

SENATE BILL No. 136

By Committee on Judiciary

1-26

AN ACT concerning civil procedure; relating to wage garnishment; assignment of account; amending K.S.A. 2000 Supp. 60-2310 and repealing the existing section.

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

Section 1. K.S.A. 2000 Supp. 60-2310 is hereby amended to read as follows: 60-2310. (a) *Definitions.* As used in this act and the acts of which this act is amendatory, unless the context otherwise requires, the following words and phrases shall have the meanings respectively ascribed to them:

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

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

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

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

(b) *Restriction on wage garnishment.* Subject to the provisions of subsection (e), only the aggregate disposable earnings of an individual may be subjected to wage garnishment. The maximum part of such earnings of any wage earning individual which may be subjected to wage garnishment for any workweek or multiple thereof may not exceed the lesser of: (1) Twenty-five percent of the individual's aggregate disposable earnings for that workweek or multiple thereof; (2) the amount by which the individual's aggregate disposable earnings for that workweek or multiple thereof exceed an amount equal to 30 times the federal minimum hourly wage, or equivalent multiple thereof for such longer period; or (3) the amount of the plaintiff's claim as found in the order for garnishment. No one creditor may issue more than one garnishment against the earnings of the same judgment debtor during any one 30-day period, but the court

1 shall allow the creditor to file amendments or corrections of names or
2 addresses of any party to the order of garnishment at any time. In an-
3 swering such order the garnishee-employer shall withhold from all earn-
4 ings of the judgment-debtor for any pay period or periods ending during
5 such 30-day period an amount or amounts as are allowed and required
6 by law. Nothing in this act shall be construed as charging the plaintiff in
7 any garnishment action with the knowledge of the amount of any de-
8 fendant's earnings prior to the commencement of such garnishment
9 action.

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

17 (d) *Assignment of account.* ~~If any person, firm or corporation sells or~~
18 ~~assigns an account to any person or collecting agency, that person, firm~~
19 ~~or corporation or their assignees shall not have or be entitled to the ben-~~
20 ~~efits of wage garnishment. The provision of this subsection shall not apply~~
21 ~~to the following:~~

22 ~~— (1) Assignments of support rights to the secretary of social and re-~~
23 ~~habilitation services pursuant to K.S.A. 39-700 and 39-756, and amend-~~
24 ~~ments thereto, and support enforcement actions conducted by court trust-~~
25 ~~ees pursuant to K.S.A. 23-492, et seq., and amendments thereto;~~

26 ~~— (2) support rights which have been assigned to any other state pur-~~
27 ~~suant to title IV-D of the federal social security act (42 U.S.C. § 651 et~~
28 ~~seq.);~~

29 ~~— (3) assignments of accounts receivable or taxes receivable to the di-~~
30 ~~rector of accounts and reports made under K.S.A. 75-3728b and amend-~~
31 ~~ments thereto; or~~

32 ~~— (4) collections pursuant to contracts entered into in accordance with~~
33 ~~K.S.A. 75-719 and amendments thereto involving the collection of resti-~~
34 ~~tution or debts to district courts.~~

35 ~~— (e) *Exceptions to restrictions on wage garnishment.* The restrictions~~
36 ~~on the amount of disposable earnings subject to wage garnishment as~~
37 ~~provided in subsection (b) shall not apply in the following instances:~~

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

41 (2) any order of any court of bankruptcy under chapter ~~XIII~~ 13 of
42 the federal *United States* bankruptcy ~~act~~ *code*; and

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

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

3 ~~(g)~~ *(f)* The maximum part of the aggregate disposable earnings of an
4 individual for any workweek which is subject to garnishment to enforce
5 any order for the support of any person shall not exceed:

6 (1) If the individual is supporting a spouse or dependent child ~~(other~~
7 ~~than a spouse or child with respect to whose support such order is used),~~
8 50% of the individual's disposable earnings for that week;

9 (2) if the individual is not supporting a spouse or dependent child
10 described in clause (1), 60% of such individual's disposable earnings for
11 that week; and

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

17 Sec. 2. K.S.A. 2000 Supp. 60-2310 is hereby repealed.

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

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