

SENATE BILL No. 423

By Committee on Judiciary

2-2

10 AN ACT concerning civil procedure; relating to wage garnishment;
11 amending K.S.A. 2003 Supp. 60-2310 and repealing the existing
12 section.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2003 Supp. 60-2310 is hereby amended to read as
16 follows: 60-2310. (a) *Definitions.* As used in this act and the acts of which
17 this act is amendatory, unless the context otherwise requires, the follow-
18 ing words and phrases shall have the meanings respectively ascribed to
19 them:

20 (1) “Earnings” means compensation paid or payable for personal
21 services, whether denominated as wages, salary, commission, bonus or
22 otherwise;

23 (2) “disposable earnings” means that part of the earnings of any in-
24 dividual remaining after the deduction from such earnings of any amounts
25 required by law to be withheld;

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

29 (4) “federal minimum hourly wage” means that wage prescribed by
30 subsection (a)(1) of section 6 of the federal fair labor standards act of
31 1938, and any amendments thereto.

32 (b) *Restriction on wage garnishment.* Subject to the provisions of sub-
33 section (e), only the aggregate disposable earnings of an individual may
34 be subjected to wage garnishment. The maximum part of such earnings
35 of any wage earning individual which may be subjected to wage garnish-
36 ment for any workweek or multiple thereof may not exceed the lesser of:

37 (1) Twenty-five percent of the individual’s aggregate disposable earnings
38 for that workweek or multiple thereof; (2) the amount by which the in-
39 dividual’s aggregate disposable earnings for that workweek or multiple
40 thereof exceed an amount equal to 30 times the federal minimum hourly
41 wage, or equivalent multiple thereof for such longer period; or (3) the
42 amount of the plaintiff’s claim as found in the order for garnishment. No
43 one creditor may issue more than one garnishment against the earnings

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

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

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

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

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

30 ~~—(3) assignments of accounts receivable or taxes receivable to the di-~~
31 ~~rector of accounts and reports made under K.S.A. 75-3729b and amend-~~
32 ~~ments thereto; or~~

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

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

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

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

1 (3) any debt due for any state or federal tax.
2 ~~(f)~~(e) *Prohibition on courts.* No court of this state may make, execute
3 or enforce any order or process in violation of this section.
4 ~~(g)~~(f) The maximum part of the aggregate disposable earnings of an
5 individual for any workweek which is subject to garnishment to enforce
6 any order for the support of any person shall not exceed:
7 (1) If the individual is supporting a spouse or dependent child (other
8 than a spouse or child with respect to whose support such order is used),
9 50% of the individual's disposable earnings for that week;
10 (2) if the individual is not supporting a spouse or dependent child
11 described in clause (1), 60% of such individual's disposable earnings for
12 that week; and
13 (3) with respect to the disposable earnings of any individual for any
14 workweek, the 50% specified in clause (1) shall be 55% and the 60%
15 specified in clause (2) shall be 65%, if such earnings are subject to gar-
16 nishment to enforce a support order for a period which is prior to the
17 twelve-week period which ends with the beginning of such workweek.
18 Sec. 2. K.S.A. 2003 Supp. 60-2310 is hereby repealed.
19 Sec. 3. This act shall take effect and be in force from and after its
20 publication in the statute book.