

SENATE BILL No. 24

By Committee on Judiciary

1-18

1 AN ACT concerning domestic relations; relating to recodification of
2 certain domestic relations matters; amending K.S.A. 20-164, 20-165,
3 20-302b, 23-4, 118, 60-1606, 60-1613 and 60-1620 and K.S.A. 2010
4 Supp. 12-5005, 60-1629 and 60-3107 and repealing the existing
5 sections; also repealing K.S.A. 23-101, 23-201, 60-1608, 60-1611, 60-
6 1612 and 60-1616 and K.S.A. 2010 Supp. 60-1610.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. The marriage contract is to be considered in law as a
10 civil contract between two parties who are of opposite sex. All other
11 marriages are declared to be contrary to the public policy of this state and
12 are void. The consent of the parties is essential. The marriage ceremony
13 may be regarded either as a civil ceremony or as a religious sacrament,
14 but the marriage relation shall only be entered into, maintained or
15 abrogated as provided by law.

16 New Sec. 2. The state of Kansas shall not recognize a common-law
17 marriage contract if either party to the marriage contract is under 18 years
18 of age.

19 New Sec. 3. The property, real and personal, which any person in
20 this state may own at the time of the person's marriage, and the rents,
21 issues, profits or proceeds thereof, and any real, personal or mixed
22 property which shall come to a person by descent, devise or bequest, and
23 the rents, issues, profits or proceeds thereof, or by gift from any person
24 except the person's spouse, shall remain the person's sole and separate
25 property, notwithstanding the marriage, and not be subject to the disposal
26 of the person's spouse or liable for the spouse's debts.

27 New Sec. 4. An action for divorce shall not be heard until 60 days
28 after the filing of the petition unless the judge enters an order declaring
29 the existence of an emergency, stating the precise nature of the
30 emergency, the substance of the evidence material to the emergency and
31 the names of the witnesses who gave the evidence. A request for an order
32 declaring the existence of an emergency may be contained in a pleading
33 or made by motion. Unless otherwise agreed by the parties, a request for
34 the declaration of an emergency shall not be heard prior to the expiration
35 of the time permitted for the filing of an answer. Unless waived, notice of
36 the hearing requesting the declaration of an emergency shall be given to

1 all parties not in default not less than seven days prior to the date of the
2 hearing. Upon a finding that an emergency exists, the divorce and all
3 issues pertaining thereto may be heard immediately.

4 New Sec. 5. In an action for divorce, the court shall conduct a
5 pretrial conference or conferences in accordance with K.S.A. 60-216, and
6 amendments thereto, upon request of either party or on the court's own
7 motion. Any pretrial conference shall be set on a date other than the date
8 of trial and the parties shall be present or available within the courthouse.

9 New Sec. 6. (a) In an action for divorce, after the filing of the
10 answer or other responsive pleading by the respondent, the court, on its
11 own motion or upon motion of either of the parties, may require both
12 parties to the action to seek marriage counseling if marriage counseling
13 services are available within the judicial district of venue of the action.
14 Neither party shall be required to submit to marriage counseling provided
15 by any religious organization of any particular denomination.

16 (b) The cost of any counseling authorized by this section may be
17 assessed as costs in the case.

18 New Sec. 7. (a) If the parties have entered into a separation
19 agreement which the court finds to be valid, just and equitable, the
20 agreement shall be incorporated in the decree. A separation agreement
21 may include provisions relating to a parenting plan. The provisions of the
22 agreement on all matters settled by it shall be confirmed in the decree
23 except that any provisions relating to the legal custody, residency,
24 visitation parenting time, support or education of the minor children shall
25 be subject to the control of the court in accordance with all other
26 provisions of this article.

27 (b) Matters settled by an agreement incorporated in the decree, other
28 than matters pertaining to the legal custody, residency, visitation,
29 parenting time, support or education of the minor children, shall not be
30 subject to subsequent modification by the court except: (1) As prescribed
31 by the agreement; or (2) as subsequently consented to by the parties.

32 New Sec. 8. (a) Any marriage contracted by a party, within or
33 outside this state, with any other person before a judgment of divorce
34 becomes final shall be voidable until the decree of divorce becomes final.
35 An agreement which waives the right of appeal from the granting of the
36 divorce and which is incorporated into the decree or signed by the parties
37 and filed in the case shall be effective to shorten the period of time during
38 which the remarriage is voidable.

39 (b) A judgment or decree of divorce rendered in any other state or
40 territory of the United States, in conformity with the laws thereof, shall
41 be given full faith and credit in this state, except that, if the respondent in
42 the action, at the time of the judgment or decree, was a resident of this
43 state and did not personally appear or defend the action in the court of

1 that state or territory and that court did not have jurisdiction over the
2 respondent's person, all matters relating to maintenance, property rights
3 of the parties and support of the minor children of the parties shall be
4 subject to inquiry and determination in any proper action or proceeding
5 brought in the courts of this state within two years after the date of the
6 foreign judgment or decree, to the same extent as though the foreign
7 judgment or decree had not been rendered. Nothing in this section shall
8 authorize a court of this state to enter a child custody determination, as
9 defined in K.S.A. 38-1337, and amendments thereto, contrary to the
10 provisions of the uniform child custody jurisdiction and enforcement act.

11 New Sec. 9. In an action for divorce, costs and attorney fees may be
12 awarded to either party as justice and equity require. The court may order
13 that the amount be paid directly to the attorney, who may enforce the
14 order in the attorney's name in the same case.

15 New Sec. 10. Upon the request of a spouse, the court shall order the
16 restoration of that spouse's maiden or former name. The court shall have
17 jurisdiction to restore the spouse's maiden or former name at or after the
18 time the decree of divorce becomes final. The judicial council shall
19 develop a form which is simple, concise and direct for use with this
20 paragraph.

21 New Sec. 11. If a party fails to comply with a provision of a decree,
22 temporary order or injunction issued under K.S.A. 60-1601 et seq., and
23 amendments thereto, the obligation of the other party to make payments
24 for support or maintenance or to permit visitation or parenting time is not
25 suspended, but the other party may request by motion that the court grant
26 an appropriate order.

27 New Sec. 12. (a) All property owned by married persons, including
28 the present value of any vested or unvested military retirement pay, or, for
29 divorce or separate maintenance actions commenced on or after July 1,
30 1998, professional goodwill to the extent that it is marketable for that
31 particular professional, whether described in section 3, and amendments
32 thereto, or acquired by either spouse after marriage, and whether held
33 individually or by the spouses in some form of co-ownership, such as
34 joint tenancy or tenancy in common, shall become marital property at the
35 time of commencement by one spouse against the other of an action in
36 which a final decree is entered for divorce, separate maintenance, or
37 annulment.

38 (b) Each spouse has a common ownership in marital property which
39 vests at the time of commencement of such action, the extent of the
40 vested interest to be determined and finalized by the court, pursuant to
41 section 13, and amendments thereto.

42 New Sec. 13. (a) The decree shall divide the real and personal
43 property of the parties, including any retirement and pension plans,

1 whether owned by either spouse prior to marriage, acquired by either
2 spouse in the spouse's own right after marriage or acquired by the
3 spouses' joint efforts, by: (1) A division of the property in kind; (2)
4 awarding the property or part of the property to one of the spouses and
5 requiring the other to pay a just and proper sum; or (3) ordering a sale of
6 the property, under conditions prescribed by the court, and dividing the
7 proceeds of the sale.

8 (b) Upon request, the trial court shall set a valuation date to be used
9 for all assets at trial, which may be the date of separation, filing or trial as
10 the facts and circumstances of the case may dictate. The trial court may
11 consider evidence regarding changes in value of various assets before and
12 after the valuation date in making the division of property. In dividing
13 defined-contribution types of retirement and pension plans, the court shall
14 allocate profits and losses on the nonparticipant's portion until date of
15 distribution to that nonparticipant.

16 (c) In making the division of property the court shall consider: (1)
17 The age of the parties; (2) the duration of the marriage; (3) the property
18 owned by the parties; (4) their present and future earning capacities; (5)
19 the time, source and manner of acquisition of property; (6) family ties and
20 obligations; (7) the allowance of maintenance or lack thereof; (8)
21 dissipation of assets; (9) the tax consequences of the property division
22 upon the respective economic circumstances of the parties; and (10) such
23 other factors as the court considers necessary to make a just and
24 reasonable division of property.

25 (d) The decree shall provide for any changes in beneficiary
26 designation on: (1) Any insurance or annuity policy that is owned by the
27 parties, or in the case of group life insurance policies, under which either
28 of the parties is a covered person; (2) any trust instrument under which
29 one party is the grantor or holds a power of appointment over part or all
30 of the trust assets, that may be exercised in favor of either party; or (3)
31 any transfer on death or payable on death account under which one or
32 both of the parties are owners or beneficiaries.

33 Nothing in this section shall relieve the parties of the obligation to
34 effectuate any change in beneficiary designation by the filing of such
35 change with the insurer or issuer in accordance with the terms of such
36 policy.

37 New Sec. 14. (a) Any decree of divorce or separate maintenance
38 may award to either party an allowance for future support denominated as
39 maintenance, in an amount the court finds to be fair, just and equitable
40 under all of the circumstances.

41 (b) Maintenance may be in a lump sum, in periodic payments, on a
42 percentage of earnings or on any other basis.

43 (c) The decree may make the future payments modifiable or

1 terminable under circumstances prescribed in the decree.

2 New Sec. 15. At any time, on a hearing with reasonable notice to the
3 party affected, the court may modify the amounts or other conditions for
4 the payment of any portion of the maintenance originally awarded that
5 has not already become due, but no modification shall be made without
6 the consent of the party liable for the maintenance, if it has the effect of
7 increasing or accelerating the liability for the unpaid maintenance beyond
8 what was prescribed in the original decree.

9 New Sec. 16. The court may make a modification of maintenance
10 retroactive to a date at least one month after the date that the motion to
11 modify was filed with the court. In any event, the court may not award
12 maintenance for a period of time in excess of 121 months. If the original
13 court decree reserves the power of the court to hear subsequent motions
14 for reinstatement of maintenance and such a motion is filed prior to the
15 expiration of the stated period of time for maintenance payments, the
16 court shall have jurisdiction to hear a motion by the recipient of the
17 maintenance to reinstate the maintenance payments. Upon motion and
18 hearing, the court may reinstate the payments in whole or in part for a
19 period of time, conditioned upon any modifying or terminating
20 circumstances prescribed by the court, but the reinstatement shall be
21 limited to a period of time not exceeding 121 months. The recipient may
22 file subsequent motions for reinstatement of maintenance prior to the
23 expiration of subsequent periods of time for maintenance payments to be
24 made, but no single period of reinstatement ordered by the court may
25 exceed 121 months.

26 New Sec. 17. (a) Except for good cause shown, every order
27 requiring payment of maintenance under this section shall require that the
28 maintenance be paid through the central unit for collection and
29 disbursement of support payments designated pursuant to K.S.A. 23-
30 4,118, and amendments thereto. A written agreement between the parties
31 to make direct maintenance payments to the obligee and not pay through
32 the central unit shall constitute good cause.

33 (b) If child support and maintenance payments are both made to an
34 obligee by the same obligor, and if the court has made a determination
35 concerning the manner of payment of child support, then maintenance
36 payments shall be paid in the same manner.

37 New Sec. 18. The court shall determine custody or residency of a
38 child in accordance with the best interests of the child.

39 New Sec. 19. If the parties have entered into a parenting plan, it
40 shall be presumed that the agreement is in the best interests of the child.
41 This presumption may be overcome and the court may make a different
42 order if the court makes specific findings of fact stating why the agreed
43 parenting plan is not in the best interests of the child.

1 New Sec. 20. In determining the issue of child custody, residency
2 and parenting time, the court shall consider all relevant factors, including
3 but not limited to:

4 (a) The length of time that the child has been under the actual care
5 and control of any person other than a parent and the circumstances
6 relating thereto;

7 (b) the desires of the child's parents as to custody or residency;

8 (c) the desires of the child as to the child's custody or residency;

9 (d) the interaction and interrelationship of the child with parents,
10 siblings and any other person who may significantly affect the child's
11 best interests;

12 (e) the child's adjustment to the child's home, school and
13 community;

14 (f) the willingness and ability of each parent to respect and
15 appreciate the bond between the child and the other parent and to allow
16 for a continuing relationship between the child and the other parent;

17 (g) evidence of spousal abuse;

18 (h) whether a parent is subject to the registration requirements of the
19 Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments
20 thereto, or any similar act in any other state, or under military or federal
21 law;

22 (i) whether a parent has been convicted of abuse of a child, K.S.A.
23 21-3609, prior to its repeal, or section 79 of chapter 136 of the 2010
24 Session Laws of Kansas, and amendments thereto;

25 (j) whether a parent is residing with an individual who is subject to
26 registration requirements of the Kansas offender registration act, K.S.A.
27 22-4901 et seq., and amendments thereto, or any similar act in any other
28 state, or under military or federal law; and

29 (k) whether a parent is residing with an individual who has been
30 convicted of abuse of a child, K.S.A. 21-3609, prior to its repeal, or
31 section 79 of chapter 136 of the 2010 Session Laws of Kansas, and
32 amendments thereto.

33 New Sec. 21. Neither parent shall be considered to have a vested
34 interest in the custody or residency of any child as against the other
35 parent, regardless of the age of the child, and there shall be no
36 presumption that it is in the best interests of any infant or young child to
37 give custody or residency to the mother.

38 New Sec. 22. There shall be a rebuttable presumption that it is not in
39 the best interest of the child to have custody or residency granted to a
40 parent who: (a) Is residing with an individual who is subject to
41 registration requirements of the Kansas offender registration act, K.S.A.
42 22-4901 et seq., and amendments thereto, or any similar act in any other
43 state, or under military or federal law; or

1 (b) is residing with an individual who has been convicted of abuse of
2 a child, K.S.A. 21-3609, prior to its repeal, or section 79 of chapter 136
3 of the 2010 Session Laws of Kansas, and amendments thereto.

4 New Sec. 23. Subject to the provisions of this article, the court may
5 make any order relating to custodial arrangements which is in the best
6 interests of the child. The order shall provide one of the following legal
7 custody arrangements, in the order of preference: (a) Joint legal custody.
8 The court may order the joint legal custody of a child with both parties. In
9 that event, the parties shall have equal rights to make decisions in the best
10 interests of the child.

11 (b) Sole legal custody. The court may order the sole legal custody of
12 a child with one of the parties when the court finds that it is not in the
13 best interests of the child that both of the parties have equal rights to
14 make decisions pertaining to the child. If the court does not order joint
15 legal custody, the court shall include on the record specific findings of
16 fact upon which the order for sole legal custody is based. The award of
17 sole legal custody to one parent shall not deprive the other parent of
18 access to information regarding the child unless the court shall so order,
19 stating the reasons for that determination.

20 New Sec. 24. After making a determination of the legal custodial
21 arrangements, the court shall determine the residency of the child from
22 the following options, which arrangement the court must find to be in the
23 best interest of the child. The parties shall submit to the court either an
24 agreed parenting plan or, in the case of dispute, proposed parenting plans
25 for the court's consideration. Such options are:

26 (a) Residency. The court may order a residential arrangement in which
27 the child resides with one or both parents on a basis consistent with the
28 best interests of the child.

29 (b) Divided residency. In an exceptional case, the court may order a
30 residential arrangement in which one or more children reside with each
31 parent and have parenting time with the other.

32 (c) Nonparental residency. If during the proceedings the court
33 determines that there is probable cause to believe that the child is a child
34 in need of care as defined by subsections (d)(1), (d)(2), (d)(3) or (d)(11)
35 of K.S.A. 2010 Supp. 38-2202, and amendments thereto, or that neither
36 parent is fit to have residency, the court may award temporary residency
37 of the child to a grandparent, aunt, uncle or adult sibling, or, another
38 person or agency if the court finds by written order that:

39 (1) (A) The child is likely to sustain harm if not immediately removed
40 from the home;

41 (B) allowing the child to remain in the home is contrary to the
42 welfare of the child; or

43 (C) immediate placement of the child is in the best interest of the

1 child; and

2 (2) reasonable efforts have been made to maintain the family unit
3 and prevent the unnecessary removal of the child from the child's home
4 or that an emergency exists which threatens the safety of the child. In
5 making such a residency order, the court shall give preference, to the
6 extent that the court finds it is in the best interests of the child, first to
7 awarding such residency to a relative of the child by blood, marriage or
8 adoption and second to awarding such residency to another person with
9 whom the child has close emotional ties. The court may make temporary
10 orders for care, support, education and visitation that it considers
11 appropriate. Temporary residency orders are to be entered in lieu of
12 temporary orders provided for in K.S.A. 2010 Supp. 38-2243 and 38-
13 2244, and amendments thereto, and shall remain in effect until there is a
14 final determination under the revised Kansas code for care of children.
15 An award of temporary residency under this paragraph shall not terminate
16 parental rights nor give the court the authority to consent to the adoption
17 of the child. When the court enters orders awarding temporary residency
18 of the child to an agency or a person other than the parent, the court shall
19 refer a transcript of the proceedings to the county or district attorney. The
20 county or district attorney shall file a petition as provided in K.S.A. 2010
21 Supp. 38-2234, and amendments thereto, and may request termination of
22 parental rights pursuant to K.S.A. 2010 Supp. 38-2266, and amendments
23 thereto. The costs of the proceedings shall be paid from the general fund
24 of the county. When a final determination is made that the child is not a
25 child in need of care, the county or district attorney shall notify the court
26 in writing and the court, after a hearing, shall enter appropriate custody
27 orders pursuant to this section. If the same judge presides over both
28 proceedings, the notice is not required. Any disposition pursuant to the
29 revised Kansas code for care of children shall be binding and shall
30 supersede any order under this section.

31 New Sec. 25. (a) A parent is entitled to reasonable parenting time
32 unless the court finds, after a hearing, that the exercise of parenting time
33 would seriously endanger the child's physical, mental, moral or emotional
34 health.

35 (b) An order granting visitation rights or parenting time pursuant to
36 this section may be enforced in accordance with the uniform child
37 custody jurisdiction and enforcement act, or K.S.A. 23-701, and
38 amendments thereto.

39 (c) The court may order exchange or visitation to take place at a
40 child exchange and visitation center, as established in K.S.A. 75-720, and
41 amendments thereto.

42 New Sec. 26. (a) Subject to the provisions of the uniform child
43 custody jurisdiction and enforcement act (K.S.A. 38-1336 through 38-

1 1377, and amendments thereto), the court may change or modify any
2 prior order of custody, residency, visitation and parenting time, when a
3 material change of circumstances is shown, but no ex parte order shall
4 have the effect of changing residency of a minor child from the parent
5 who has had the sole de facto residency of the child to the other parent
6 unless there is sworn testimony to support a showing of extraordinary
7 circumstances. If an interlocutory order is issued ex parte, the court shall
8 hear a motion to vacate or modify the order within 15 days of the date
9 that a party requests a hearing whether to vacate or modify the order.

10 (b) The court may order physical or mental examinations of the
11 parties if requested pursuant to K.S.A. 2010 Supp. 60-235, and
12 amendments thereto.

13 New Sec. 27. Motions to modify legal custody, residency, visitation
14 rights or parenting time in proceedings where support obligations are
15 enforced under part D of title IV of the federal social security act (42
16 USC § 651 et seq.), as amended, shall be considered proceedings in
17 connection with the administration of the title IV-D program for the sole
18 purpose of disclosing information necessary to obtain service of process
19 on the parent with physical custody of the child.

20 New Sec. 28. (a) The court may modify an order granting or denying
21 parenting time or visitation rights whenever modification would serve the
22 best interests of the child.

23 (b) Repeated unreasonable denial of or interference with visitation
24 rights or parenting time granted pursuant to this section may be
25 considered a material change of circumstances which justifies
26 modification of a prior order of legal custody, residency, visitation or
27 parenting time.

28 (c) Any party may petition the court to modify an order granting
29 visitation rights or parenting time to require that the exchange or transfer
30 of children for visitation or parenting time take place at a child exchange
31 and visitation center, as established in K.S.A. 75-720, and amendments
32 thereto. The court may modify an order granting visitation whenever
33 modification would serve the best interests of the child.

34 New Sec. 29. (a) Grandparents and stepparents may be granted
35 visitation rights.

36 (b) The court may modify an order granting or denying parenting
37 time or visitation rights whenever modification would serve the best
38 interests of the child.

39 (c) Repeated unreasonable denial of or interference with visitation
40 rights or parenting time granted pursuant to this section may be
41 considered a material change of circumstances which justifies
42 modification of a prior order of legal custody, residency, visitation or
43 parenting time.

1 (d) (1) The court may order exchange or visitation to take place at a
2 child exchange and visitation center, as established in K.S.A. 75-720, and
3 amendments thereto.

4 (2) Any party may petition the court to modify an order granting
5 visitation rights or parenting time to require that the exchange or transfer
6 of children for visitation or parenting time take place at a child exchange
7 and visitation center, as established in K.S.A. 75-720, and amendments
8 thereto. The court may modify an order granting visitation whenever
9 modification would serve the best interests of the child.

10 New Sec. 30. (a) In any action for divorce or separate maintenance
11 the court shall make provisions for the support and education of the
12 minor children.

13 (b) Regardless of the type of custodial arrangement ordered by the
14 court, the court may order the child support and education expenses to be
15 paid by either or both parents for any child less than 18 years of age, at
16 which age the support shall terminate unless:

17 (1) The parent or parents agree, by written agreement approved by
18 the court, to pay support beyond the time the child reaches 18 years of
19 age;

20 (2) the child reaches 18 years of age before completing the child's
21 high school education in which case the support shall not terminate
22 automatically, unless otherwise ordered by the court, until June 30 of the
23 school year during which the child became 18 years of age if the child is
24 still attending high school; or

25 (3) the child is still a bona fide high school student after June 30 of
26 the school year during which the child became 18 years of age, in which
27 case the court, on motion, may order support to continue through the
28 school year during which the child becomes 19 years of age so long as
29 the child is a bona fide high school student and the parents jointly
30 participated or knowingly acquiesced in the decision which delayed the
31 child's completion of high school. The court, in extending support
32 pursuant to subsection (b)(3), may impose such conditions as are
33 appropriate and shall set the child support utilizing the guideline table
34 category for 12-year through 18-year old children. For purposes of this
35 section, "bona fide high school student" means a student who is enrolled
36 in full accordance with the policy of the accredited high school in which
37 the student is pursuing a high school diploma or a graduate equivalency
38 diploma (GED).

39 (c) Provision for payment of support and educational expenses of a
40 child after reaching 18 years of age if still attending high school shall
41 apply to any child subject to the jurisdiction of the court, including those
42 whose support was ordered prior to July 1, 1992. If an agreement
43 approved by the court prior to July 1, 1992, provides for termination of

1 support before the date provided by subsection (b)(3), the court may
2 review and modify such agreement, and any order based on such
3 agreement, to extend the date for termination of support to the date
4 provided by subsection (b)(3).

5 New Sec. 31. In determining the amount to be paid for child support,
6 the court shall consider all relevant factors, without regard to marital
7 misconduct, including the financial resources and needs of both parents,
8 the financial resources and needs of the child and the physical and
9 emotional condition of the child. Until a child reaches 18 years of age, the
10 court may set apart any portion of property of either the husband or wife,
11 or both, that seems necessary and proper for the support of the child.

12 New Sec. 32. The court may order that each parent execute any and
13 all documents, including any releases, necessary so that both parents may
14 obtain information from and to communicate with any health insurance
15 provider regarding the health insurance coverage provided by such health
16 insurance provider to the child. The provisions of this paragraph shall
17 apply irrespective of which parent owns, subscribes or pays for such
18 health insurance coverage.

19 New Sec. 33. Except for good cause shown, every order requiring
20 payment of child support under this section shall require that the support
21 be paid through the central unit for collection and disbursement of
22 support payments designated pursuant to K.S.A. 23-4,118, and
23 amendments thereto. A written agreement between the parties to make
24 direct child support payments to the obligee and not pay through the
25 central unit shall constitute good cause, unless the court finds the
26 agreement is not in the best interest of the child or children. The obligor
27 shall file such written agreement with the court. The obligor shall
28 maintain written evidence of the payment of the support obligation and, at
29 least annually, shall provide such evidence to the court and the obligee.

30 New Sec. 34. (a) The court may modify or change any prior order,
31 including any order issued in a title IV-D case, within three years of the
32 date of the original order or a modification order, when a material change
33 in circumstances is shown, irrespective of the present domicile of the
34 child or the parents. If more than three years has passed since the date of
35 the original order or modification order, a material change in
36 circumstance need not be shown.

37 (b) The court may make a modification of child support retroactive
38 to a date at least one month after the date that the motion to modify was
39 filed with the court. Any increase in support ordered effective prior to the
40 date the court's judgment is filed shall not become a lien on real property
41 pursuant to K.S.A. 60-2202, and amendments thereto.

42 New Sec. 35. If the divorce decree of the parties provides for an
43 abatement of child support during any period provided in such decree, the

1 child support such nonresidential parent owes for such period shall abate
2 during such period of time, except that if the residential parent shows that
3 the criteria for the abatement has not been satisfied there shall not be an
4 abatement of such child support.

5 New Sec. 36. An order granting visitation rights or parenting time
6 pursuant to this section may be enforced in accordance with the uniform
7 child custody jurisdiction and enforcement act, or K.S.A. 23-701, and
8 amendments thereto.

9 Sec. 37. K.S.A. 2010 Supp. 12-5005 is hereby amended to read as
10 follows: 12-5005. (a) Every retired member of a local police or fire
11 pension plan and every active member of the plan who is entitled to make
12 an election to become a member of the Kansas police and firemen's
13 retirement system pursuant to K.S.A. 12-5003 or 74-4955, and
14 amendments thereto, and who does not so elect shall become a special
15 member of the Kansas police and firemen's retirement system on the
16 entry date of the city which is affiliating with the Kansas police and
17 firemen's retirement system with regard to all active members and retired
18 members of the local police or fire pension plan under K.S.A. 74-4954,
19 and amendments thereto.

20 (b) Beginning with the first payroll for services as a policeman or
21 fireman after an active member of a local police or fire pension plan
22 becomes a special member of the Kansas police and firemen's retirement
23 system under this section, the city shall deduct from the compensation of
24 each special member the greater of 7% or the percentage rate of the
25 contribution which the active member was required to contribute to the
26 local police or fire pension plan preceding the entry date of the city, as
27 employee contributions. The deductions shall be remitted quarterly, or as
28 the board of trustees otherwise provides, to the executive secretary of the
29 Kansas public employees retirement system for credit to the Kansas
30 public employees retirement fund. All deductions shall be credited to the
31 special members' individual accounts beginning on July 1 of the year
32 following the entry date of the city for purposes of all active and retired
33 members of the local police and fire pension plan.

34 (c) Except as otherwise provided in this act, each active member of a
35 local police or fire pension plan who becomes a special member of the
36 Kansas police and firemen's retirement system under this section shall be
37 subject to the provisions of and entitled to pensions and other benefits,
38 rights and privileges to the extent provided under the local police and fire
39 pension plan on the day immediately preceding the entry date of the city
40 which is affiliating with the Kansas police and firemen's retirement
41 system with regard to all active members and retired members of the
42 plan.

43 (d) Each retired member of a local police or fire pension plan who

1 becomes a special member of the Kansas police and firemen's retirement
2 system under this section shall be entitled to receive from the Kansas
3 police and firemen's retirement system a pension or any other benefit to
4 the same extent and subject to the same conditions as existed under the
5 local police or fire pension plan on the day immediately preceding the
6 entry date of the city which is affiliating with the system with regard to
7 all active members and retired members of the plan under K.S.A. 74-
8 4954, and amendments thereto, except no retired special member shall be
9 appointed in or to a position or office for which compensation is paid for
10 service to the same state agency, or the same police or fire department of
11 a city, township, special district or county or the same sheriff's office of a
12 county. This subsection shall not apply to service rendered by a retiree as
13 a juror, as a witness in any legal proceeding or action, as an election
14 board judge or clerk or in any other office or position of a similar nature.
15 However, all such benefits paid shall be paid in accordance with the
16 applicable requirements under section 401 (a)(9) of the federal internal
17 revenue code of 1986 as applicable to governmental plans, as in effect on
18 July 1, 2008, and the regulations thereto, as in effect on July 1, 2008, and
19 in accordance with the provisions of K.S.A. 74-49,123, and amendments
20 thereto. Any retiree employed by a participating employer in the Kansas
21 police and firemen's retirement system shall not make contributions or
22 receive additional credit under the system for that service. This
23 subsection, except as it relates to contributions and additional credit, shall
24 not apply to the employment of any retiree by the state of Kansas, or any
25 county, city, township, special district, political subdivision or
26 instrumentality of any one or several of the aforementioned for a period
27 of not exceeding 30 days in any one calendar year.

28 (e) (1) Every pension or other benefit received by any special
29 member pursuant to subsection (c) or (d) is hereby made and declared
30 exempt from any tax of the state of Kansas or any political subdivision or
31 taxing body of this state; shall not be subject to execution, garnishment,
32 attachment or any other process or claim whatsoever, except such pension
33 or benefit or any accumulated contributions due and owing from the
34 system to such special member are subject to decrees for child support or
35 maintenance, or both, as provided in ~~K.S.A. 60-1610~~ *sections 7, 9, 10, 13*
36 *through 24, 26 and 30 through 35*, and amendments thereto; and shall be
37 unassignable, except that within 30 days after the death of a retirant the
38 lump-sum death benefit payable to a retirant pursuant to the provisions of
39 K.S.A. 74-4989, and amendments thereto, may be assignable to a funeral
40 establishment providing funeral services to such retirant by the
41 beneficiary of such retirant. The Kansas public employees retirement
42 system shall not be a party to any action under article 16 of chapter 60 of
43 the Kansas Statutes Annotated, and amendments thereto, and is subject to

1 orders from such actions issued by the district court of the county where
2 such action was filed. Such orders from such actions shall specify either a
3 specific amount or specific percentage of the amount of the pension or
4 benefit or any accumulated contributions due and owing from the system
5 to be distributed by the system pursuant to this act.

6 (2) Every pension or other benefit received by any special member
7 pursuant to subsection (c) or (d) is hereby made and declared exempt
8 from any tax of the state of Kansas or any political subdivision or taxing
9 body of this state; shall not be subject to execution, garnishment,
10 attachment or any other process or claim whatsoever, except such pension
11 or benefit or any accumulated contributions due and owing from the
12 system to such special members are subject to claims of an alternate
13 payee under a qualified domestic relations order. As used in this
14 subsection, the terms "alternate payee" and "qualified domestic relations
15 order" shall have the meaning ascribed to them in section 414(p) of the
16 federal internal revenue code of 1986, as in effect on July 1, 2008. The
17 provisions of this subsection shall apply to any qualified domestic
18 relations order which is in effect on or after July 1, 1994.

19 (f) (1) Subject to the provisions of K.S.A. 74-49,123, and
20 amendments thereto, each participating employer, pursuant to the
21 provisions of section 414(h)(2) of the federal internal revenue code of
22 1986, as in effect on July 1, 2008, shall pick up and pay the contributions
23 which would otherwise be payable by members as prescribed in
24 subsection (b) commencing with the third quarter of 1984. The
25 contributions so picked up shall be treated as employer contributions for
26 purposes of determining the amounts of federal income taxes to withhold
27 from the member's compensation.

28 (2) Member contributions picked up by the employer shall be paid
29 from the same source of funds used for the payment of compensation to a
30 member. A deduction shall be made from each member's compensation
31 equal to the amount of the member's contributions picked up by the
32 employer, provided that such deduction shall not reduce the member's
33 compensation for purposes of computing benefits under K.S.A. 12-5001
34 to 12-5007, inclusive, and amendments thereto.

35 (3) Member contributions picked up by the employer shall be
36 remitted quarterly, or as the board may otherwise provide, to the
37 executive secretary for credit to the Kansas public employees retirement
38 fund. Such contributions shall be credited to a separate account within the
39 member's individual account so that amounts contributed by the member
40 commencing with the third quarter of 1984 may be distinguished from the
41 member contributions picked up by the employer. Interest shall be added
42 annually to members' individual accounts.

43 Sec. 38. K.S.A. 20-164 is hereby amended to read as follows: 20-

1 164. (a) The supreme court shall establish by rule an expedited judicial
 2 process which shall be used in the establishment, modification and
 3 enforcement of orders of support pursuant to the Kansas parentage act;
 4 K.S.A. 23-451 et seq., *or* 39-718a, *prior to their repeal; 39-755, 60-1610,*
 5 ~~and amendments thereto, or~~ K.S.A. 23-4,105 *through* 23-4,118, 23-4,125
 6 *through* 23-4,137, 39-718b *or* 39-755, and amendments thereto; K.S.A.
 7 2007 2010 Supp. 38-2243, 38-2244 *or* 38-2255, and amendments thereto;
 8 ~~or K.S.A. 23-4,105 through 23-4,118 and amendments thereto; or K.S.A.~~
 9 ~~23-4,125 through 23-4,137, and amendments thereto or sections 7, 9, 10,~~
 10 *13 through 24, 26 and 30 through 35, and amendments thereto.*

11 (b) The supreme court shall establish by rule an expedited judicial
 12 process for the enforcement of court orders granting visitation rights or
 13 parenting time.

14 Sec. 39. K.S.A. 20-165 is hereby amended to read as follows: 20-
 15 165. The supreme court shall adopt rules establishing guidelines for the
 16 amount of child support to be ordered in any action in this state including,
 17 but not limited to, K.S.A. 38-1121 *and;* 39-755 and ~~60-1610~~*sections 7, 9,*
 18 *10, 13 through 24, 26 and 30 through 35,* and amendments thereto. In
 19 adopting such rules, the court shall consider the criteria in K.S.A. 38-
 20 1121, *and amendments thereto.*

21 Sec. 40. K.S.A. 20-302b is hereby amended to read as follows: 20-
 22 302b. (a) A district magistrate judge shall have the jurisdiction and power,
 23 in any case in which a violation of the laws of the state is charged, to
 24 conduct the trial of traffic infractions, cigarette or tobacco infractions or
 25 misdemeanor charges, to conduct the preliminary examination of felony
 26 charges and to hear felony arraignments subject to assignment pursuant to
 27 K.S.A. 20-329, and amendments thereto. Except as otherwise provided,
 28 in civil cases, a district magistrate judge shall have jurisdiction over
 29 actions filed under the code of civil procedure for limited actions, K.S.A.
 30 61-2801 et seq., and amendments thereto, and concurrent jurisdiction,
 31 powers and duties with a district judge. Except as otherwise specifically
 32 provided in subsection (b), a district magistrate judge shall not have
 33 jurisdiction or cognizance over the following actions:

34 (1) Any action, other than an action seeking judgment for an
 35 unsecured debt not sounding in tort and arising out of a contract for the
 36 provision of goods, services or money, in which the amount in
 37 controversy, exclusive of interests and costs, exceeds \$10,000. The
 38 provisions of this subsection shall not apply to actions filed under the
 39 code of civil procedure for limited actions, K.S.A. 61-2801 et seq., and
 40 amendments thereto. In actions of replevin, the affidavit in replevin or the
 41 verified petition fixing the value of the property shall govern the
 42 jurisdiction. Nothing in this paragraph shall be construed as limiting the
 43 power of a district magistrate judge to hear any action pursuant to the

- 1 Kansas probate code or to issue support orders as provided by paragraph
2 (6) of this subsection;
- 3 (2) actions against any officers of the state, or any subdivisions
4 thereof, for misconduct in office;
- 5 (3) actions for specific performance of contracts for real estate;
- 6 (4) actions in which title to real estate is sought to be recovered or in
7 which an interest in real estate, either legal or equitable, is sought to be
8 established. Nothing in this paragraph shall be construed as limiting the
9 right to bring an action for forcible detainer as provided in the acts
10 contained in K.S.A. 61-3801 through 61-3808, and amendments thereto.
11 Nothing in this paragraph shall be construed as limiting the power of a
12 district magistrate judge to hear any action pursuant to the Kansas probate
13 code;
- 14 (5) actions to foreclose real estate mortgages or to establish and
15 foreclose liens on real estate as provided in the acts contained in article 11
16 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto;
- 17 (6) actions for divorce, separate maintenance or custody of minor
18 children. Nothing in this paragraph shall be construed as limiting the
19 power of a district magistrate judge to: (A) Except as provided in
20 subsection (e), hear any action pursuant to the Kansas code for care of
21 children or the revised Kansas juvenile justice code; (B) establish, modify
22 or enforce orders of support, including, but not limited to, orders of
23 support pursuant to the Kansas parentage act, K.S.A. *23-4,105 through*
24 *23-4,118, 23-4,125 through 23-4,137, 23-9,101 et seq., 39-718b; or 39-*
25 *755 or 60-1610 or K.S.A. 23-4,105 through 23-4,118, 23-4,125 through*
26 *23-4,137, or K.S.A. 2007 2010 Supp. 38-2338, 38-2339 or 38-2350 or*
27 *sections 7, 9, 10, 13 through 24, 26 and 30 through 35, and amendments*
28 *thereto; or (C) enforce orders granting visitation rights or parenting time;*
- 29 (7) habeas corpus;
- 30 (8) receiverships;
- 31 (9) change of name;
- 32 (10) declaratory judgments;
- 33 (11) mandamus and quo warranto;
- 34 (12) injunctions;
- 35 (13) class actions;
- 36 (14) rights of majority; and
- 37 (15) actions pursuant to K.S.A. 59-29a01 et seq., and amendments
38 thereto.
- 39 (b) Notwithstanding the provisions of subsection (a), in the absence,
40 disability or disqualification of a district judge, a district magistrate judge
41 may:
- 42 (1) Grant a restraining order, as provided in K.S.A. 60-902, and
43 amendments thereto;

1 (2) appoint a receiver, as provided in K.S.A. 60-1301, and
2 amendments thereto; and

3 (3) make any order authorized by K.S.A. 60-1607, and amendments
4 thereto.

5 (c) In accordance with the limitations and procedures prescribed by
6 law, and subject to any rules of the supreme court relating thereto, any
7 appeal permitted to be taken from an order or final decision of a district
8 magistrate judge shall be tried and determined *de novo* by a district judge,
9 except that in civil cases where a record was made of the action or
10 proceeding before the district magistrate judge, the appeal shall be tried
11 and determined on the record by a district judge.

12 (d) Except as provided in subsection (e), upon motion of a party, the
13 chief judge may reassign an action from a district magistrate judge to a
14 district judge.

15 (e) Upon motion of a party for a petition or motion filed under the
16 Kansas code for care of children requesting termination of parental rights
17 pursuant to K.S.A. ~~2007~~ 2010 Supp. 38-2361 through 38-2367, and
18 amendments thereto, the chief judge shall reassign such action from a
19 district magistrate judge to a district judge.

20 Sec. 41. K.S.A. 23-4,118 is hereby amended to read as follows: 23-
21 4,118. (a) The department of social and rehabilitation services, the title
22 IV-D agency for the state, shall maintain a central unit for collection and
23 disbursement of support payments to meet the requirements of title IV-D
24 and this section. Such central unit shall be known as the Kansas payment
25 center. The name "Kansas payment center" shall be reserved for use by
26 the state of Kansas for the functions of the central unit and shall not be
27 used by any entity without the consent of the secretary of social and
28 rehabilitation services.

29 The department may contract with another entity for development,
30 enhancement or operation, in whole or in part, of such central unit. The
31 Kansas payment center shall be subject to the following conditions and
32 limitations:

33 (1) The Kansas payment center shall be subject to the Kansas
34 supreme court rule concerning official child support and maintenance
35 records established pursuant to subsection (c).

36 (2) No contract shall include provisions allowing the contractor to be
37 paid, in whole or in part, on the basis of an amount per phone call
38 received by the center nor allowing the contractor to be paid an amount
39 per check issued for checks that were issued in error by the center.
40 Nothing in this paragraph shall be construed to prevent the secretary of
41 social and rehabilitation services from compensating on the basis of an
42 amount per phone call any contractor that does not process receipts or
43 disbursements under this section.

1 (3) Any contract for processing receipts or disbursements under this
2 section shall include penalty provisions for noncompliance with federal
3 regulations relating to the timeliness of collections and disbursements and
4 shall include a monetary penalty of \$100 for each erroneous transaction,
5 whether related to collection or disbursement. Penalties shall be collected
6 as and when assessed. Of the penalty, \$25 shall be allocated to the obligee
7 and \$75 shall be allocated to the department of social and rehabilitation
8 services.

9 (4) Designees of the secretary of social and rehabilitation services
10 and designees of the office of judicial administration shall have full
11 access to all data, subject to the provisions of title IV-D of the federal
12 social security act, 42 U.S.C. § 651 et seq. Designees of the secretary of
13 social and rehabilitation services, all district court clerks and court
14 trustees shall have access to records of the Kansas payment center
15 sufficient to allow them to assist in the process of matching support
16 payments to the correct accounts.

17 (5) The Kansas payment center shall provide sufficient customer
18 service staff during regular business hours. Obligors and obligees shall be
19 provided 24-hour access to information about the status of receipts and
20 disbursements, including, but not limited to, date of receipt by the center,
21 date of processing by the center and date of disbursement to the obligee.

22 (b) The Kansas payment center shall have, by operation of law, a
23 limited power of attorney to perform the specific act of endorsing and
24 negotiating all drafts, checks, money orders or other negotiable
25 instruments representing support payments received by the center.
26 Nothing in this subsection shall be construed as affecting the property
27 rights or interests of any person in such negotiable instruments. The
28 provisions of this subsection shall apply to any negotiable instrument
29 received by the center on or after October 1, 2000.

30 (c) The Kansas supreme court, by court rule, shall establish the
31 procedure for the creation, maintenance and correction of official child
32 support and maintenance records for use as official court records.

33 (d) The department shall collaborate with the Kansas supreme court
34 to maintain the Kansas payment center, which shall include all support
35 payments subject to the requirements of title IV-D of the federal social
36 security act, 42 U.S.C. § 651 et seq., and, except as specifically directed
37 otherwise by the court pursuant to ~~K.S.A. 60-1610~~ *sections 7, 9, 10, 13*
38 *through 24, 26 and 30 through 35*, and amendments thereto, all other
39 support payments due under a court order entered in this state.

40 (e) Any provision in any support order or income withholding order
41 entered in this state which requires remittance of support payments to the
42 clerk of the district court or district court trustee shall be deemed to
43 require remittance of support payments to the Kansas payment center,

1 regardless of the date the support or income withholding order was
2 entered.

3 (f) (1) Except as otherwise provided in this subsection, payments
4 received by the Kansas payment center which cannot be matched to any
5 account nor returned to the payor shall be transferred to the state treasurer
6 in accordance with the unclaimed property act.

7 (2) Except as otherwise provided in this subsection, disbursements
8 which cannot be delivered to the payee after a good faith effort to locate
9 the payee shall be transferred to the state treasurer in accordance with the
10 unclaimed property act.

11 (3) To the extent that the secretary of social and rehabilitation
12 services would be required to treat as federal program income any
13 amount transferable to the state treasurer pursuant to this subsection or
14 the unclaimed property act, such amount shall not be presumed
15 abandoned but shall be held by the secretary until the amount may be
16 delivered to the true owner. The secretary and the state treasurer shall
17 collaborate on procedures for locating the true owner and confirming
18 claims to amounts so held.

19 Sec. 42. K.S.A. 60-1606 is hereby amended to read as follows: 60-
20 1606. The court shall grant a requested decree of divorce, separate
21 maintenance or annulment unless the granting of the decree is
22 discretionary under this act or unless the court finds that there are no
23 grounds for the requested alteration of marital status. If a decree of
24 divorce, separate maintenance or annulment is denied for lack of grounds,
25 the court shall nevertheless, if application is made by one of the parties,
26 make the orders authorized by ~~subsections (a) and (b) of K.S.A. 60-1610~~
27 *sections 1 and 2*, and amendments thereto.

28 Sec. 43. K.S.A. 60-1613 is hereby amended to read as follows: 60-
29 1613. (a) The provisions of K.S.A. 23-4,107, *and amendments thereto*,
30 shall apply to all orders of support issued under ~~K.S.A. 60-1610~~ *sections*
31 *7, 9, 10, 13 through 24, 26 and 30 through 35*, and amendments thereto.

32 (b) Any assignment previously ordered under this section remains
33 binding on the employer, trustee or other payor of the earnings or income.
34 The payor shall withhold from the earnings or trust income payable to the
35 person obligated to support the amount specified in the assignment and
36 shall transmit the payments to the district court trustee or the person
37 specified in the order. The payor may withhold from the earnings or trust
38 income payable to the person obliged to pay support a cost recovery fee
39 of \$5 for each payment made or \$10 for each month for which payment is
40 made, whichever is less. An employer shall not discharge or otherwise
41 discipline an employee as a result of an assignment previously ordered
42 under this section.

43 Sec. 44. K.S.A. 60-1620 is hereby amended to read as follows: 60-

1 1620. (a) Except as provided in subsection (d), a parent entitled to legal
2 custody or residency of or parenting time with a child pursuant to ~~K.S.A.~~
3 ~~60-1610 sections 7, 9, 10, 13 through 24, 26 and 30 through 35~~, and
4 amendments thereto, shall give written notice to the other parent not less
5 than 30 days prior to: (1) Changing the residence of the child; or (2)
6 removing the child from this state for a period of time exceeding 90 days.
7 Such notice shall be sent by restricted mail, return receipt requested, to
8 the last known address of the other parent.

9 (b) Failure to give notice as required by subsection (a) is an indirect
10 civil contempt punishable as provided by law. In addition, the court may
11 assess, against the parent required to give notice, reasonable attorney fees
12 and any other expenses incurred by the other parent by reason of the
13 failure to give notice.

14 (c) A change of the residence or the removal of a child as described
15 in subsection (a) may be considered a material change of circumstances
16 which justifies modification of a prior order of legal custody, residency,
17 child support or parenting time. In determining any motion seeking a
18 modification of a prior order based on change of residence or removal as
19 described in (a), the court shall consider all factors the court deems
20 appropriate including, but not limited to: (1) The effect of the move on
21 the best interests of the child; (2) the effect of the move on any party
22 having rights granted pursuant to ~~K.S.A. 60-1610 sections 7, 9, 10, 13~~
23 ~~through 24, 26 and 30 through 35~~, and amendments thereto; and (3) the
24 increased cost the move will impose on any party seeking to exercise
25 rights granted under ~~K.S.A. 60-1610 sections 7, 9, 10, 13 through 24, 26~~
26 ~~and 30 through 35~~, and amendments thereto.

27 (d) A parent entitled to the legal custody or residency of a child
28 pursuant to ~~K.S.A. 60-1610 sections 7, 9, 10, 13 through 24, 26 and 30~~
29 ~~through 35~~, and amendments thereto, shall not be required to give the
30 notice required by this section to the other parent when the other parent
31 has been convicted of any crime specified in article 34, 35 or 36 of
32 chapter 21 of the Kansas Statutes Annotated in which the child is the
33 victim of such crime.

34 Sec. 45. K.S.A. 2010 Supp. 60-1629 is hereby amended to read as
35 follows: 60-1629. (a) A parent entitled to legal custody of, or residency
36 of, or parenting time with a child pursuant to ~~K.S.A. 60-1610 sections 7,~~
37 ~~9, 10, 13 through 24, 26 and 30 through 35~~, and amendments thereto,
38 shall give written notice to the other parent of one or more of the
39 following events when such parent: (1) Is subject to the registration
40 requirements of the Kansas offender registration act, K.S.A. 22-4901; et
41 seq., and amendments thereto, or any similar act in any other state, or
42 under military or federal law; (2) has been convicted of abuse of a child,
43 K.S.A. 21-3609, *prior to its repeal, or section 79 of chapter 136 of the*

1 2010 Session Laws of Kansas, and amendments thereto; (3) is residing
2 with an individual who is known by the parent to be subject to the
3 registration requirements of the Kansas offender registration act, K.S.A.
4 22-4901, et seq., and amendments thereto, or any similar act in any other
5 state, or under military or federal law; or (4) is residing with an individual
6 who is known by the parent to have been convicted of abuse of a child,
7 K.S.A. 21-3609, *prior to its repeal, or section 79 of chapter 136 of the*
8 *2010 Session Laws of Kansas*, and amendments thereto. Such notice shall
9 be sent by restricted mail, return receipt requested, to the last known
10 address of the other parent within 14 days following such event.

11 (b) Failure to give notice as required by subsection (a) is an indirect
12 civil contempt punishable as provided by law. In addition, the court may
13 assess, against the parent required to give notice, reasonable attorney fees
14 and any other expenses incurred by the other parent by reason of the
15 failure to give notice.

16 (c) An event described in subsection (a) may be considered a
17 material change of circumstances which justifies modification of a prior
18 order of legal custody, residency, child support or parenting time.

19 Sec. 46. K.S.A. 2010 Supp. 60-3107 is hereby amended to read as
20 follows: 60-3107. (a) The court may approve any consent agreement to
21 bring about a cessation of abuse of the plaintiff or minor children or grant
22 any of the following orders:

23 (1) Restraining the defendant from abusing, molesting or interfering
24 with the privacy or rights of the plaintiff or of any minor children of the
25 parties. Such order shall contain a statement that if such order is violated,
26 such violation may constitute assault as provided in ~~K.S.A. 21-~~
27 ~~3408~~ *subsection (a) of section 47 of chapter 136 of the 2010 Session Laws*
28 *of Kansas*, and amendments thereto, battery as provided in ~~K.S.A. 21-~~
29 ~~3412~~ *subsection (a) of section 48 of chapter 136 of the 2010 Session Laws*
30 *of Kansas*, and amendments thereto, domestic battery as provided in
31 ~~K.S.A. 21-3412~~ *section 49 of chapter 136 of the 2010 Session Laws of*
32 *Kansas*, and amendments thereto, and violation of a protective order as
33 provided in ~~K.S.A. 21-3843~~ *section 149 of chapter 136 of the 2010*
34 *Session Laws of Kansas*, and amendments thereto.

35 (2) Granting possession of the residence or household to the plaintiff
36 to the exclusion of the defendant, and further restraining the defendant
37 from entering or remaining upon or in such residence or household,
38 subject to the limitation of subsection (d). Such order shall contain a
39 statement that if such order is violated, such violation shall constitute
40 criminal trespass as provided in ~~subsection (e) of K.S.A. 21-3721~~ *section*
41 *94 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
42 thereto, and violation of a protective order as provided in ~~K.S.A. 21-~~
43 ~~3843~~ *section 149 of chapter 136 of the 2010 Session Laws of Kansas*, and

1 amendments thereto. The court may grant an order, which shall expire 60
2 days following the date of issuance, restraining the defendant from
3 cancelling utility service to the residence or household.

4 (3) Requiring defendant to provide suitable, alternate housing for the
5 plaintiff and any minor children of the parties.

6 (4) Awarding temporary custody and residency and establishing
7 temporary parenting time with regard to minor children.

8 (5) Ordering a law enforcement officer to evict the defendant from
9 the residence or household.

10 (6) Ordering support payments by a party for the support of a party's
11 minor child, if the party is the father or mother of the child, or the
12 plaintiff, if the plaintiff is married to the defendant. Such support orders
13 shall remain in effect until modified or dismissed by the court or until
14 expiration and shall be for a fixed period of time not to exceed one year.
15 On the motion of the plaintiff, the court may extend the effect of such
16 order for 12 months.

17 (7) Awarding costs and attorney fees to either party.

18 (8) Making provision for the possession of personal property of the
19 parties and ordering a law enforcement officer to assist in securing
20 possession of that property, if necessary.

21 (9) Requiring any person against whom an order is issued to seek
22 counseling to aid in the cessation of abuse.

23 (10) Ordering or restraining any other acts deemed necessary to
24 promote the safety of the plaintiff or of any minor children of the parties.

25 (b) No protection from abuse order shall be entered against the
26 plaintiff unless:

27 (1) The defendant properly files a written cross or counter petition
28 seeking such a protection order;

29 (2) the plaintiff had reasonable notice of the written cross or counter
30 petition by personal service as provided in subsection (d) of K.S.A. 60-
31 3104, and amendments thereto; and

32 (3) the issuing court made specific findings of abuse against both the
33 plaintiff and the defendant and determined that both parties acted
34 primarily as aggressors and neither party acted primarily in self-defense.

35 (c) Any order entered under the protection from abuse act shall not
36 be subject to modification on ex parte application or on motion for
37 temporary orders in any action filed pursuant to K.S.A. 60-1601 et seq.,
38 or K.S.A. 38-1101 et seq., and amendments thereto. Orders previously
39 issued in an action filed pursuant to K.S.A. 60-1601 et seq., or K.S.A. 38-
40 1101 et seq., and amendments thereto, shall be subject to modification
41 under the protection from abuse act only as to those matters subject to
42 modification by the terms of ~~K.S.A. 60-1610 et seq.~~ *sections 7, 9, 10, 13*
43 *through 24, 26 and 30 through 35*, and amendments thereto, and on

1 sworn testimony to support a showing of good cause. Immediate and
2 present danger of abuse to the plaintiff or minor children shall constitute
3 good cause. If an action is filed pursuant to ~~K.S.A. 60-1610 et seq.~~
4 ~~sections 7, 9, 10, 13 through 24, 26 and 30 through 35~~, or K.S.A. 38-1101
5 et seq., and amendments thereto, during the pendency of a proceeding
6 filed under the protection from abuse act or while an order issued under
7 the protection from abuse act is in effect, the court, on final hearing or on
8 agreement of the parties, may issue final orders authorized by ~~K.S.A. 60-~~
9 ~~1610 sections 7, 9, 10, 13 through 24, 26 and 30 through 35~~, and
10 amendments thereto, that are inconsistent with orders entered under the
11 protection from abuse act. Any inconsistent order entered pursuant to this
12 subsection shall be specific in its terms, reference the protection from
13 abuse order and parts thereof being modified and a copy thereof shall be
14 filed in both actions. The court shall consider whether the actions should
15 be consolidated in accordance with K.S.A. 60-242, and amendments
16 thereto. Any custody or parenting time order, or order relating to the best
17 interests of a child, issued pursuant to the revised Kansas code for care of
18 children or the revised Kansas juvenile justice code, shall be binding and
19 shall take precedence over any such custody or parenting order involving
20 the same child issued under the protection from abuse act, until
21 jurisdiction under the revised Kansas code for care of children or the
22 revised Kansas juvenile justice code is terminated. Any inconsistent
23 custody or parenting order issued in the revised Kansas code for care of
24 children case or the revised Kansas juvenile justice code case shall be
25 specific in its terms, reference any preexisting protection from abuse
26 order and the custody being modified, and a copy of such order shall be
27 filed in the preexisting protection from abuse case.

28 (d) If the parties to an action under the protection from abuse act are
29 not married to each other and one party owns the residence or household,
30 the court shall not have the authority to grant possession of the residence
31 or household under subsection (a)(2) to the exclusion of the party who
32 owns it.

33 (e) Subject to the provisions of subsections (b), (c) and (d), a
34 protective order or approved consent agreement shall remain in effect
35 until modified or dismissed by the court and shall be for a fixed period of
36 time not to exceed one year, except that, on motion of the plaintiff, such
37 period may be extended for one additional year.

38 (f) The court may amend its order or agreement at any time upon
39 motion filed by either party.

40 (g) No order or agreement under the protection from abuse act shall
41 in any manner affect title to any real property.

42 (h) If a person enters or remains on premises or property violating an
43 order issued pursuant to subsection (a)(2), such violation shall constitute

1 criminal trespass as provided in ~~subsection (e) of K.S.A. 21-3721~~*section*
2 *94 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
3 thereto, and violation of a protective order as provided in ~~K.S.A. 21-~~
4 ~~3843~~*section 149 of chapter 136 of the 2010 Session Laws of Kansas*, and
5 amendments thereto. If a person abuses, molests or interferes with the
6 privacy or rights of another violating an order issued pursuant to
7 subsection (a)(1), such violation may constitute assault as provided in
8 ~~K.S.A. 21-3408~~*subsection (a) of section 47 of chapter 136 of the 2010*
9 *Session Laws of Kansas*, and amendments thereto, battery as provided in
10 ~~K.S.A. 21-3412~~*subsection (a) of section 48 of chapter 136 of the 2010*
11 *Session Laws of Kansas*, and amendments thereto, domestic battery as
12 provided in ~~K.S.A. 21-3412~~*section 49 of chapter 136 of the 2010*
13 *Session Laws of Kansas*, and amendments thereto, and violation of a
14 protective order as provided in ~~K.S.A. 21-3843~~*section 149 of chapter 136*
15 *of the 2010 Session Laws of Kansas*, and amendments thereto.

16 Sec. 47. K.S.A. 20-164, 20-165, 20-302b, 23-101, 23-201, 23-4,118,
17 60-1606, 60-1608, 60-1611, 60-1612, 60-1613, 60-1616 and 60-1620 and
18 K.S.A. 2010 Supp. 12-5005, 60-1610, 60-1629 and 60-3107 are hereby
19 repealed.

20 Sec. 48. This act shall take effect and be in force from and after its
21 publication in the statute book.