

HOUSE BILL No. 2613

By Committee on Judiciary

2-2

9 AN ACT concerning civil procedure; relating to joinder of persons;
10 amending K.S.A. 60-219 and repealing the existing section.

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

13 Section 1. K.S.A. 60-219 is hereby amended to read as follows: 60-
14 219. (a) *Persons to be joined if feasible.* (1) Whenever a “contingently
15 necessary” person, as hereafter defined, is subject to service of process,
16 ~~he~~ *the person* shall be joined as a party in the action. If ~~he~~ *the person* has
17 not been so joined, the court shall order that ~~he~~ *the person* be made a
18 party. If ~~he~~ *the person* should join as a plaintiff but refuses to do so, ~~he~~
19 *the person* may be made a defendant, or, in a proper case, an involuntary
20 plaintiff. If the joined party objects to venue and ~~his~~ *joinder of the person*
21 would render the venue of the action improper, ~~he~~ *the person* shall be
22 dismissed from the action.

23 (2) A person is contingently necessary if ~~(1)~~: (A) Complete relief can-
24 not be accorded in ~~his~~ *the person’s* absence among those already parties;
25 or ~~(2)~~ ~~he~~ (B) *the person is a party or nominee with whom or in whose*
26 *name a contract has been made for the benefit of another, such person or*
27 *party* claims an interest relating to the property or transaction which is
28 the subject of the action and ~~he~~ *such person or party* is so situated that
29 the disposition of the action in ~~his~~ *the absence the person or party* may
30 (i) as a practical matter substantially impair or impede ~~his~~ *the person or*
31 *party’s* ability to protect that interest or (ii) leave any of the persons
32 already parties subject to a substantial risk of incurring double, multiple,
33 or otherwise inconsistent obligations by reason of ~~his~~ *the person or party’s*
34 claimed interest.

35 (b) *Determination by court whenever joinder not feasible.* If a con-
36 tingently necessary person cannot be made a party, the court shall deter-
37 mine whether in equity and good conscience the action ought to proceed
38 among the parties before it or ought to be dismissed. The factors to be
39 considered by the court include: First, to what extent a judgment ren-
40 dered in the absence of the contingently necessary person might be prej-
41 udicial to ~~him~~ *the person* or those already parties; second, the extent to
42 which, by protective provisions in the judgment, by the shaping of relief,
43 or other measures, the prejudice can be lessened or avoided; third,

1 whether a judgment rendered in the absence of the contingently neces-
2 sary person would be adequate; fourth, whether the plaintiff would have
3 an adequate remedy if the action were dismissed for nonjoinder.

4 (c) *Pleading reasons for nonjoinder.* A pleading asserting a claim for
5 relief shall state the names, if known to the pleader, of contingently nec-
6 essary persons who are not joined, and the reasons why they are not
7 joined.

8 (d) *Exception of class actions.* This section is subject to the provisions
9 of K.S.A. 60-223, *and amendments thereto.*

10 Sec. 2. K.S.A. 60-219 is hereby repealed.

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