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4 **SENATE BILL No. 159**

5  
6 By Committee on Judiciary

7  
8 1-30  
9

10 AN ACT concerning the code of civil procedure for limited actions;  
11 amending K.S.A. 2000 Supp. 61-2803, 61-2907, 61-3002, 61-3003, 61-  
12 3302, 61-3505, 61-3507, 61-3508, 61-3509, 61-3510, 61-3513, 61-3604,  
13 61-3606, 61-3608, 61-3803, 61-3804, 61-3808 and 61-4105 and re-  
14 pealing the existing sections; also repealing K.S.A. 2000 Supp. 61-2906  
15 and 61-3401.  
16

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

18 Section 1. K.S.A. 2000 Supp. 61-2803 is hereby amended to read as  
19 follows: 61-2803. The supreme court of this state shall adopt rules to  
20 govern the electronic filing of court matters and the storage of and access  
21 by the public to the same, ~~to govern the form of pleadings, other docu-~~  
22 ~~ments to be filed and such other matters as is necessary under the code~~  
23 ~~of civil procedure for limited actions~~ **and shall adopt rules or orders**  
24 **to govern the form of pleadings, other documents to be filed and**  
25 **such other matters as is necessary under the code of civil procedure**  
26 **for limited actions.**

27 Sec. 2. K.S.A. 2000 Supp. 61-2907 is hereby amended to read as  
28 follows: 61-2907. (a) The petition shall be served on the defendant in  
29 accordance with the provisions of K.S.A. 2000 Supp. 61-3001 through 61-  
30 3006, and amendments thereto.

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

36 (1) By delivering a copy;

37 (2) by mailing a copy by first-class mail, certified mail or registered  
38 mail to the last known address; or

39 (3) if no address is known, by leaving a copy with the clerk of the  
40 court. For the purposes of this subsection, delivering a copy means:  
41 Handing it to the attorney or to the party; leaving it at the attorney's or  
42 party's office with the ~~clerk or other~~ person in charge thereof or, if there  
43 is no one in charge, leaving it in a conspicuous place therein; or, if the

1 attorney's or party's office is closed or the person to be served has no  
2 office, leaving it at the attorney's or party's dwelling house or usual place  
3 of abode with some person of suitable age and discretion then residing  
4 therein. Service by mail is complete upon mailing. All such pleadings,  
5 motions, notices and orders covered by this subsection shall be filed with  
6 the court either before service or within a reasonable time thereafter.

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

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

13 Sec. 3. K.S.A. 2000 Supp. 61-3002 is hereby amended to read as  
14 follows: 61-3002. (a) The summons shall be issued by the clerk, dated the  
15 day it is issued and contain the information set forth ~~in the rules to be~~  
16 ~~adopted by the supreme court of this state~~ **appendix of forms pursuant**  
17 **to rules or orders of the supreme court.** The summons shall state the  
18 time when the law requires the defendant to appear or file an answer in  
19 response to the petition, and shall notify such defendant that in case of  
20 such defendant's failure to appear or file an answer, judgment by default  
21 will be rendered against such defendant for the relief demanded in the  
22 petition. The summons shall be ~~in~~ substantially *in compliance with* the  
23 form set forth ~~in the rules to be adopted hereunder by the supreme court~~  
24 **appendix of forms pursuant to rules or orders of the supreme court.**

25 (b) The time stated in the summons requiring the defendant to ap-  
26 pear in response to the petition shall be determined by the court. Such  
27 time shall be not less than 11 nor more than 50 days after the date the  
28 summons is issued.

29 Sec. 4. K.S.A. 2000 Supp. 61-3003 is hereby amended to read as  
30 follows: 61-3003. (a) Methods of service of process within this state, ex-  
31 cept service by publication, are described in this section. Service of pro-  
32 cess outside the state shall be made in substantial compliance with the  
33 applicable provisions of K.S.A. 60-308, and amendments thereto.

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

39 (c) Service by return receipt delivery.

40 (1) Service of process by return receipt delivery shall include service  
41 effected by certified mail, priority mail, commercial courier service, over-  
42 night delivery service, or other reliable personal delivery service to the  
43 party addressed, in each instance evidenced by a written or electronic

1 receipt showing to whom delivered, date of delivery, address where de-  
2 livered, and person or entity effecting delivery.

3 (2) The sheriff, party or party's attorney shall cause a copy of the  
4 process and petition or other document to be placed in a sealed envelope  
5 addressed to the person to be served in accordance with K.S.A. 2000  
6 Supp. 61-3004, and amendments thereto, with postage or other delivery  
7 fees prepaid, and the sealed envelope placed in the custody of the person  
8 or entity effecting delivery.

9 (3) Service of process shall be considered obtained under K.S.A. 2000  
10 Supp. 61-2902, and amendments thereto, upon the delivery of the sealed  
11 envelope.

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

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

30 (d) Personal and residence service.

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

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

6 (3) Service, levy and execution of all process under this subsection,  
7 including, but not limited to, writs of execution, orders of attachment,  
8 replevin orders, orders for delivery, writs of restitution and writs of assis-  
9 tance, shall be made by a sheriff within the sheriff's county, by the sheriff's  
10 deputy, by an attorney admitted to the practice of law before the supreme  
11 court of Kansas or by some person appointed as a process server by a  
12 judge or clerk of the district court, except that a subpoena may also be  
13 served by any other person who is not a party and is not less than 18 years  
14 of age. Process servers shall be appointed freely and may be authorized  
15 either to serve process in a single case or in cases generally during a fixed  
16 period of time. A process server or an authorized attorney may make the  
17 service anywhere in or out of the state and shall be allowed the fees  
18 prescribed in K.S.A. 28-110, and amendments thereto, for the sheriff and  
19 such other fees and costs as the court shall allow. All persons authorized  
20 under this subsection to serve, levy and execute process shall be consid-  
21 ered an "officer" as used in K.S.A. 60-706 and 60-2401, and amendments  
22 thereto.

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

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

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

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

36 (1) First class mail. Process may be sent to a person by first-class mail  
37 by placing a copy of the process and petition or other document to be  
38 served in an envelope addressed to the person to be served in accordance  
39 with K.S.A. 2000 Supp. 61-3004, and amendments thereto, at such per-  
40 son's last known address. The envelope used for such service shall be  
41 addressed to the person in accordance with K.S.A. 2000 Supp. 61-3004,  
42 and amendments thereto, and shall contain adequate postage. Such en-  
43 velope shall be sealed and placed in the United States mail. Service by

1 first-class mail shall be complete when the envelope is placed in the mail  
2 unless returned undelivered. Service shall be considered obtained upon  
3 the mailing by first-class mail unless returned undelivered.

4 (2) Telefacsimile communication. Process may be sent to a person by  
5 telefacsimile communication. Service is complete upon receipt of a con-  
6 firmation generated by the transmitting machine.

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

10 Sec. 5. K.S.A. 2000 Supp. 61-3302 is hereby amended to read as  
11 follows: 61-3302. (a) A judgment may be entered by master or other  
12 journal entry or judgment form approved by a judge. The judgment shall  
13 be effective from the date the journal entry or judgment form is filed  
14 with the clerk of the court. ~~The form of the A master journal entry or~~  
15 ~~judgment form shall be~~ *substantially in compliance with the form set forth*  
16 ~~in the rules of the supreme court of this state~~ ***appendix of forms pursuant***  
17 ***to rules or orders of the supreme court.***

18 (b) One or more cases may be shown on a *master* journal entry or  
19 judgment form as set forth ~~in the rules of the supreme court of this state~~  
20 ***appendix of forms pursuant to rules or orders of the supreme court.***

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

25 (d) Except as to a party against whom a judgment is entered by de-  
26 fault, every final judgment shall grant the relief to which the party in  
27 whose favor it is rendered is entitled, regardless of whether the party has  
28 demanded such relief in such party's pleadings. Upon entry of such judg-  
29 ment, the party in whose favor judgment is entered shall be deemed to  
30 have waived such party's right to recover any amount due in excess of  
31 such judgment, and such party may not recover in a subsequent lawsuit  
32 any amount in excess of such judgment.

33 (e) Whenever a party has commenced postjudgment proceedings for  
34 the enforcement of a judgment, and such judgment is subsequently set  
35 aside, reversed on appeal or otherwise nullified, such party shall not be  
36 liable for damages as a result of such postjudgment proceedings, unless  
37 it can be proven that the judgment upon which such proceedings were  
38 based was fraudulently obtained.

39 Sec. 6. K.S.A. 2000 Supp. 61-3505 is hereby amended to read as  
40 follows: 61-3505. This section shall apply if the garnishment is to attach  
41 intangible property other than earnings of the judgment debtor.

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

1 ~~of forms~~ **pursuant to rules or orders of the supreme court.**

2 (b) The order of garnishment and the appropriate form for the gar-  
3 nishee's answer shall be served on the garnishee in the same manner as  
4 process is to be served pursuant to K.S.A. 2000 Supp. 61-3001 through  
5 61-3006, and amendments thereto, except that the garnishee may be  
6 served by any means provided under K.S.A. 2000 Supp. 61-3001 through  
7 61-3006, and amendments thereto, at the garnishee's business or office  
8 location and this shall be considered proper service. ~~Two copies~~ A copy  
9 of the answer form shall be served if the garnishment order is not served  
10 electronically. If the order is served prior to a judgment, the order shall  
11 also be served on the judgment debtor, if the judgment debtor can be  
12 found, except that the order shall not be served on the judgment debtor  
13 until after service has been made on the garnishee. Failure to serve the  
14 judgment debtor shall not relieve the garnishee from liability under the  
15 order.

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

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

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

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

43 Sec. 7. K.S.A. 2000 Supp. 61-3507 is hereby amended to read as

1 follows: 61-3507. This section shall apply if the garnishment is to attach  
2 earnings of the judgment debtor.

3 (a) The order of garnishment shall be substantially in compliance with  
4 the forms set forth ~~in the rules of the supreme court of this state~~ *appendix*  
5 ~~of forms~~ **pursuant to rules or orders of the supreme court.**

6 (b) The order of garnishment and the appropriate form for the gar-  
7 nishee's answer shall be served on the garnishee in the same manner as  
8 process is to be served pursuant to K.S.A. 2000 Supp. 61-3001 through  
9 61-3006, and amendments thereto, except that the garnishee may be  
10 served by any means provided under K.S.A. 2000 Supp. 61-3001 through  
11 61-3006, and amendments thereto, at the garnishee's business or office  
12 location and this shall be considered proper service. ~~Two copies~~ *A copy*  
13 of the answer form shall be served if the garnishment order is not served  
14 electronically. If the party having requested the garnishment is notified  
15 by the garnishee that the judgment debtor has never been employed by  
16 the garnishee or the judgment debtor's employment has been terminated,  
17 the party seeking the garnishment shall forthwith file a release with the  
18 clerk of the court of such garnishment.

19 (c) The order of garnishment shall have the effect of attaching the  
20 nonexempt portion of the judgment debtor's earnings for all pay periods  
21 which end while the order is in effect. The order shall remain in effect  
22 until either of the following occur, whichever is sooner: (1) The judgment  
23 is paid; or (2) the garnishment is released. The party for whom the gar-  
24 nishment is issued shall file a release with the clerk of the court upon  
25 satisfaction of the judgment and provide a copy thereof to the defendant  
26 and garnishee. Nonexempt earnings are earnings which are not exempt  
27 from wage garnishment pursuant to K.S.A. 60-2310, and amendments  
28 thereto. Computation of the nonexempt portion of the judgment debtor's  
29 wages for the pay period or periods covered by the order shall be made  
30 in accordance with the directions accompanying the garnishee's answer  
31 form, and a written explanation of the garnishee's computations shall be  
32 furnished to the judgment debtor with each paycheck from which earn-  
33 ings are withheld pursuant to the order of garnishment. The order of  
34 garnishment shall also constitute an order of the court directing the gar-  
35 nishee to pay to the judgment creditor all earnings which are to be with-  
36 held by the garnishee under the order of garnishment as more particularly  
37 provided in the answer of the garnishee.

38 (d) From income due the judgment debtor, the garnishee may with-  
39 hold and retain to defray the garnishee's costs, an administrative fee of  
40 \$10 for each pay period for which income is withheld, not to exceed \$20  
41 for each 30 day period for which income is withheld, whichever is less.  
42 Such administrative fee shall be in addition to the amount required to be  
43 withheld under the order for garnishment. If the addition of this fee

1 causes the total amount withheld to exceed the restrictions imposed by  
2 subsection (b) of K.S.A. 60-2310, and amendments thereto, the fee shall  
3 be deducted from the amount withheld.

4 (e) For any continuing garnishment, the party having requested the  
5 garnishment shall maintain an accounting and record of the judgment  
6 reflecting thereon all garnishment proceeds received and applied, all in-  
7 terest accrued thereon, and any and all credits applied in satisfaction  
8 thereof, and the remaining unsatisfied balance of such judgment. The  
9 party requesting the garnishment shall produce a copy of such accounting  
10 and record upon request of the court.

11 Sec. 8. K.S.A. 2000 Supp. 61-3508 is hereby amended to read as  
12 follows: 61-3508. (a) Immediately following the time the order of gar-  
13 nishment is served on the garnishee, the party seeking the garnishment  
14 shall send a notice to the judgment debtor in any reasonable manner,  
15 notifying the judgment debtor:

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

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

23 (3) of the judgment debtor's right to a hearing on such claim or ob-  
24 jection. The notice shall be substantially in compliance with the form set  
25 forth ~~in the rules of the supreme court of this state appendix of forms~~  
26 **pursuant to rules or orders of the supreme court**, and shall contain a  
27 description of the exemptions that are applicable to garnishments and the  
28 procedure by which the judgment debtor can assert any claim of exemp-  
29 tion. ~~A copy of the notice form shall be served on the garnishee with the~~  
30 ~~order of garnishment.~~

31 (b) If the judgment debtor requests a hearing to assert any claim of  
32 exemption, the request shall be filed no later than 10 days following the  
33 date the notice is served on the judgment debtor. If a hearing is re-  
34 quested, the hearing shall be held by the court no sooner than five days  
35 nor later than 10 days after the request is filed. At the time the request  
36 for hearing is filed, the judgment debtor shall obtain from the clerk or  
37 court the date and time for the hearing which shall be noted on the  
38 request form. Immediately after the request for hearing is filed, the judg-  
39 ment debtor shall hand-deliver to the party seeking the garnishment or  
40 such party's attorney, if the party is represented by an attorney, or mail  
41 to the party seeking the garnishment or such party's attorney, if the party  
42 is represented by an attorney, by first-class mail at the party seeking the  
43 garnishment or such party's attorney's last known address, a copy of the



1 request for hearing.

2 (c) If a hearing is held, the judgment debtor shall have the burden  
3 of proof to show that some or all of the property subject to the garnish-  
4 ment is exempt, and the court shall enter an order determining the ex-  
5 emption and such other order or orders as is appropriate.

6 Sec. 9. K.S.A. 2000 Supp. 61-3509 is hereby amended to read as  
7 follows: 61-3509. This section shall apply if the garnishment is to attach  
8 intangible property other than earnings of the judgment debtor.

9 (a) The answer of the garnishee shall be substantially in compliance  
10 with the forms set forth ~~in the rules of the supreme court of this state~~  
11 ~~appendix of forms~~ **pursuant to rules or orders of the supreme court.**

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

20 Sec. 10. K.S.A. 2000 Supp. 61-3510 is hereby amended to read as  
21 follows: 61-3510. This section shall apply if the garnishment is to attach  
22 earnings of the judgment debtor.

23 (a) The answer of the garnishee shall be substantially in compliance  
24 with the forms set forth ~~in the rules of the supreme court of this state~~  
25 ~~appendix of forms~~ **pursuant to rules or orders of the supreme court.**

26 (b) Within 15 days following the end of each month, the garnishee  
27 shall complete the answer in accordance with the instructions accompa-  
28 nying the answer form for all pay periods ending during the month and  
29 send the completed answer to each judgment creditor and judgment  
30 debtor at the addresses listed on the answer form. The garnishee shall  
31 designate on the answer in the space provided on the answer form the  
32 name and case number for each judgment creditor who has a garnishment  
33 order in effect for the same debtor at the end of each month and the  
34 amount that is due each judgment creditor under the garnishment in  
35 accordance with the instructions accompanying the answer form. Only  
36 one answer needs to be completed for each judgment debtor by the gar-  
37 nishee and the garnishee may duplicate the completed answer in any  
38 manner the garnishee desires for distribution to each judgment creditor  
39 and judgment debtor. The answer shall be supported by unsworn dec-  
40 laration in the manner set forth on the answer form.

41 (c) If there are other liens against the judgment debtor's earnings  
42 which by law have priority over garnishments, the garnishee shall so in-  
43 dicate on the answer. In such event, the garnishment shall remain in

1 effect but no earnings of the debtor shall be withheld under the garnish-  
2 ment order unless and until all of the other liens having priority are re-  
3 leased or satisfied or the earnings being withheld under all of such liens  
4 are less than the amount which is exempt under K.S.A. 60-2310, and  
5 amendments thereto.

6 Sec. 11. K.S.A. 2000 Supp. 61-3513 is hereby amended to read as  
7 follows: 61-3513. This section shall apply if the garnishment is to attach  
8 earnings of the judgment debtor. If no reply is made to the answer of  
9 garnishee within 10 days following the date the garnishee has ~~completed~~  
10 *sent the completed answer to the judgment creditor and judgment debtor*,  
11 the garnishee shall promptly thereafter pay the earnings withheld as in-  
12 dicated on the answer to all judgment creditors designated on the answer  
13 in the amount due each as indicated on the answer, unless the garnishee  
14 receives prior to such payment an order of the court to the contrary. If  
15 any judgment creditor receives more than they are entitled to, that judg-  
16 ment creditor shall promptly pay the excess amount pro-rata to the other  
17 judgment creditors designated on the answer, or if no such other judg-  
18 ment creditors are designated, the judgment creditor shall promptly pay  
19 the excess amount to the judgment debtor.

20 Sec. 12. K.S.A. 2000 Supp. 61-3604 is hereby amended to read as  
21 follows: 61-3604. (a) As an aid to the collection of a judgment, the judg-  
22 ment creditor is entitled to have an order for a hearing in aid of execution  
23 issued by the court at any time after 10 days after judgment. There is no  
24 requirement that an execution first be issued and returned unsatisfied.  
25 No application for such order needs to be filed except as specially re-  
26 quired in this section.

27 (b) An order for a hearing in aid of execution may be issued at the  
28 request of a judgment creditor in an individual case or by a master request  
29 covering more than one case, and shall require the judgment debtor to  
30 *either: (1) Contact the judgment creditor or attorney prior to the date set*  
31 *for the hearing to furnish information under oath or penalty of perjury*  
32 *concerning the judgment debtor's property and income; or (2) appear and*  
33 *furnish information under oath or penalty of perjury when required by*  
34 *the court concerning the debtor's property and income before the court*  
35 *at a time and place specified in the order within the county where the*  
36 *court is situated. The form of the order shall be substantially in compli-*  
37 *ance with the form set forth in rules of the supreme court of this state*  
38 *the appendix of forms pursuant to rules or orders of the supreme*  
39 *court.* The court may cancel the hearing if the judgment debtor has  
40 furnished to the judgment creditor satisfactory information concerning  
41 the debtor's property and income prior to the date and time for the hear-  
42 ing. Witnesses may also be subpoenaed to testify at the hearing.

43 (c) If the judgment debtor resides in another county in this state or

1 outside of this state, the court can order such judgment debtor to appear  
2 if the court finds that it will not cause undue hardship on the judgment  
3 debtor to appear.

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

12 Sec. 13. K.S.A. 2000 Supp. 61-3606 is hereby amended to read as  
13 follows: 61-3606. If a person fails to appear in response to an order for a  
14 hearing in aid of execution, or if a person who has been subpoenaed to  
15 testify at the hearing fails to appear or to testify concerning anything about  
16 which the person can lawfully be questioned, the court shall issue a ci-  
17 tation for contempt to that person providing that the person must ~~either:~~

18 ~~—(a) Contact the judgment creditor or attorney within 10 days to fur-~~  
19 ~~nish information under oath or penalty of perjury concerning the judg-~~  
20 ~~ment debtor's property and income; or~~

21 ~~—(b) appear in court at a date and time specified to show cause why~~  
22 ~~the debtor should not be held in contempt and punished for contempt.~~  
23 ~~The form of the citation for contempt shall be *substantially in compliance*~~  
24 ~~*with the form* set forth in rules of the supreme court of this state ~~the~~~~  
25 ~~*appendix of forms pursuant to rules or orders of the supreme court.*~~  
26 The citation for contempt does not need to be supported by affidavit or  
27 other verification.

28 Sec. 14. K.S.A. 2000 Supp. 61-3608 is hereby amended to read as  
29 follows: 61-3608. (a) If a person fails to comply with the ~~either of the~~  
30 requirements of K.S.A. 2000 Supp. 61-3606, and amendments thereto,  
31 or if it appears to the court that the person is hiding to avoid the process  
32 of the court or is about to leave the county for that purpose, the court  
33 may issue a bench warrant commanding the sheriff to whom it is directed  
34 to bring such person before the court to answer for contempt. The bench  
35 warrant does not need to be supported by affidavit or other verification.  
36 The court may make such orders concerning the release of the person  
37 pending the hearing as the court deems proper.

38 (b) When such person is brought before the court, a hearing shall be  
39 held to determine if the person should be punished for contempt. If the  
40 court determines that the person is guilty of contempt, the court may  
41 punish the person by a fine in an amount to be set by the court or by  
42 imprisonment in the county jail for a period of not to exceed 30 days, or  
43 both. The court may also order the person guilty of contempt to pay the

1 reasonable attorney fees incurred by the judgment creditor in the filing  
2 of the bench warrant and the hearing thereon.

3 Sec. 15. K.S.A. 2000 Supp. 61-3803 is hereby amended to read as  
4 follows: 61-3803. Before a lawsuit to evict a person pursuant to K.S.A.  
5 2000 Supp. 61-3801 through 61-3808, and amendments thereto, is filed,  
6 the party desiring to file such lawsuit shall deliver to the other party a  
7 notice to leave the premises for which possession is sought. The notice  
8 shall be delivered at least three days before commencing the lawsuit, by  
9 leaving a written copy with the other party or by leaving a copy thereof  
10 with any person over the age of 12 years residing on the premises de-  
11 scribed in such notice, or if no such person is found upon the premises,  
12 by posting a copy of such notice in a conspicuous place thereon, or by  
13 mailing a copy of the notice to the other party at the address of the  
14 premises described in the notice. The three day notice period provided  
15 for in this section shall be computed as three consecutive 24-hour periods  
16 to commence at the time the notice is delivered, posted or mailed. If the  
17 notice is mailed, an additional two days from the date of mailing shall be  
18 allowed for the person to leave the premises before the lawsuit is filed.  
19 Intermediate Saturdays, Sundays and legal holidays shall be included in  
20 the computation of the notice period. The ~~form of the~~ notice shall be  
21 substantially in *compliance with* the form set forth ~~in the rules of the~~  
22 ~~supreme court of this state~~ ***appendix of forms pursuant to rules or or-***  
23 ***ders of the supreme court.***

24 Sec. 16. K.S.A. 2000 Supp. 61-3804 is hereby amended to read as  
25 follows: 61-3804. The petition shall describe the premises for which pos-  
26 session is sought and why the plaintiff is seeking possession. If there is  
27 rent due for possession of the premises, the petition may include a request  
28 for judgment for that amount or the plaintiff may bring a subsequent  
29 lawsuit for that amount. The ~~form of the~~ petition shall be *substantially*  
30 *in compliance with the form* set forth ~~in the rules of the supreme court~~  
31 ~~of this state~~ ***appendix of forms pursuant to rules or orders of the su-***  
32 ***preme court.***

33 Sec. 17. K.S.A. 2000 Supp. 61-3808 is hereby amended to read as  
34 follows: 61-3808. (a) If judgment is entered against the defendant for  
35 possession of the subject premises, the court shall issue, at the request of  
36 the plaintiff, a writ of restitution which shall direct anyone who is au-  
37 thorized to serve process and who is named in the writ to place the plain-  
38 tiff in possession of the premises described in the writ. The ~~form of the~~  
39 writ shall be *substantially in compliance with the form* set forth ~~in the~~  
40 ~~rules of the supreme court of this state~~ ***appendix of forms pursuant to***  
41 ***rules or orders of the supreme court.***

42 (b) The writ of restitution shall be executed within 10 days after the  
43 person named in the writ receives it, and that person shall file a return

1 as with other writs under the code of civil procedure for limited actions.  
2 The person serving the writ may use such reasonable force as is necessary  
3 to execute the writ.

4 (c) If the person named in the writ receives a notice from the court  
5 that the proceedings have been stayed by appeal, that person shall im-  
6 mediately delay all further proceedings upon the execution. If the prem-  
7 ises have been restored to the plaintiff, the person named in the writ shall  
8 immediately place the defendant in the possession thereof.

9 Sec. 18. K.S.A. 2000 Supp. 61-4105 is hereby amended to read as  
10 follows: 61-4105. The forms ~~contained in the rules to be adopted here-~~  
11 ~~under by the supreme court~~ **appendix of forms set forth pursuant to**  
12 **rules or orders of the supreme court** are sufficient under this act and  
13 are intended to indicate the simplicity and brevity of statement which this  
14 act contemplates.

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1 Sec. 19. K.S.A. 2000 Supp. 61-2803, 61-2906, 61-2907, 61-3002, 61-  
2 3003, 61-3302, 61-3401, 61-3505, 61-3507, 61-3508, 61-3509, 61-3510,  
3 61-3513, 61-3604, 61-3606, 61-3608, 61-3803, 61-3804, 61-3808 and 61-  
4 4105 are hereby repealed.

5 Sec. 20. This act shall take effect and be in force from and after its  
6 publication in the statute book.

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