to, orders of
41 support pursuant to the Kansas parentage act, K.S.A. 2013 Supp. 23-2201
42 et seq., and amendments thereto, the uniform interstate family support act,
43 K.S.A. 2013 Supp. 23-36,101 et seq., and amendments thereto, articles 29

1 or 30 of chapter 23 of the Kansas Statutes Annotated, and amendments
2 thereto, K.S.A. 39-718b or 39-755 or K.S.A. 2013 Supp. 23-3101 through
3 23-3113, 38-2338, 38-2339 or 38-2350, and amendments thereto; or (C)
4 enforce orders granting visitation rights or parenting time;

5 (7) ~~habeas corpus;~~

6 (8) ~~receiverships;~~

7 (9) ~~change of name;~~

8 (10) ~~declaratory judgments;~~

9 (11) ~~mandamus and quo warranto;~~

10 (12) ~~injunctions;~~

11 (13) ~~class actions;~~

12 (14) ~~rights of majority; and~~

13 (15) ~~actions pursuant to K.S.A. 59-29a01 et seq., and amendments~~
14 ~~thereto have jurisdiction over any civil action not filed under the code of~~
15 ~~civil procedure for limited actions only with the consent of the parties. A~~
16 ~~district magistrate judge shall have jurisdiction over uncontested actions~~
17 ~~for divorce.~~

18 ***(b) Notwithstanding the provisions of subsection (a), in the***
19 ***absence, disability or disqualification of a district judge, a district***
20 ***magistrate judge may:***

21 ***(1) Grant a restraining order, as provided in K.S.A. 60-902, and***
22 ***amendments thereto;***

23 ***(2) appoint a receiver, as provided in K.S.A. 60-1301, and***
24 ***amendments thereto; and***

25 ***(3) make any order authorized by K.S.A. 23-2707, and amendments***
26 ***thereto.***

27 ***(c) (1) All actions or proceedings before a district magistrate judge***
28 ***regularly admitted to practice law in Kansas shall be on the record if such***
29 ***actions or proceedings would be on the record before a district judge.***

30 ***(2) In accordance with the limitations and procedures prescribed by***
31 ***law, and subject to any rules of the supreme court relating thereto, any***
32 ***appeal permitted to be taken from an order or final decision of a district***
33 ***magistrate judge: (A) who is not regularly admitted to practice law in***
34 ***Kansas shall be tried and determined de novo by a district judge, except***
35 ***that in civil cases where a record was made of the action or proceeding***
36 ***before the district magistrate judge, the appeal shall be tried and***
37 ***determined on the record by a district judge; and (B) who is regularly***
38 ***admitted to practice law in Kansas shall be to the court of appeals.***

39 ***(d) Except as provided in subsection (e), upon motion of a party, the***
40 ***chief judge may reassign an action from a district magistrate judge to a***
41 ***district judge.***

42 ***(e) Upon motion of a party for a petition or motion filed under the***
43 ***Kansas code for care of children requesting termination of parental***

1 *rights pursuant to K.S.A. 2013 Supp. 38-2361 through 38-2367, and*
2 *amendments thereto, the chief judge shall reassign such action from a*
3 *district magistrate judge to a district judge.*

4 *Sec. 2. K.S.A. 2013 Supp. 22-3602 is hereby amended to read as*
5 *follows: 22-3602. (a) Except as otherwise provided, an appeal to the*
6 *appellate court having jurisdiction of the appeal may be taken by the*
7 *defendant as a matter of right from any judgment against the defendant*
8 *in the district court and upon appeal any decision of the district court or*
9 *intermediate order made in the progress of the case may be reviewed. No*
10 *appeal shall be taken by the defendant from a judgment of conviction*
11 *before a district judge upon a plea of guilty or nolo contendere, except*
12 *that jurisdictional or other grounds going to the legality of the*
13 *proceedings may be raised by the defendant as provided in K.S.A. 60-*
14 *1507, and amendments thereto.*

15 *(b) Appeals to the court of appeals may be taken by the prosecution*
16 *from cases before a district judge, or a district magistrate judge who is*
17 *regularly admitted to practice law in Kansas, as a matter of right in the*
18 *following cases, and no others:*

19 *(1) From an order dismissing a complaint, information or*
20 *indictment;*

21 *(2) from an order arresting judgment;*

22 *(3) upon a question reserved by the prosecution; or*

23 *(4) upon an order granting a new trial in any case involving a class*
24 *A or B felony or for crimes committed on or after July 1, 1993, in any*
25 *case involving an off-grid crime.*

26 *(c) Procedures for appeals by the prosecution enumerated in*
27 *subsection (b) shall be as provided in supreme court rules.*

28 *(d) Appeals to a district judge may be taken by the prosecution from*
29 *cases before a district magistrate judge who is not regularly admitted to*
30 *practice law in Kansas as a matter of right in the cases enumerated in*
31 *subsection (b) and from orders enumerated in K.S.A. 22-3603, and*
32 *amendments thereto.*

33 *(e) Any criminal case on appeal to the court of appeals may be*
34 *transferred to the supreme court as provided in K.S.A. 20-3016 and 20-*
35 *3017, and amendments thereto, and any party to such case may petition*
36 *the supreme court for review of any decision of the court of appeals as*
37 *provided in subsection (b) of K.S.A. 20-3018, and amendments thereto,*
38 *except that any such party may appeal to the supreme court as a matter*
39 *of right in any case in which a question under the constitution of either*
40 *the United States or the state of Kansas arises for the first time as a*
41 *result of the decision of the court of appeals.*

42 *(f) For crimes committed on or after July 1, 1993, an appeal by the*
43 *prosecution or the defendant relating to sentences imposed pursuant to a*

1 *presumptive sentencing guidelines system as provided in K.S.A. 21-4701*
2 *et seq., prior to their repeal, or the revised Kansas sentencing guidelines*
3 *act, article 68 of chapter 21 of the Kansas Statutes Annotated, and*
4 *amendments thereto, shall be as provided in K.S.A. 21-4721, prior to its*
5 *repeal, or K.S.A. 2013 Supp. 21-6820, and amendments thereto.*

6 *Sec. 3. K.S.A. 2013 Supp. 22-3609a is hereby amended to read as*
7 *follows: 22-3609a. (1) A defendant shall have the right to appeal to a*
8 *district judge from any judgment of a district magistrate judge who is not*
9 *regularly admitted to practice law in Kansas. The chief judge shall be*
10 *responsible for assigning a district judge for any such appeal. The*
11 *appeal shall stay all further proceedings upon the judgment appealed*
12 *from.*

13 *(2) An appeal to a district judge shall be taken by filing a notice of*
14 *appeal with the clerk of the court. No appeal shall be filed until after the*
15 *sentence has been imposed. No appeal shall be taken more than 14 days*
16 *after the date the sentence is imposed.*

17 *(3) The clerk of the district court shall deliver the complaint,*
18 *warrant and any appearance bond to the district judge to whom such*
19 *appeal is assigned. The case shall be tried de novo before the assigned*
20 *district judge.*

21 *(4) No advance payment of a docket fee shall be required when the*
22 *appeal is taken.*

23 *(5) All appeals taken by a defendant ~~from a district magistrate judge~~*
24 *in misdemeanor cases from a district magistrate judge who is not*
25 *regularly admitted to practice law in Kansas shall be tried by the court*
26 *unless a jury trial is requested in writing by the defendant. All appeals*
27 *taken by a defendant ~~from a district magistrate judge~~ in traffic infraction*
28 *and cigarette or tobacco infraction cases from a district magistrate judge*
29 *who is not regularly admitted to practice law in Kansas shall be to the*
30 *court.*

31 *(6) Notwithstanding the other provisions of this section, appeal*
32 *from a conviction rendered pursuant to subsection (c) of K.S.A. 22-2909,*
33 *and amendments thereto, shall be conducted only on the record of the*
34 *stipulation of facts relating to the complaint.*

35 *Sec. 4. K.S.A. 2013 Supp. 38-2273 is hereby amended to read as*
36 *follows: 38-2273. (a) An appeal may be taken by any party or interested*
37 *party from any order of temporary custody, adjudication, disposition,*
38 *finding of unfitness or termination of parental rights.*

39 *(b) An appeal from an order entered by a district magistrate judge*
40 *who is not regularly admitted to practice law in Kansas shall be to a*
41 *district judge. The appeal shall be heard on the basis of the record*
42 *within 30 days from the date the notice of appeal is filed. If no record*
43 *was made of the proceedings, the trial shall be de novo.*

1 (c) *Procedure on appeal shall be governed by article 21 of chapter*
2 *60 of the Kansas Statutes Annotated, and amendments thereto.*

3 (d) *Notwithstanding any other provision of law to the contrary,*
4 *appeals under this section shall have priority over all other cases.*

5 (e) *Every notice of appeal, docketing statement and brief shall be*
6 *verified by the appellant if the appellant has been personally served at*
7 *any time during the proceedings. Failure to have the required*
8 *verification shall result in the dismissal of the appeal.*

9 (f) *While a case is on appeal from the district court, the district*
10 *court or magistrate court shall continue to have jurisdiction over all*
11 *issues not specifically appealed and shall conduct timely permanency*
12 *hearings.*

13 **Sec. 5. K.S.A. 2013 Supp. 38-2382 is hereby amended to read as**
14 **follows: 38-2382. (a) An appeal from a district magistrate judge who is**
15 **not regularly admitted to practice law in Kansas shall be to a district**
16 **judge. The appeal shall be by trial de novo unless the parties agree to a**
17 **de novo review on the record of the proceedings. The appeal shall be**
18 **heard within 30 days from the date the notice of appeal was filed.**

19 (b) *Appeals from a district judge, or a district magistrate judge who*
20 *is regularly admitted to practice law in Kansas, shall be to the court of*
21 *appeals.*

22 (c) *Procedure on appeal shall be governed by article 21 of chapter*
23 *60 of the Kansas Statutes Annotated, and amendments thereto.*

24 **Sec. 6. K.S.A. 2013 Supp. 59-2401a is hereby amended to read as**
25 **follows: 59-2401a. (a) An appeal by an interested party from a district**
26 **magistrate judge who is not regularly admitted to practice law in Kansas**
27 **to a district judge may be taken no later than 14 days from any final**
28 **order, judgment or decree entered in any proceeding pursuant to:**

29 (1) *The Kansas adoption and relinquishment act (, K.S.A. 59-2111*
30 *et seq., and amendments thereto);*

31 (2) *the care and treatment act for mentally ill persons (, K.S.A. 59-*
32 *2945 et seq., and amendments thereto);*

33 (3) *the care and treatment act for persons with an alcohol or*
34 *substance abuse problem (, K.S.A. 59-29b45 et seq., and amendments*
35 *thereto); or*

36 (4) *the act for obtaining a guardian or conservator, or both (,*
37 *K.S.A. 59-3050 et seq., and amendments thereto).*

38 *The appeal shall be heard no later than 30 days from the date the*
39 *notice of appeal is filed. If no record was made of the proceedings, the*
40 *trial shall be de novo. Except as provided further, if a record was made*
41 *of the proceedings, the district judge shall conduct the appeal on the*
42 *record. Upon motion of any party to the proceedings, the district judge*
43 *may hold a trial de novo.*

1 ***(b) An appeal by an interested party from the district court a district***
2 ***judge, or a district magistrate judge who is regularly admitted to practice***
3 ***law in Kansas, to an appellate court shall be taken pursuant to article 21***
4 ***of chapter 60 of the Kansas Statutes Annotated, and amendments thereto,***
5 ***from any final order, judgment or decree entered in any proceeding***
6 ***pursuant to:***

7 ***(1) The Kansas adoption and relinquishment act (, K.S.A. 59-2111***
8 ***et seq., and amendments thereto);***

9 ***(2) the care and treatment act for mentally ill persons (, K.S.A. 59-***
10 ***2945 et seq., and amendments thereto);***

11 ***(3) the sexually violent predator act (, K.S.A. 59-29a01 et seq., and***
12 ***amendments thereto);***

13 ***(4) the care and treatment act for persons with an alcohol or***
14 ***substance abuse problem (, K.S.A. 59-29b45 et seq., and amendments***
15 ***thereto); or***

16 ***(5) the act for obtaining a guardian or conservator, or both (,***
17 ***K.S.A. 59-3050 et seq., and amendments thereto).***

18 ***Except for cases otherwise specifically provided for by law, appeals***
19 ***under this section shall have priority over all others.***

20 ***(c) Pending the determination of an appeal pursuant to section***
21 ***subsection (a) or (b) of this section, any order appealed from shall***
22 ***continue in force unless modified by temporary orders entered by the***
23 ***court hearing the appeal. The supersedeas bond provided for in K.S.A.***
24 ***60-2103, and amendments thereto, shall not stay proceedings under an***
25 ***appeal from the district court to an appellate court.***

26 ***(d) In an appeal taken pursuant to section subsection (a) or (b) of***
27 ***this section, the court from which the appeal is taken may require an***
28 ***appropriate party, other than the state of Kansas, any subdivision***
29 ***thereof, and all cities and counties in this state, to file a bond in such***
30 ***sum and with such sureties as may be fixed and approved by the court to***
31 ***ensure that the appeal will be prosecuted without unnecessary delay and***
32 ***to ensure the payment of all judgments and any sums, damages and***
33 ***costs that may be adjudged against that party.***

34 ***(e) As used in this section, "interested party" means:***

35 ***(1) The parent in a proceeding pursuant to the Kansas adoption***
36 ***and relinquishment act (, K.S.A. 59-2111 et seq., and amendments***
37 ***thereto);***

38 ***(2) the patient under the care and treatment act for mentally ill***
39 ***persons (, K.S.A. 59-2945 et seq., and amendments thereto);***

40 ***(3) the patient under the care and treatment act for persons with an***
41 ***alcohol or substance abuse problem (, K.S.A. 59-29b45 et seq., and***
42 ***amendments thereto);***

43 ***(4) the person adjudicated a sexually violent predator under the***

1 *sexually violent predator act* (, *K.S.A. 59-29a01 et seq., and amendments*
2 *thereto*);

3 (5) *the ward or conservatee under the act for obtaining a guardian*
4 *or conservator, or both* (, *K.S.A. 59-3050 et seq., and amendments*
5 *thereto*);

6 (6) *the parent of a minor person adjudicated a ward or conservatee*
7 *under the act for obtaining a guardian or conservator, or both* (, *K.S.A.*
8 *59-3050 et seq., and amendments thereto*);

9 (7) *the petitioner in the case on appeal; and*

10 (8) *any other person granted interested party status by the court*
11 *from which the appeal is being taken.*

12 (f) *This section shall be part of and supplemental to the Kansas*
13 *probate code.*

14 *Sec. 7. K.S.A. 2013 Supp. 60-2102 is hereby amended to read as*
15 *follows: 60-2102. (a) Appeal to court of appeals as matter of right.*
16 *Except for any order or final decision of a district magistrate judge who*
17 *is not regularly admitted to practice law in Kansas, the appellate*
18 *jurisdiction of the court of appeals may be invoked by appeal as a matter*
19 *of right from:*

20 (1) *An order that discharges, vacates or modifies a provisional*
21 *remedy.*

22 (2) *An order that grants, continues, modifies, refuses or dissolves*
23 *an injunction, or an order that grants or refuses relief in the form of*
24 *mandamus, quo warranto or habeas corpus.*

25 (3) *An order that appoints a receiver or refuses to wind up a*
26 *receivership or to take steps to accomplish the purposes thereof, such as*
27 *directing sales or other disposal of property, or an order involving the*
28 *tax or revenue laws, the title to real estate, the constitution of this state*
29 *or the constitution, laws or treaties of the United States.*

30 (4) *A final decision in any action, except in an action where a direct*
31 *appeal to the supreme court is required by law. In any appeal or cross*
32 *appeal from a final decision, any act or ruling from the beginning of the*
33 *proceedings shall be reviewable.*

34 (b) *Appeal to supreme court as matter of right. The appellate*
35 *jurisdiction of the supreme court may be invoked by appeal as a matter*
36 *of right from:*

37 (1) *A preliminary or final decision in which a statute of this state*
38 *has been held unconstitutional as a violation of Article 6 of the Kansas*
39 *constitution of the state of Kansas pursuant to K.S.A. 2013 Supp. 72-*
40 *64b03, and amendments thereto. Any appeal filed pursuant to this*
41 *subsection (b)(1) shall be filed within 30 days of the date the preliminary*
42 *or final decision is filed.*

43 (2) *A final decision of the district court in any action challenging*

1 *the constitutionality of or arising out of any provision of the Kansas*
2 *expanded lottery act, any lottery gaming facility management contract or*
3 *any racetrack gaming facility management contract entered into*
4 *pursuant to the Kansas expanded lottery act.*

5 *(c) Other appeals. When a district judge, or a district magistrate*
6 *judge who is regularly admitted to practice law in Kansas, in making in a*
7 *civil action an order not otherwise appealable under this section, is of*
8 *the opinion that such order involves a controlling question of law as to*
9 *which there is substantial ground for difference of opinion and that an*
10 *immediate appeal from the order may materially advance the ultimate*
11 *termination of the litigation, the judge shall so state in writing in such*
12 *order. The court of appeals may thereupon, in its discretion, permit an*
13 *appeal to be taken from such order, if application is made to it within 14*
14 *days after the entry of the order under such terms and conditions as the*
15 *supreme court fixes by rule. Application for an appeal—hereunder—*
16 *pursuant to this subsection shall not stay proceedings in the district court*
17 *unless the—district judge of the district court or an appellate court or a*
18 *judge thereof so orders.*

19 *Sec. 8. K.S.A. 2013 Supp. 60-2103a is hereby amended to read as*
20 *follows: 60-2103a. (a) In actions commenced in the district courts of this*
21 *state all appeals from orders or final decisions of a district magistrate*
22 *judge who is not regularly admitted to practice law in Kansas shall be*
23 *heard by a district judge. Except as otherwise provided by law, such*
24 *appeals shall be taken by notice of appeal specifying the order or*
25 *decision complained of and shall be filed with the clerk of the district*
26 *court within 14 days after the entry of such order or decision. The notice*
27 *of appeal shall specify the party or parties taking the appeal; shall*
28 *designate the order or decision appealed from; and shall state that such*
29 *appeal is being taken from an order or decision of a district magistrate*
30 *judge. The appealing party shall cause notice of the appeal to be served*
31 *upon all of the parties to the action in accordance with the provisions of*
32 *K.S.A. 60-205, and amendments thereto. Upon filing the notice of*
33 *appeal, the appeal shall be deemed perfected.*

34 *(b) Except as otherwise provided by law or rule of the supreme*
35 *court, the provisions of subsections (b) through (i) of K.S.A. 60-2103,*
36 *and amendments thereto, shall be applicable to appeals from orders and*
37 *decisions of district magistrate judges who are not regularly admitted to*
38 *practice law in Kansas.*

39 *Sec. 9. K.S.A. 2013 Supp. 61-3902 is hereby amended to read as*
40 *follows: 61-3902. (a) All appeals from orders, rulings, decisions or*
41 *judgments of district magistrate judges who are not regularly admitted to*
42 *practice law in Kansas under the code of civil procedure for limited*
43 *actions shall be taken in the manner provided in subsection (a) of K.S.A.*

1 **60-2103a, and amendments thereto. All appeals from orders, rulings,**
2 **decisions or judgments of district judges, or district magistrate judges**
3 **who are regularly admitted to practice law in Kansas, under the code of**
4 **civil procedure for limited actions shall be taken in the manner provided**
5 **in subsections (a) and (b) of K.S.A. 60-2103, and amendments thereto.**
6 **Notwithstanding the foregoing provisions of this subsection, if judgment**
7 **has been rendered in an action for forcible detainer and the defendant**
8 **desires to appeal from that portion of the judgment granting restitution**
9 **of the premises, notice of appeal shall be filed within seven days after**
10 **entry of judgment. The notice of appeal shall specify the party or parties**
11 **taking the appeal; the order, ruling, decision or judgment appealed**
12 **from; and the court to which the appeal is taken.**

13 **(b) The provisions of K.S.A. 60-2001, and amendments thereto,**
14 **shall apply to appeals pursuant to this section.**

15 **(c) An appeal from an action heard by a district magistrate judge**
16 **who is not regularly admitted to practice law in Kansas shall be taken to**
17 **a district judge of the county. An appeal from an action heard by a**
18 **district judge, or a district magistrate judge who is regularly admitted to**
19 **practice law in Kansas, shall be taken to the court of appeals.**

20 **Sec. 10. K.S.A. 61-3903 is hereby amended to read as follows: 61-**
21 **3903. Subject to the rules of the supreme court of this state, once an**
22 **appeal is perfected, if the judge from whom such appeal is taken is a**
23 **district magistrate judge who is not regularly admitted to practice law in**
24 **Kansas, such judge shall notify the chief judge of the judicial district**
25 **that the appeal has been perfected. The chief judge then shall assign the**
26 **case to a district judge to hear the appeal.}**

27 ~~Sec. 5. {11.}~~ ~~K.S.A. 20-2909, 20-2911, 20-2914 and 25-312a {61-~~
28 ~~3903 and K.S.A. 2013 Supp. 20-302b, 22-3602, 22-3609a, 38-2273, 38-~~
29 ~~2382, 59-2401a, 60-2102, 60-2103a and 61-3902}~~ are hereby repealed.

30 ~~Sec. 6. {12.}~~ This act shall take effect and be in force from and after
31 its publication in the statute book.