

HOUSE BILL No. 2175

AN ACT concerning civil procedure; amending K.S.A. 2001 Supp. 60-2418, 61-2803, 61-2907, 61-3002, 61-3003, 61-3302, 61-3505, 61-3507, 61-3508, 61-3509, 61-3510, 61-3513, 61-3604, 61-3606, 61-3608, 61-3803, 61-3804, 61-3805 and 61-3808 and repealing the existing sections; also repealing K.S.A. 2001 Supp. 61-2906, 61-3401 and 61-4105.

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

Section 1. K.S.A. 2001 Supp. 60-2418 is hereby amended to read as follows: 60-2418. (a) In all cases in which a judgment is rendered pursuant to the code of civil procedure for limited actions, the party in whose favor judgment is rendered may pay the fee prescribed by K.S.A. 28-170 and amendments thereto. Upon payment of the fee the clerk of the district court in the county in which the judgment was rendered shall renumber the case as a case filed under this chapter and enter payment of the fee and the renumbering of the case on the appearance docket of the case. *After such payment of the fee and renumbering of the case, such judgment may be filed in any county in which real property of the judgment debtor is located pursuant to K.S.A. 60-2202, and amendments thereto.* The judgment shall become a lien on the real estate of the judgment debtor in the county from the date of the entry. Execution to satisfy the judgment shall proceed in the same manner as original judgments in the district court pursuant to this chapter.

(b) If any judgment filed pursuant to this section becomes dormant, it may be revived in the same manner as other judgments in the district court.

Sec. 2. K.S.A. 2001 Supp. 61-2803 is hereby amended to read as follows: 61-2803. The supreme court of this state shall adopt rules to govern the electronic filing of court matters and the storage of and access by the public to the same, ~~to govern the form of pleadings, other documents to be filed~~ and such other matters as is necessary under the code of civil procedure for limited actions.

Sec. 3. K.S.A. 2001 Supp. 61-2907 is hereby amended to read as follows: 61-2907. (a) The petition shall be served on the defendant in accordance with the provisions of K.S.A. 2001 Supp. 61-3001 through 61-3006, and amendments thereto.

(b) All pleadings other than the petition, motions which cannot be heard ex parte, notices, and orders which are required by their terms to be served, shall be served upon the party's attorney of record, if the party is represented by an attorney, or upon the party if not represented by an attorney, in the following manner:

- (1) By delivering a copy;
- (2) by mailing a copy by first-class mail, certified mail or registered mail to the last known address; or
- (3) if no address is known, by leaving a copy with the clerk of the court. For the purposes of this subsection, delivering a copy means: Handing it to the attorney or to the party; leaving it at the attorney's or party's office with the ~~clerk or other~~ person in charge thereof or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the attorney's or party's office is closed or the person to be served has no office, leaving it at the attorney's or party's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing. All such pleadings, motions, notices and orders covered by this subsection shall be filed with the court either before service or within a reasonable time thereafter.

(c) The filing of pleadings and other papers with the court as required or permitted by this act shall be done in accordance with rules *or orders* of the supreme court.

Sec. 4. K.S.A. 2001 Supp. 61-3002 is hereby amended to read as follows: 61-3002. (a) The summons shall be issued by the clerk, *and dated the day it is issued* ~~and contain the information set forth in the rules to be adopted by the supreme court of this state.~~ The summons shall state the time when the law requires the defendant to appear or file an answer in response to the petition, and shall notify such defendant that in case of such defendant's failure to appear or file an answer, judgment by default will be rendered against such defendant for the relief demanded in the petition. ~~The summons shall be in substantially the form set forth in the rules to be adopted hereunder by the supreme court.~~

(b) The time stated in the summons requiring the defendant to appear in response to the petition shall be determined by the court. Such

time shall be not less than 11 nor more than 50 days after the date the summons is issued.

Sec. 5. K.S.A. 2001 Supp. 61-3003 is hereby amended to read as follows: 61-3003. (a) Methods of service of process within this state, except service by publication, are described in this section. Service of process outside the state shall be made in substantial compliance with the applicable provisions of K.S.A. 60-308, and amendments thereto.

(b) Who serves process. The sheriff of the county in which the action is filed shall serve any process by any method authorized by this section, or as otherwise provided by law, unless a party, either personally or through an attorney, elects to undertake responsibility for service and so notifies the clerk.

(c) Service by return receipt delivery.

(1) Service of process by return receipt delivery shall include service effected by certified mail, priority mail, commercial courier service, overnight delivery service, or other reliable personal delivery service to the party addressed, in each instance evidenced by a written or electronic receipt showing to whom delivered, date of delivery, address where delivered, and person or entity effecting delivery.

(2) The sheriff, party or party's attorney shall cause a copy of the process and petition or other document to be placed in a sealed envelope addressed to the person to be served in accordance with K.S.A. 2001 Supp. 61-3004, and amendments thereto, with postage or other delivery fees prepaid, and the sealed envelope placed in the custody of the person or entity effecting delivery.

(3) Service of process shall be considered obtained under K.S.A. 2001 Supp. 61-2902, and amendments thereto, upon the delivery of the sealed envelope.

(4) After service and return of the receipt, the sheriff, party, or party's attorney shall execute a return on service stating the nature of the process, to whom delivered, the date of delivery, the address where delivered, and the person or entity effecting delivery. The original return of service shall be filed with the clerk, along with a copy of the return receipt evidencing such delivery.

(5) If the sealed envelope is returned with an endorsement showing refusal to accept delivery, the sheriff, party or the party's attorney may send a copy of the process and petition or other document by first-class mail addressed to the party to be served, or may elect other methods of service. If mailed, service shall be considered obtained three days after the mailing by first-class mail, postage prepaid, which shall be evidenced by a certificate of service filed with the clerk. If the unopened envelope sent first-class mail is returned as undelivered for any reason, the sheriff, party or party's attorney shall file an amended certificate of service with the clerk indicating nondelivery, and service by such mailing shall not be considered obtained. Mere failure to claim return receipt delivery is not refusal of service within the meaning of this subsection.

(d) Personal and residence service.

(1) The party may file a written request with the clerk for personal or residence service. Personal service shall be made by delivering or offering to deliver a copy of the process and accompanying documents to the person to be served. Residence service shall be made by leaving a copy of the process and petition, or other document to be served, at the dwelling house or usual place of abode of the person to be served with some person of suitable age and discretion residing therein. If service cannot be made upon an individual, other than a minor or a disabled person, by personal or residence service, service may be made by leaving a copy of the process and petition, or other document to be served, at the defendant's dwelling house or usual place of abode and mailing a notice that such copy has been left at such house or place of abode to the individual by first-class mail.

(2) When process is to be served under this subsection, the clerk of the court shall deliver the process and sufficient copies of the process and petition, or other document to be served, to the sheriff of the county where the process is to be served or, if requested, to a person appointed to serve process or to the plaintiff's attorney.

(3) Service, levy and execution of all process under this subsection, including, but not limited to, writs of execution, orders of attachment,

replevin orders, orders for delivery, writs of restitution and writs of assistance, shall be made by a sheriff within the sheriff's county, by the sheriff's deputy, by an attorney admitted to the practice of law before the supreme court of Kansas or by some person appointed as a process server by a judge or clerk of the district court, except that a subpoena may also be served by any other person who is not a party and is not less than 18 years of age. Process servers shall be appointed freely and may be authorized either to serve process in a single case or in cases generally during a fixed period of time. A process server or an authorized attorney may make the service anywhere in or out of the state and shall be allowed the fees prescribed in K.S.A. 28-110, and amendments thereto, for the sheriff and such other fees and costs as the court shall allow. All persons authorized under this subsection to serve, levy and execute process shall be considered an "officer" as used in K.S.A. 60-706 and 60-2401, and amendments thereto.

(4) In all cases when the person to be served, or an agent authorized by the person to accept service of process, refuses to receive copies thereof, the offer of the duly authorized process server to deliver copies thereof, and the refusal, shall be a sufficient service of the process.

(e) Publication service. Service of process by publication may be made pursuant to the provisions of K.S.A. 60-307, and amendments thereto, which are not inconsistent or in conflict with this act.

(f) Acknowledgment or appearance. An acknowledgment of service on the summons is equivalent to service. The voluntary appearance by a defendant is equivalent to service as of the date of appearance.

(g) *In addition to other methods listed in this section*, the person serving process may serve a garnishment process in any of the following methods:

(1) First class mail. Process may be sent to a person by first-class mail by placing a copy of the process and petition or other document to be served in an envelope addressed to the person to be served in accordance with K.S.A. 2001 Supp. 61-3004, and amendments thereto, at such person's last known address. The envelope used for such service shall be addressed to the person in accordance with K.S.A. 2001 Supp. 61-3004, and amendments thereto, and shall contain adequate postage. Such envelope shall be sealed and placed in the United States mail. Service by first-class mail shall be complete when the envelope is placed in the mail unless returned undelivered. Service shall be considered obtained upon the mailing by first-class mail unless returned undelivered.

(2) Telefacsimile communication. Process may be sent to a person by telefacsimile communication. Service is complete upon receipt of a confirmation generated by the transmitting machine.

(3) Internet electronic mail. Process may be sent to a person by internet electronic mail as provided in the rules to be adopted hereunder by the supreme court.

Sec. 6. K.S.A. 2001 Supp. 61-3302 is hereby amended to read as follows: 61-3302. (a) A judgment may be entered by master or other journal entry or judgment form approved by a judge. The judgment shall be effective from the date the journal entry or judgment form is filed with the clerk of the court. ~~The form of the journal entry or judgment form shall be set forth in the rules of the supreme court of this state.~~

(b) One or more cases may be shown on a *master* journal entry or judgment form ~~as set forth in the rules of the supreme court of this state.~~

(c) When more than one claim for relief is presented in a lawsuit, the court may direct the entry of a final judgment upon one or more but less than all of the claims upon such terms and conditions as set forth in the judgment of the court.

(d) Except as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, regardless of whether the party has demanded such relief in such party's pleadings. Upon entry of such judgment, the party in whose favor judgment is entered shall be deemed to have waived such party's right to recover any amount due in excess of such judgment, and such party may not recover in a subsequent lawsuit any amount in excess of such judgment.

(e) Whenever a party has commenced postjudgment proceedings for the enforcement of a judgment, and such judgment is subsequently set

aside, reversed on appeal or otherwise nullified, such party shall not be liable for damages as a result of such postjudgment proceedings, unless it can be proven that the judgment upon which such proceedings were based was fraudulently obtained.

Sec. 7. K.S.A. 2001 Supp. 61-3505 is hereby amended to read as follows: 61-3505. This section shall apply if the garnishment is to attach intangible property other than earnings of the judgment debtor.

~~(a) The order of garnishment shall be substantially in compliance with the forms set forth in the rules of the supreme court of this state.~~

~~(b)~~ The order of garnishment and the appropriate form for the garnishee's answer shall be served on the garnishee in the same manner as process is to be served pursuant to K.S.A. 2001 Supp. 61-3001 through 61-3006, and amendments thereto, except that the garnishee may be served by any means provided under K.S.A. 2001 Supp. 61-3001 through 61-3006, and amendments thereto, at the garnishee's business or office location and this shall be considered proper service. ~~Two copies~~ A copy of the answer form shall be served if the garnishment order is not served electronically. If the order is served prior to a judgment, the order shall also be served on the judgment debtor, if the judgment debtor can be found, except that the order shall not be served on the judgment debtor until after service has been made on the garnishee. Failure to serve the judgment debtor shall not relieve the garnishee from liability under the order.

~~(c)~~ (b) The order of garnishment shall have the effect of attaching:

(1) All intangible property, funds, credits or other indebtedness belonging to or owing the judgment debtor, other than earnings, which is in the possession or under the control of the garnishee, and all such credits and indebtedness due from the garnishee to the judgment debtor at the time of service of the order; and

(2) all such personal property coming into the possession or control of the garnishee and belonging to the judgment debtor, and all such credits and indebtedness becoming due to the judgment debtor between the time the order is served on the garnishee and the time the garnishee makes the answer of the garnishee. Where the garnishee is an executor or administrator of an estate in which the judgment debtor is or may become a legatee or distributee thereof, the order of garnishment shall have the effect of attaching and creating a first and prior lien upon any property or funds of such estate to which the judgment debtor is entitled upon distribution of the estate, and such garnishee shall be prohibited from paying over to the judgment debtor any of such property or funds until so ordered by the court from which the order of garnishment was issued.

~~(d)~~ (c) The garnishee, without prior agreement, may withhold and retain to defray the garnishee's costs, an administrative fee of \$10 for each order of garnishment that attaches funds, credits or indebtedness. Such administrative fee shall be in addition to the amount required to be withheld under the order for garnishment, except that if the amount required to be withheld under the order for garnishment is greater than the amount of the funds, credits or indebtedness held by the garnishee, the fee shall be deducted from the amount withheld.

Sec. 8. K.S.A. 2001 Supp. 61-3507 is hereby amended to read as follows: 61-3507. This section shall apply if the garnishment is to attach earnings of the judgment debtor.

~~(a) The order of garnishment shall be substantially in compliance with the forms set forth in the rules of the supreme court of this state.~~

~~(b)~~ The order of garnishment and the appropriate form for the garnishee's answer shall be served on the garnishee in the same manner as process is to be served pursuant to K.S.A. 2001 Supp. 61-3001 through 61-3006, and amendments thereto, except that the garnishee may be served by any means provided under K.S.A. 2001 Supp. 61-3001 through 61-3006, and amendments thereto, at the garnishee's business or office location and this shall be considered proper service. ~~Two copies~~ A copy of the answer form shall be served if the garnishment order is not served electronically. If the party having requested the garnishment is notified by the garnishee that the judgment debtor has never been employed by the garnishee or the judgment debtor's employment has been terminated,

the party seeking the garnishment shall forthwith file a release with the clerk of the court of such garnishment.

~~(e)~~ (b) The order of garnishment shall have the effect of attaching the nonexempt portion of the judgment debtor's earnings for all pay periods which end while the order is in effect. The order shall remain in effect until either of the following occur, whichever is sooner: (1) The judgment is paid; or (2) the garnishment is released. The party for whom the garnishment is issued shall file a release with the clerk of the court upon satisfaction of the judgment and provide a copy thereof to the defendant and garnishee. Nonexempt earnings are earnings which are not exempt from wage garnishment pursuant to K.S.A. 60-2310, and amendments thereto. Computation of the nonexempt portion of the judgment debtor's wages for the pay period or periods covered by the order shall be made in accordance with the directions accompanying the garnishee's answer form, and a written explanation of the garnishee's computations shall be furnished to the judgment debtor with each paycheck from which earnings are withheld pursuant to the order of garnishment. The order of garnishment shall also constitute an order of the court directing the garnishee to pay to the judgment creditor all earnings which are to be withheld by the garnishee under the order of garnishment as more particularly provided in the answer of the garnishee.

~~(d)~~ (c) From income due the judgment debtor, the garnishee may withhold and retain to defray the garnishee's costs, an administrative fee of \$10 for each pay period for which income is withheld, not to exceed \$20 for each 30 day period for which income is withheld, whichever is less. Such administrative fee shall be in addition to the amount required to be withheld under the order for garnishment. If the addition of this fee causes the total amount withheld to exceed the restrictions imposed by subsection (b) of K.S.A. 60-2310, and amendments thereto, the fee shall be deducted from the amount withheld.

~~(e)~~ (d) For any continuing garnishment, the party having requested the garnishment shall maintain an accounting and record of the judgment reflecting thereon all garnishment proceeds received and applied, all interest accrued thereon, and any and all credits applied in satisfaction thereof, and the remaining unsatisfied balance of such judgment. The party requesting the garnishment shall produce a copy of such accounting and record upon request of the court.

Sec. 9. K.S.A. 2001 Supp. 61-3508 is hereby amended to read as follows: 61-3508. (a) Immediately following the time the order of garnishment is served on the garnishee, the party seeking the garnishment shall send a notice to the judgment debtor in any reasonable manner, notifying the judgment debtor:

(1) That a garnishment order has been issued against the judgment debtor and the effect of such order;

(2) of the judgment debtor's right to assert any claim of exemption allowed under the law with respect to a garnishment against property other than earnings or of the judgment debtor's right to object to the calculation of exempt and nonexempt earnings with respect to a garnishment against the earnings of the debtor; and

(3) of the judgment debtor's right to a hearing on such claim or objection. ~~The notice shall be substantially in compliance with the form set forth in the rules of the supreme court of this state, and shall~~ contain a description of the exemptions that are applicable to garnishments and the procedure by which the judgment debtor can assert any claim of exemption. ~~A copy of the notice form shall be served on the garnishee with the order of garnishment.~~

(b) If the judgment debtor requests a hearing to assert any claim of exemption, the request shall be filed no later than 10 days following the date the notice is served on the judgment debtor. If a hearing is requested, the hearing shall be held by the court no sooner than five days nor later than 10 days after the request is filed. At the time the request for hearing is filed, the judgment debtor shall obtain from the clerk or court the date and time for the hearing which shall be noted on the request form. Immediately after the request for hearing is filed, the judgment debtor shall hand-deliver to the party seeking the garnishment or such party's attorney, if the party is represented by an attorney, or mail to the party seeking the garnishment or such party's attorney, if the party

is represented by an attorney, by first-class mail at the party seeking the garnishment or such party's attorney's last known address, a copy of the request for hearing.

(c) If a hearing is held, the judgment debtor shall have the burden of proof to show that some or all of the property subject to the garnishment is exempt, and the court shall enter an order determining the exemption and such other order or orders as is appropriate.

Sec. 10. K.S.A. 2001 Supp. 61-3509 is hereby amended to read as follows: 61-3509. This section shall apply if the garnishment is to attach intangible property other than earnings of the judgment debtor.

~~(a) The answer of the garnishee shall be substantially in compliance with the forms set forth in the rules of the supreme court of this state.~~

~~(b)~~ Within 10 days after service upon a garnishee of an order of garnishment the garnishee shall complete the answer in accordance with the instructions accompanying the answer form stating the facts with respect to the demands of the order and file the completed answer with the clerk of the court. The clerk shall cause a copy of the answer to be mailed promptly to the judgment creditor and judgment debtor at the addresses listed on the answer form. The answer shall be supported by unsworn declaration in the manner set forth on the answer form.

Sec. 11. K.S.A. 2001 Supp. 61-3510 is hereby amended to read as follows: 61-3510. This section shall apply if the garnishment is to attach earnings of the judgment debtor.

~~(a) The answer of the garnishee shall be substantially in compliance with the forms set forth in the rules of the supreme court of this state.~~

~~(b)~~ Within 15 days following the end of each month, the garnishee shall complete the answer in accordance with the instructions accompanying the answer form for all pay periods ending during the month and send the completed answer to each judgment creditor and judgment debtor at the addresses listed on the answer form. The garnishee shall designate on the answer in the space provided on the answer form the name and case number for each judgment creditor who has a garnishment order in effect for the same debtor at the end of each month and the amount that is due each judgment creditor under the garnishment in accordance with the instructions accompanying the answer form. Only one answer needs to be completed for each judgment debtor by the garnishee and the garnishee may duplicate the completed answer in any manner the garnishee desires for distribution to each judgment creditor and judgment debtor. The answer shall be supported by unsworn declaration in the manner set forth on the answer form.

~~(c)~~ (b) If there are other liens against the judgment debtor's earnings which by law have priority over garnishments, the garnishee shall so indicate on the answer. In such event, the garnishment shall remain in effect but no earnings of the debtor shall be withheld under the garnishment order unless and until all of the other liens having priority are released or satisfied or the earnings being withheld under all of such liens are less than the amount which is exempt under K.S.A. 60-2310, and amendments thereto.

Sec. 12. K.S.A. 2001 Supp. 61-3513 is hereby amended to read as follows: 61-3513. This section shall apply if the garnishment is to attach earnings of the judgment debtor. If no reply is made to the answer of garnishee within 10 days following the date the garnishee has ~~completed~~ *sent the completed answer to the judgment creditor and judgment debtor*, the garnishee shall promptly thereafter pay the earnings withheld as indicated on the answer to all judgment creditors designated on the answer in the amount due each as indicated on the answer, unless the garnishee receives prior to such payment an order of the court to the contrary. If any judgment creditor receives more than they are entitled to, that judgment creditor shall promptly pay the excess amount pro-rata to the other judgment creditors designated on the answer, or if no such other judgment creditors are designated, the judgment creditor shall promptly pay the excess amount to the judgment debtor.

Sec. 13. K.S.A. 2001 Supp. 61-3604 is hereby amended to read as follows: 61-3604. (a) As an aid to the collection of a judgment, the judgment creditor is entitled to have an order for a hearing in aid of execution issued by the court at any time after 10 days after judgment. There is no requirement that an execution first be issued and returned unsatisfied.

No application for such order needs to be filed except as specially required in this section.

(b) An order for a hearing in aid of execution may be issued at the request of a judgment creditor in an individual case or by a master request covering more than one case, and shall require the judgment debtor to *either: (1) Contact the judgment creditor or attorney prior to the date set for the hearing to furnish information under oath or penalty of perjury concerning the judgment debtor's property and income; or (2) appear and furnish information under oath or penalty of perjury when required by the court concerning the debtor's property and income before the court at a time and place specified in the order within the county where the court is situated. The form of the order shall be set forth in rules of the supreme court of this state.* The court may cancel the hearing if the judgment debtor has furnished to the judgment creditor satisfactory information concerning the debtor's property and income prior to the date and time for the hearing. Witnesses may also be subpoenaed to testify at the hearing.

(c) If the judgment debtor resides in another county in this state or outside of this state, the court can order such judgment debtor to appear if the court finds that it will not cause undue hardship on the judgment debtor to appear.

(d) It shall be the duty of the judge to assist in the enforcement of the judgments of the court. To this end, at any hearing in aid of execution, when the existence of any nonexempt property of the judgment debtor is disclosed, the court shall order the judgment debtor to deliver the property to the sheriff or a duly appointed process server. If the property is other than currency, the property shall be sold in the same manner as other property taken under execution is sold and the proceeds from the sale shall be applied to the judgment and costs.

Sec. 14. K.S.A. 2001 Supp. 61-3606 is hereby amended to read as follows: 61-3606. If a person fails to appear in response to an order for a hearing in aid of execution, or if a person who has been subpoenaed to testify at the hearing fails to appear or to testify concerning anything about which the person can lawfully be questioned, the court shall issue a citation for contempt to that person providing that the person must ~~either:~~

~~(a) Contact the judgment creditor or attorney within 10 days to furnish information under oath or penalty of perjury concerning the judgment debtor's property and income; or~~

~~(b) appear in court at a date and time specified to show cause why the debtor should not be held in contempt and punished for contempt. The form of the citation for contempt shall be set forth in rules of the supreme court of this state.~~ The citation for contempt does not need to be supported by affidavit or other verification.

Sec. 15. K.S.A. 2001 Supp. 61-3608 is hereby amended to read as follows: 61-3608. (a) If a person fails to comply with the ~~either of the~~ requirements of K.S.A. 2001 Supp. 61-3606, and amendments thereto, or if it appears to the court that the person is hiding to avoid the process of the court or is about to leave the county for that purpose, the court may issue a bench warrant commanding the sheriff to whom it is directed to bring such person before the court to answer for contempt. The bench warrant does not need to be supported by affidavit or other verification. The court may make such orders concerning the release of the person pending the hearing as the court deems proper.

(b) When such person is brought before the court, a hearing shall be held to determine if the person should be punished for contempt. If the court determines that the person is guilty of contempt, the court may punish the person by a fine in an amount to be set by the court or by imprisonment in the county jail for a period of not to exceed 30 days, or both. The court may also order the person guilty of contempt to pay the reasonable attorney fees incurred by the judgment creditor in the filing of the bench warrant and the hearing thereon.

Sec. 16. K.S.A. 2001 Supp. 61-3803 is hereby amended to read as follows: 61-3803. Before a lawsuit to evict a person pursuant to K.S.A. 2001 Supp. 61-3801 through 61-3808, and amendments thereto, is filed, the party desiring to file such lawsuit shall deliver to the other party a notice to leave the premises for which possession is sought. The notice shall be delivered at least three days before commencing the lawsuit, by

leaving a written copy with the other party or by leaving a copy thereof with any person over the age of 12 years residing on the premises described in such notice, or if no such person is found upon the premises, by posting a copy of such notice in a conspicuous place thereon, or by mailing a copy of the notice to the other party at the address of the premises described in the notice. The three day notice period provided for in this section shall be computed as three consecutive 24-hour periods to commence at the time the notice is delivered, posted or mailed. If the notice is mailed, an additional two days from the date of mailing shall be allowed for the person to leave the premises before the lawsuit is filed. Intermediate Saturdays, Sundays and legal holidays shall be included in the computation of the notice period. ~~The form of the notice shall be substantially in the form set forth in the rules of the supreme court of this state.~~ *The notice may be combined with any notice provided for in K.S.A. 58-2540, et seq., and amendments thereto.*

Sec. 17. K.S.A. 2001 Supp. 61-3804 is hereby amended to read as follows: 61-3804. The petition shall describe the premises for which possession is sought and why the plaintiff is seeking possession. If there is rent due for possession of the premises, the petition may include a request for judgment for that amount or the plaintiff may bring a subsequent lawsuit for that amount. ~~The form of the petition shall be set forth in the rules of the supreme court of this state.~~

Sec. 18. K.S.A. 2001 Supp. 61-3805 is hereby amended to read as follows: 61-3805. ~~The form of summons in lawsuits under K.S.A. 2001 Supp. 61-3801 through 61-3808, and amendments thereto, shall be the same as for other lawsuits filed under the code of civil procedure for limited actions.~~ The time stated in the summons requiring the defendant to appear in response to the petition shall be determined by the court. Such time shall be not less than three nor more than 14 days after the date the summons is issued.

Sec. 19. K.S.A. 2001 Supp. 61-3808 is hereby amended to read as follows: 61-3808. (a) If judgment is entered against the defendant for possession of the subject premises, the court shall issue, at the request of the plaintiff, a writ of restitution which shall direct anyone who is authorized to serve process and who is named in the writ to place the plaintiff in possession of the premises described in the writ. ~~The form of the writ shall be set forth in the rules of the supreme court of this state.~~

(b) The writ of restitution shall be executed within 10 days after the person named in the writ receives it, and that person shall file a return as with other writs under the code of civil procedure for limited actions. The person serving the writ may use such reasonable force as is necessary to execute the writ.

(c) If the person named in the writ receives a notice from the court that the proceedings have been stayed by appeal, that person shall immediately delay all further proceedings upon the execution. If the premises have been restored to the plaintiff, the person named in the writ shall immediately place the defendant in the possession thereof.

Sec. 20. K.S.A. 2001 Supp. 60-2418, 61-2803, 61-2906, 61-2907, 61-3002, 61-3003, 61-3302, 61-3401, 61-3505, 61-3507, 61-3508, 61-3509, 61-3510, 61-3513, 61-3604, 61-3606, 61-3608, 61-3803, 61-3804, 61-3805, 61-3808 and 61-4105 are hereby repealed.



Sec. 21. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

\_\_\_\_\_

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*