

SENATE BILL No. 403

By Committee on Judiciary

2-14

1 AN ACT concerning civil procedure and civil actions; relating to writ of
2 habeas corpus; abuser of writ; amending K.S.A. 2013 Supp. 60-1501
3 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2013 Supp. 60-1501 is hereby amended to read as
7 follows: 60-1501. (a) Subject to the provisions of K.S.A. 60-1507, and
8 amendments thereto, any person in this state who is detained, confined or
9 restrained of liberty on any pretense whatsoever, and any parent, guardian;
10 or next friend for the protection of infants or allegedly incapacitated or
11 incompetent persons, physically present in this state may prosecute a writ
12 of habeas corpus in the supreme court, court of appeals or the district court
13 of the county in which such restraint is taking place. *Except as provided in*
14 *subsection (e)*, no docket fee shall be required, as long as the petitioner
15 complies with the provisions of subsection (b) of K.S.A. 60-2001, and
16 amendments thereto.

17 (b) Except as provided in K.S.A. 60-1507, and amendments thereto,
18 an inmate in the custody of the secretary of corrections shall file a petition
19 for writ pursuant to subsection (a) within 30 days from the date the action
20 was final, but such time is extended during the pendency of the inmate's
21 timely attempts to exhaust such inmate's administrative remedies.

22 (c) Except as provided in K.S.A. 60-1507, and amendments thereto, a
23 patient in the custody of the secretary of social and rehabilitation services
24 pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall file a
25 petition for writ pursuant to subsection (a) within 30 days from the date the
26 action was final, but such time is extended during the pendency of the
27 patient's timely attempts to exhaust such patient's administrative remedies.

28 (d) *A court shall not be required to entertain a second or successive*
29 *petition for writ pursuant to subsection (a) for similar relief on behalf of*
30 *the same person.*

31 (e) (1) *A district court, in its discretion, may find a person who has*
32 *filed multiple, meritless petitions under this section to be an abuser of the*
33 *writ and may issue an order designating the person as an abuser of the*
34 *writ.*

35 (2) *An order designating a person to be an abuser of the writ may be*
36 *appealed to the Kansas court of appeals and shall be reviewed under an*

1 *abuse of discretion standard. Such appeal shall be expedited and the final*
2 *decision of the Kansas court of appeals shall not be the subject of a*
3 *petition for rehearing or a petition for review to the Kansas supreme*
4 *court.*

5 *(3) A person who has been designated as an abuser of the writ shall*
6 *not be allowed to file additional petitions under this section absent an*
7 *order from the Kansas court of appeals authorizing such petition.*

8 *(A) Before a petition under this section may be filed in the district*
9 *court, such person shall move in the Kansas court of appeals for an order*
10 *authorizing the district court to consider the petition.*

11 *(B) The Kansas court of appeals may authorize the filing of a petition*
12 *by such person only if it determines that the petition: (i) Does not raise a*
13 *claim that has been considered and denied in a prior proceeding; (ii) does*
14 *not seek the same or similar relief as a prior petition under this section;*
15 *and (iii) makes a prima facie showing of a reasonable likelihood of*
16 *success on the merits.*

17 *(4) Notwithstanding the provisions of subsection (b) of K.S.A. 60-*
18 *2001, and amendments thereto, a person who has been designated as an*
19 *abuser of the writ shall be required to pay all docket fees to file a petition*
20 *under this section.*

21 *(f) If any provision or provisions of this section or the application*
22 *thereof to any person or circumstance is held invalid, the invalidity shall*
23 *not affect other provisions or applications of this section which can be*
24 *given effect without the invalid provision or provisions or application, and*
25 *to this end the provisions of this section are severable.*

26 Sec. 2. K.S.A. 2013 Supp. 60-1501 is hereby repealed.

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