

HOUSE BILL No. 2517

By Committee on Judiciary

1-27

1 AN ACT concerning civil procedure; relating to wage garnishment;
2 amending K.S.A. 60-2310 and repealing the existing section.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 60-2310 is hereby amended to read as follows: 60-
6 2310. (a) *Definitions.* As used in this act and the acts of which this act is
7 amendatory, unless the context otherwise requires, the following words
8 and phrases shall have the meanings respectively ascribed to them:

9 (1) "Earnings" means compensation paid or payable for personal
10 services, whether denominated as wages, salary, commission, bonus or
11 otherwise;

12 (2) "disposable earnings" means that part of the earnings of any
13 individual remaining after the deduction from such earnings of any
14 amounts required by law to be withheld;

15 (3) "wage garnishment" means any legal or equitable procedure
16 through which the earnings of any individual are required to be withheld
17 for payment of any debt; and

18 (4) "federal minimum hourly wage" means that wage prescribed by
19 subsection (a)(1) of section 6 of the federal fair labor standards act of
20 1938, and any amendments thereto.

21 (b) *Restriction on wage garnishment.* Subject to the provisions of
22 subsection-(e) (d), only the aggregate disposable earnings of an individual
23 may be subjected to wage garnishment. The maximum part of such
24 earnings of any wage earning individual which may be subjected to wage
25 garnishment for any workweek or multiple thereof may not exceed the
26 lesser of: (1) Twenty-five percent of the individual's aggregate disposable
27 earnings for that workweek or multiple thereof; (2) the amount by which
28 the individual's aggregate disposable earnings for that workweek or
29 multiple thereof exceed an amount equal to 30 times the federal minimum
30 hourly wage, or equivalent multiple thereof for such longer period; or (3)
31 the amount of the plaintiff's claim as found in the order for garnishment.
32 No one creditor may issue more than one garnishment against the earnings
33 of the same judgment debtor during any one 30-day period, but the court
34 shall allow the creditor to file amendments or corrections of names or
35 addresses of any party to the order of garnishment at any time. In
36 answering such order the garnishee-employer shall withhold from all

1 earnings of the judgment-debtor for any pay period or periods ending
2 during such 30-day period an amount or amounts as are allowed and
3 required by law. Nothing in this act shall be construed as charging the
4 plaintiff in any garnishment action with the knowledge of the amount of
5 any defendant's earnings prior to the commencement of such garnishment
6 action.

7 (c) *Sickness preventing work.* If any debtor is prevented from working
8 at the debtor's regular trade, profession or calling for any period greater
9 than two weeks because of illness of the debtor or any member of the
10 family of the debtor, and this fact is shown by the affidavit of the debtor,
11 the provisions of this section shall not be invoked against any such debtor
12 until after the expiration of two months after recovery from such illness.

13 ~~(d) *Assignment of account.* If any person, firm or corporation sells or~~
14 ~~assigns an account to any person or collecting agency, that person, firm or~~
15 ~~corporation or their assignees shall not have or be entitled to the benefits~~
16 ~~of wage garnishment. The provision of this subsection shall not apply to~~
17 ~~the following:~~

18 ~~(1) Assignments of support rights to the secretary of social and~~
19 ~~rehabilitation services pursuant to K.S.A. 39-709 and 39-756, and~~
20 ~~amendments thereto, and support enforcement actions conducted by court~~
21 ~~trustees pursuant to K.S.A. 23-492, *et seq.*, and amendments thereto;~~

22 ~~(2) support rights which have been assigned to any other state~~
23 ~~pursuant to title IV-D of the federal social security act (42 U.S.C. § 651 *et*~~
24 ~~*seq.*);~~

25 ~~(3) assignments of accounts receivable or taxes receivable to the~~
26 ~~director of accounts and reports made under K.S.A. 75-3728b and~~
27 ~~amendments thereto; or~~

28 ~~(4) collections pursuant to contracts entered into in accordance with~~
29 ~~K.S.A. 75-719 and amendments thereto involving the collection of~~
30 ~~restitution or debts to district courts.~~

31 ~~(e) (d) *Exceptions to restrictions on wage garnishment.* The~~
32 ~~restrictions on the amount of disposable earnings subject to wage~~
33 ~~garnishment as provided in subsection (b) shall not apply in the following~~
34 ~~instances:~~

35 (1) Any order of any court for the support of any person, including
36 any order for support in the form of alimony, but the foregoing shall be
37 subject to the restriction provided for in subsection ~~(g)~~ (f);

38 (2) any order of any court of bankruptcy under chapter XIII of the
39 federal bankruptcy act; and

40 (3) any debt due for any state or federal tax.

41 ~~(f) (e) *Prohibition on courts.* No court of this state may make, execute~~
42 ~~or enforce any order or process in violation of this section.~~

43 ~~(g) (f) The maximum part of the aggregate disposable earnings of an~~

1 individual for any workweek which is subject to garnishment to enforce
2 any order for the support of any person shall not exceed:

3 (1) If the individual is supporting a spouse or dependent child (other
4 than a spouse or child with respect to whose support such order is used),
5 50% of the individual's disposable earnings for that week;

6 (2) if the individual is not supporting a spouse or dependent child
7 described in ~~clause~~ *paragraph* (1), 60% of such individual's disposable
8 earnings for that week; and

9 (3) with respect to the disposable earnings of any individual for any
10 workweek, the 50% specified in ~~clause~~ *paragraph* (1) shall be 55% and
11 the 60% specified in ~~clause~~ *paragraph* (2) shall be 65%, if such earnings
12 are subject to garnishment to enforce a support order for a period which is
13 prior to the twelve-week period which ends with the beginning of such
14 workweek.

15 Sec. 2. K.S.A. 60-2310 is hereby repealed.

16 Sec. 3. This act shall take effect and be in force from and after its
17 publication in the statute book.