

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

Held in Room 526, at the Statehouse at 3:30 a. m./p. m., on February 6, 1979.

All members were present except:

The next meeting of the Committee will be held at 3:30 a. m./p. m., on February 7, 1979

These minutes of the meeting held on February 5, 1979 were considered, corrected and approved.

JOSEPH J. HOAGLAND

Chairman

The conferees appearing before the Committee were:

Mr. Saul D. Kass, representing the K.A.C.I.
Mr. Fred Rivers, Executive Vice-President of the Merchants Association
of Kansas City
Max Moses, Executive Director, Ks. County and District Attorneys Assn.
Rep. Heinemann, Sponsor of HB 2124
Rep. Augustine, Sponsor of HB 2190
Mr. Charles Henson, Kansas Bankers Association

Chairman Hoagland called the meeting to order at 3:30 p.m. and the minutes of the last meeting were approved.

The Chairman introduced Saul Kass, representative of K.A.C.I. who presented the committee with written material explaining why they are in favor of HB 2127. (SEE ATTACHMENT # 1).

Fred Rivers, Executive Vice-President of the Merchants Association of Kansas City, also briefly stated their association's support of HB 2127.

Max Moses, County and District Attorney's Association, stated they also support the bill in concept.

Chairman Hoagland then introduced Rep. Heinemann, sponsor of HB 2124, who briefly explained the purpose of the bill.

Max Moses indicated they support the bill in concept because it gives the law enforcement officers another alternative. After some discussion by several committee members, Chairman Hoagland assigned HB 2124 to the Family Law Sub-Committee for further study and recommendation.

Representative Augustine then explained HB 2190 briefly to the committee and then introduced Charles Henson, with the Kansas Bankers Association, who stated their support of the bill and some possible amendments to the bill. (SEE ATTACHMENTS # 2 and # 3).

The Chairman then adjourned the meeting at 4:30 p.m.

**MERCHANTS'
ASSOCIATION
of Greater
Kansas City**

1000 WALTOWER BLDG. • 823 WALNUT • KANSAS CITY, MO. 64106 • PHONE: (816) 842-8750

SUBJECT: PHOTOGRAPHS AS ADMISSIBLE EVIDENCE

DEAR MEMBER:

Fact: 85% of all merchandise submitted for evidence in shoplifting cases is seasonal in nature; therefore, by definition "Perishable" in the sense that 95% of it is wearing apparel which has an approximate sales span of 3 to 5 weeks. Food retailers' merchandise is 99% perishable.

The afore fact is the reason your Security Committee has for over the past six months worked to establish a procedure using a photograph of merchandise as evidence in the courts rather than the actual merchandise.

The procedure outlined has been approved by the Kansas City Missouri police attorney, the city and county prosecuting attorneys, and the presiding judges of the municipal and magistrate courts. The presiding judges have advised the other judges in their courts and the procedure has been explained.

We foresee no problems with the system and will monitor it closely. We request that if any problems develop, they be reported to the Association office.

We have experimented using the new procedure and here is our suggestions:

CAMERA: All photographs will be taken with an instant developing camera (Example - Polaroid or Kodak Instant) Flashbulbs and color film will be needed.

SITE AND PROPS: Select areas in your stores that can be set up permanently for taking pictures. A pegboard painted white is an ideal backdrop and it will permit using various type hooks to hang and display merchandise. There will be occasions that a table will be needed for merchandise that can't be displayed on the pegboard. It, too, should be covered in white.

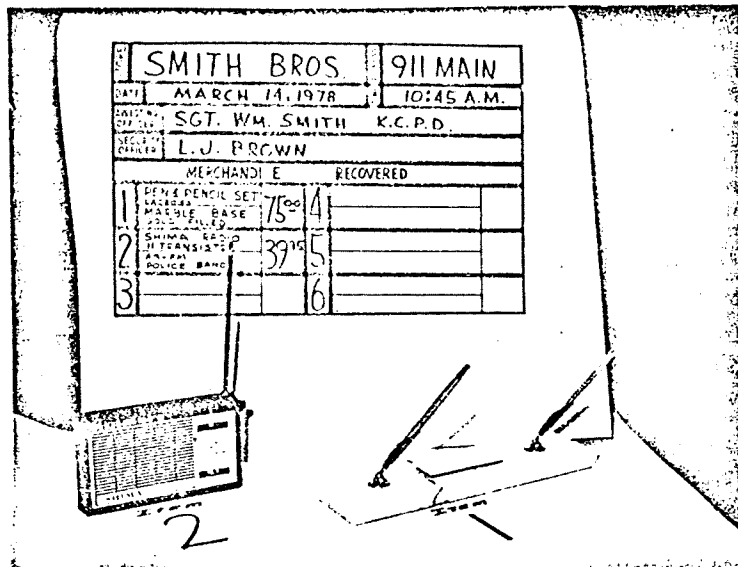
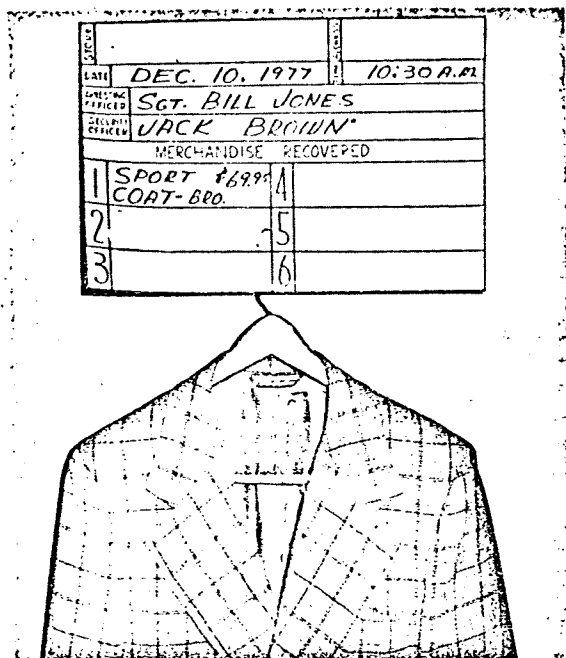
PREPARATION FOR PICTURE: Form No. 1 will be used in the identification picture and it should have the following information. (Sample Attached):

- A. Name of mercantile establishment
- B. Address
- C. Date of wrongful taking
- D. Time of wrongful taking
- E. Name of arresting officer
- F. Name of mercantile security officer

This information should be printed on Form 1 with bold printing so it can be seen in picture.

Form No. 1 has space allotted for six items of merchandise. For easy identification we suggest that each piece of merchandise carry a corresponding number to that listed on Form 1. This can be done by attaching a 3" X 5" card on each piece of merchandise. There will be times, due to the size of the merchandise, that it can not be grouped in one picture and a second picture will be necessary.

The finished photograph will look like this, only in color.



Form No. 2. This form contains the following information: (Sample Attached)

- A. Date
- B. Name of mercantile establishment
- C. Address
- D. Time of wrongful taking
- E. Name, description and price of merchandise recovered
- F. Arresting officer signature
- G. Security officer signature
- H. Witness during interrogation signature (If accused is female)
- I. Photographer's signature
- J. Affix photograph in space allotted
- K. Affix tickets from merchandise.
 - 1. If tickets are not available, give the following information in space allotted.
 - a. Vendor
 - b. Manufacturer's Number
 - c. Style
 - d. Color
 - e. Size
 - f. Price

All of the information required on Form #2 shall be made under oath by the arresting police officer, the security officer of the mercantile establishment and the photographer if not an employee of the mercantile establishment.

PHOTOGRAPHS AS ADMISSIBLE EVIDENCE

The finished photographs should be signed on the back by the arresting police officer, the date and store name. We suggest this be done as protection in the event the picture becomes detached from Form 2.

Form No. 2 when properly executed with a colored photograph of merchandise and price tickets attached, serves the same purpose as the actual merchandise being introduced as evidence in shoplifting cases.

This procedure eliminates the need for the actual merchandise ever to leave your store.

In cases that are tried in the magistrate court, Form 2 will be filed with the police property room officer rather than the actual merchandise.

After this procedure has been tried and tested in the Kansas City Municipal courts and the Jackson County Magistrate courts, we will make contact and explain our program to the judges of Wyandotte and Johnson counties of Kansas, Clay County and Independence, Missouri.

NOTE: In order that all of our members use the approved forms, we have had a supply printed and they are available on your request. Use order form below.

This program will start Monday, June 18. This will allow ample time to get the required form to all of our members and for our members to get camera, supplies and props ready for the taking of pictures.

Prior to June 18, we will contact the Kansas City Police Department and the judges involved advising them of the date our program starts.

ORDER FORM

PLEASE SEND THE FOLLOWING ORDER TO:

STORE _____

ADDRESS _____

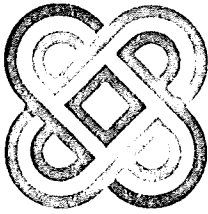
ATTENTION _____

PADS OF FORM NO. 1
100 Forms for \$5.00
Non-Member \$10.00

PADS OF FORM NO. 2
100 Forms for \$2.50
Non-Member \$5.00

Plus Postage

Mail order to: MERCHANTS ASSOCIATION OF GREATER KANSAS CITY
823 Walnut, Kansas City, Missouri 64106



Office of the City Attorney

City of Kansas City, Missouri
Heart of America

28th Floor, City Hall
Kansas City, Missouri 64106

816 274-1415

January 19, 1979

The Honorable William R. O'Toole, Chairman
House Judiciary Committee
State Office Building
Jefferson City, Missouri

Re: House Bill 623

Dear Chairman O'Toole:

Fred Rivers, Executive Vice-President of the Merchants' Association of Greater Kansas City, has requested that I express my thoughts on House Bill 623 to the Judiciary Committee.

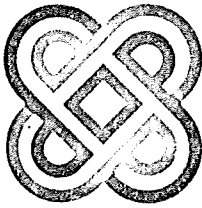
As City Attorney of Kansas City, Missouri, I have had the opportunity to review the use of photographic evidence in the prosecution of theft cases before the Municipal Court of Kansas City. We have found that photographs of stolen property, when properly identified, are more than adequate to apprise the Court of the quantity and quality of the stolen property without depriving the crime victim of the use or benefit of his stolen property pending initial trial and appeal of the case. Many times, merchandise stolen from a commercial establishment, has a limited seasonal sale value to the merchant and the retention of such seasonal merchandise for physical evidence causes the crime victim additional economic hardship for which the law provides no adequate remedy. Needless to say, a private citizen also suffers from his loss of use of property stolen from him when it is being held as evidence for future prosecution.

I would, therefore, urge your favorable consideration of House Bill 623 in order that all citizens of Missouri could benefit from the favorable experience that we have enjoyed in substituting a photograph of the stolen property after it has been released to the crime victim.

Very truly yours,


Aaron A. Wilson
City Attorney

AAW:djs



Municipal Court

City of Kansas City, Missouri
Heart of America

1101 Locust Street
Kansas City, Missouri 64106

Salvatore S. Nigro	Judge of Division 1
Charles J. DeFeo, Jr.	Judge of Division 2
James F. Karl	Judge of Division 3
Thomas E. Sims	Judge of Division 4
Elmo M. Hargrave	Judge of Division 5
Leonard S. Hughes, Jr.	Judge of Division 6
George C. Denney	Judge of Division 7

Edwin T.S. Miller
816-474-4040

Court Administrator

January 22, 1979


Fred C. Rivers
Executive Vice President
Merchants' Association of Greater Kansas City
1000 Waltower Building, 823 Walnut
Kansas City, MO 64106

Dear Mr. Rivers:

I am writing in reply to your request in your letter of January 19, 1979 concerning the use of photographic evidence in our court in cases resulting from larcenies in the stores of Kansas City, Missouri. I should like to tell you we wholeheartedly support the bill in the legislature legalizing this procedure throughout the State of Missouri.

This procedure is most helpful in cases involving perishable merchandise such as meat or dairy products. If we can be of further assistance, please let us know.

Sincerely,


Elmo M. Hargrave
Judge, Division V

EMH/dw

POLICE DEPARTMENT
KANSAS CITY, MISSOURI 64106



NORMAN A. CARON
Chief of Police

June 21, 1978

Mr. Fred Rivers
Executive Secretary
Merchants Association of
Greater Kansas City
823 Walnut
Kansas City, Missouri 64106

Dear Fred:

We approved the shoplifting plan today and I am enclosing a copy of the proposed order for your information.

Thank you very much for all your help.

Yours truly,

Manfred Maier, Attorney
Kansas City Police Department

MM:dr
Enclosure

Dear Member:

The attached sheets contain the procedural instructions for the police officers in our program, Photographs as Admissable Evidence"

The program will be implemented on Monday, July 3, 1978.

If you have any questions, please call our office.

Yours very truly,

MERCHANTS ASSOCIATION
OF GREATER KANSAS CITY

Fred C Rivers
Executive Vice President

NOTE:

G.O. - Recovered Property

I. INTRODUCTION

The Merchants' Association of Greater Kansas City has developed a plan to photograph a stolen article(s) and present the photograph(s) in court as admissible evidence in lieu of the article itself. This procedure will apply only to shoplifting cases in Jackson County, Kansas City, Missouri, and will be at the complainant's option. This plan has been approved by the department's legal advisor, the city and county prosecuting attorneys, and the presiding judges of the Municipal and Magistrate Courts. This plan is to be implemented June 18, 1978. If an individual merchant is not participating in the plan, normal procedures set out in Procedural Instruction 74-3 shall be followed. Any questions from business owners concerning this plan should be referred to the Merchants' Association of Greater Kansas City.

II. PURPOSE

To inform all personnel of some procedural changes in larceny-shoplift cases within Jackson County.

III. PROCEDURE

The complainant of a larceny-shoplift may elect to photograph the recovered property for admissible evidence purposes rather than releasing the physical property. If he so chooses, the following procedures shall be followed:

1. In all cases at the Municipal Court level, the complainant shall supply the photographic equipment, take the pictures, fill out the forms supplied by the Merchants' Association, and maintain custody of the pictures and the forms until the court date. The reporting officer's only responsibility is to note in the investigation report that the photos were taken, who has custody of them, sign the photograph (if he is present when it was taken), include the date and store name after his signature, sign the Merchants' Association forms in the appropriate space and include the Case Report Number after his signature.

2. In cases that are tried at the Magistrate Court level, the same procedures that are set out in paragraph one shall be followed except that the mercantile security officer or an appropriate representative shall place the photographs and the Merchants' Association forms in a sealed envelope and initial the envelope. The reporting officer will complete a Physical Evidence Inventory Report, Form 236 P.D., in addition to the investigation report, attach the sealed envelope to the Evidence Inventory Report and transfer the items to the Property and Evidence Unit in accordance with existing procedures.

Norman A. Caron
Chief of Police

DISTRIBUTION: All Law Enforcement Personnel
All Bureaus, Divisions, and Units

I have read the above instruction and understand it. _____

Date _____



MAIN, TWELFTH AND WALNUT STREETS
KANSAS CITY, MISSOURI 64105

January 22, 1979

Mr. Fred C. Rivers
Executive Vice President
Merchants Association
1000 Waltower Bldg.
823 Walnut
Kansas City, Mo. 64106

Dear Mr. Rivers:

As you know, in June 1978 the judicial system in Kansas City, Missouri stipulated to the use of photographs as admissible evidence. Since that time our company has been using this new procedure. Our company is extremely pleased with the success we have experienced with the photograph as evidence.

From June 1978, through December 1978, our security officers have appeared in the courts of the Kansas City, Missouri judicial system 188 times to testify at shoplifting hearings. Of these cases, not one has been lost due to the use of the photograph as evidence.

The recovery of merchandise for these cases amounts to \$12,137.57, and many of the cases are still pending. What is extremely important about this is that we were able to put the merchandise that had been stolen back in stock immediately after the arrest thus allowing us the opportunity to sell the merchandise while it is still in season and preventing this company from suffering an unnecessary monetary loss.

This system also takes away wasted time of preparing of and placing stolen merchandise in our property room. This time saved can be put to much better use by allowing security officers to return to the selling floor and possibly prevent additional losses.

Mr. Fred C. Rivers
January 22, 1979
Page 2

Under the old system of the 188 cases, many times the police officer responding to our stores would have to make a recovered property report as well as the offense report. Once the recovery property report is completed the merchandise in such cases would have to be transferred by officers to the police property room taking up many valuable hours of police officers time and taking them off the streets preventing them from performing much more needed police services.

In my opinion, the photograph as admissable evidence is certainly a step in the right direction and something needed for a long time.

On behalf of The Jones Store Company I wish to thank you for your efforts in helping achieve this worthwhile procedure.

Attached is a case example of how we use the photograph and prepare our cases for court.

Kindest regards,

THE JONES STORE CO.


Charles R. Sartain
Director of Security

Encl. - 1

RECORD OF MERCHANDISE WRONGFULLY TAKEN

A. DATE _____
 B. STORE _____
 C. ADDRESS _____
 TIME _____

E. MERCHANDISE RECOVERED

1. ITEM _____
 DESCRIPTION _____

 PRICE _____

2. ITEM _____
 DESCRIPTION _____

 PRICE _____

3. ITEM _____
 DESCRIPTION _____

 PRICE _____

4. ITEM _____
 DESCRIPTION _____

 PRICE _____

WE ATTEST UNDER OATH THIS INFORMATION IS TRUE.

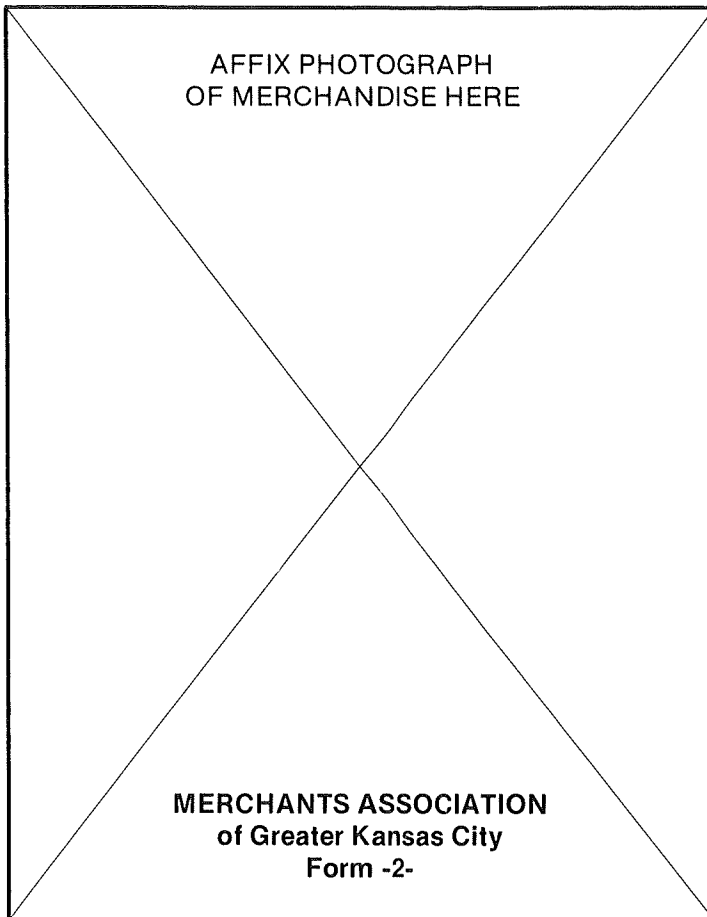
Arresting Officer

G. _____
Security Officer

H. _____
Witness During Interrogation

I. _____
Photographer

AFFIX PHOTOGRAPH
OF MERCHANDISE HERE



MERCHANTS ASSOCIATION
of Greater Kansas City
Form -2-

K. REMOVE TICKETS FROM MERCHANDISE STAPLE HERE.

IF TICKETS ARE NOT AVAILABLE, COMPLETE THE FOLLOWING.

ITEM 1	ITEM 2
Vendor _____ Mfg No _____ Style _____ Color _____ Size _____ Price _____	Vendor _____ Mfg No _____ Style _____ Color _____ Size _____ Price _____
ITEM 3	ITEM 4
Vendor _____ Mfg No _____ Style _____ Color _____ Size _____ Price _____	Vendor _____ Mfg No _____ Style _____ Color _____ Size _____ Price _____

L. _____
Name of Accused in Wrongful Taking

STORE

[Empty box for store name]

ADDRESS

MERCHANTS ASSOCIATION OF GREATER KANSAS CITY (Form -1-)

[Empty box for address]

DATE

[Empty box for date]

TIME

[Empty box for time]

ARRESTING OFFICER

[Empty box for arresting officer name]

SECURITY OFFICER

[Empty box for security officer name]

MERCHANDISE RECOVERED

1	DESCRIPTION	PRICE	4	DESCRIPTION	PRICE
		\$			\$
2	DESCRIPTION	PRICE	5	DESCRIPTION	PRICE
		\$			\$
3	DESCRIPTION	PRICE	6	DESCRIPTION	PRICE
		\$			\$

Amend H.B. 2190 as follows:

In new Section 1, line 23, by striking all after the word "of"; in line 24, by striking all before the period, and by inserting in lieu thereof: "property, funds, credits or indebtedness to be withheld by garnishee"; in line 25, by striking the word "money" where first appearing and inserting in lieu thereof: "property, funds, credits or indebtedness"; in line 25, by striking all after the word "the"; in line 26, by striking all before the word "may" and inserting in lieu thereof: "defendant"; in line 26, by striking the words "such person" and substituting in lieu thereof: "the defendant"; in line 27, by striking the word "money" and inserting in lieu thereof: "property, funds, credits or indebtedness"; in line 27, by striking the phrase: "due or claimed"; by striking all of sub-section (b).

Following line 36, by inserting the following: "Sec. 2. K.S.A. 60-715 is hereby amended to read as follows: 60-715. An order of garnishment before judgment may be obtained and shall be issued by the clerk of the court where the action is pending, upon the filing of an affidavit showing a ground or grounds of attachment, the amount of the plaintiff's claim in the principal action, the payment of a search fee of \$ _____ to be allowed as costs in the action, and the giving of a bond, if required by this article for the procurement of an order of attachment, except that garnishment shall not be commenced before judgment on plaintiff's claim in the principal action where such garnishment proceedings affect the earnings of the defendant. The order of garnishment may be in lieu of, or in addition to, the order of attachment, as designated by the written direction of the party seeking the order.

"Sec. 3. K.S.A. 60-716 is hereby amended to read as follows: 60-716. As an aid to the enforcement of the judgment, an order of garnishment may be obtained and shall be issued by the clerk of the court from which execution is issuable, either in connection with an execution or independently thereof as designated by the written direction of the party entitled to enforce the judgment. Such written direction shall be accompanied by a search fee of \$ _____ to be allowed as costs in the action and shall designate whether the order of garnishment is to be issued for the purpose of attaching earnings or for the purpose of attaching other property of the judgment debtor, and shall state the amount of the judgment. If such party seeks to attach earnings of the judgment debtor for the purpose of enforcing (1) an order of any court for the support of any person, (2) an order of any court of bankruptcy under Chapter XIII of the Federal Bankruptcy Act or (3) a debt due for any state or federal tax, his or her written direction shall so

Atch. 2

indicate. No bond is required for an order of garnishment issued after judgment."

In Sec. 2, line 37, by renumbering the section as Section 4; in line 42 following the second comma, by inserting the following: "shall state the amount of property, funds, credits or indebtedness to be withheld by garnishee which shall be one and one-half (1-1/2) times the amount of plaintiff's claim as stated in the affidavit or one and one-half (1-1/2) times the amount of the judgment in the principal action as stated in the written direction of the party entitled to enforce the judgment. The order"; in line 46 by inserting the following after the colon: "If you hold any property, funds, credits or indebtedness belonging to or owing the defendant,"; by making the first letter of the word "The" lower case; by striking the words "due or claimed" and inserting in lieu thereof the following: "to be withheld by you pursuant to"; by inserting the following after the word "is": "not to exceed"; in line 51, by inserting the following at the end of the line: ", funds or credits"; in line 54, by inserting the following after the word "such": "funds, credits or"; in line 57 by inserting the following after the word "property": ", credits, indebtedness"; in line 59 by inserting the following after the word "property": ", credits, indebtedness"; in line 60 by inserting after the comma the following: "credits or funds" and by striking the word "due"; in line 61 by striking the words "or claimed as"; in line 76 by striking the words "due or claimed" and inserting in lieu thereof the following: "to be held by you pursuant to"; by inserting the following after the word "is": "not to exceed"; in line 87 by striking the word "due"; in line 88 by striking the words "or claimed as"; in line 98 by inserting the following after the numbers 60-716: ", as amended"; in line 111 by inserting the following after the word "with": "the search fee and"; in line 124 following the word "credits" by inserting the following: ", funds"; in line 126 by striking the words "due or claimed"; in line 128 following the word "credits" by inserting the following: ", funds"; in line 131 by striking the word "due"; in line 132 by striking the words: "or claimed as"; in line 138 by striking the words: "due or claimed as"; in line 141 by striking the words "due or claimed as"; in line 143 by inserting the following after the period: "Should the garnishee hold funds or credits, or be indebted to defendant, in two or more accounts, the garnishee may withhold payment of the amount attached from any one or more of such accounts."; in line 147 by striking the words "due or claimed as";

In line 154 by renumbering the section as Section 5; in line 160 by inserting the following after the period: "If the answer of the garnishee is mailed to the clerk of the court it shall be

deemed filed when mailed."; in line 170 by striking the phrase "money, personal" and "goods, chattels,"; in line 171 by striking "stocks, rights" and "evidence of" and inserting the following prior to the word "credits": "funds,"; in line 172 by inserting a comma after the word "earnings", by striking the words "or money held by me" and inserting in lieu thereof the following: "except that", and by striking the words "due or"; in line 173 by striking the words "claimed as"; in line 175 by inserting after the word "money" the following: "or credits"; in line 184 by inserting after the word "funds" the following: ", credits, indebtedness"; in line 188 by inserting after the word "~~estate~~" the following: "up to the amount stated in the order of garnishment"; in line 189 by inserting after the word "property" the following: ", credits, indebtedness" and by striking the words "other than money held by"; in line 190 by striking the words "me which is", and the words "due or claimed as"; in line 194 by striking the following: "moneys," and inserting in lieu thereof the following: "funds, property, credits and indebtedness" and by striking the following: "due or claimed as"; in line 229 by striking the words "due or claimed as"; in line 318 by striking the words "due or claimed as"; in line 324 by striking the words "due or claimed as"; in line 334 by striking the words "due or claimed as"; in line 343 by striking the words "the filing" and inserting "receipt" in lieu thereof, and by inserting after the word "answer" the following: "and the filing of the answer by the clerk";

Following line 368 by inserting the following: "Sec. 6. K.S.A. 1978 Supp. 60-721 is hereby amended to read as follows: 60-721. (a) Upon determination of the issues, either by admissions in the answer or reply, or by default, or by findings of the court on controverted issues, judgment shall be entered fixing the rights and liabilities of all the parties in the garnishment proceedings (1) by determining the liability of garnishee upon default, or (2) discharging the garnishee, or (3) making available to the satisfaction of the claim of the plaintiff any indebtedness due from the garnishee to the defendant which has been attached or any property in the hands of the garnishee belonging to the defendant which has been attached, including ordering the payment of money by the garnishee into court, or the impoundment, preservation and sale of property as provided for the disposition of attached property, or (4) rendering judgment against the garnishee for the amount of his or her indebtedness to the defendant which has been attached, or for the value of any property of the defendant held by the garnishee which has been attached, and (5) if the answer of a garnishee is controverted without good cause, the court may award the garnishee judgment against the party controverting such answer damages for his or her expenses, including reasonable

attorneys' fees, necessarily incurred in substantiating the same.

(b) When judgment...

"Sec. 7. K.S.A. 61-2003 is hereby amended to read as follows: 61-2003. An order of garnishment before judgment may be obtained and shall be issued by the clerk of the court where the action is pending, upon the filing of an affidavit showing a ground or grounds of attachment, the amount of the plaintiff's claim in the principal action, the payment of a search fee of \$_____ to be allowed as cost in the action, and the giving of a bond if required for the procurement of an order of attachment, except that garnishment proceedings shall not be commenced before judgment on plaintiff's claim in the principal action where such garnishment proceedings affect the earnings of the defendant: provided, That in all personal actions arising upon contract no bond shall be required upon the filing of an affidavit by one of the parties, his or her agent or attorney that (1) the opposing party is justly indebted upon contract to the party filing the affidavit in a given amount over and above all just credits and set-offs and (2) that he or she believes that the named garnishee defendant has property or credits in his or her custody or control belonging to such opposing party.

"The order of garnishment may be in lieu of, or in addition to, the order of attachment, as designated by the written direction of the party seeking the order."

"Sec. 8. K.S.A. 61-2004 is hereby amended to read as follows: 61-2004. As an aid to the enforcement of the judgment, an order of garnishment may be obtained and shall be issued by the clerk of the court from which execution is issuable, either in connection with an execution or independently thereof, and without the requirement that an execution be returned unsatisfied, as designated by the written direction of the party entitled to enforce the judgment. Such written direction shall be accompanied by a search fee of \$_____ to be allowed as costs in the action and shall designate whether the order of garnishment is to be issued for the purpose of attaching earnings or for the purpose of attaching other property of the judgment debtor, and shall state the amount of the judgment. If such party seeks to attach earnings of the judgment debtor for the purpose of enforcing (1) an order of any court for the support of any person, (2) an order of any court of bankruptcy under Chapter XIII of the Federal Bankruptcy Act or (3) a debt due for any state or federal tax, his or her written direction shall so indicate. No bond is required for an order of garnishment issued after judgment."

In line 369 by renumbering the section as section 9; in line 377 by inserting the following after the second comma: "as amended,";

in line 391 by inserting after the word "with" the following: "the search fee and"; in line 405 by inserting after the word "credits" the following: ", funds,"; in line 407 by striking the words "due or claimed"; in line 410 by inserting after the word "credits" the following: ", funds"; in line 413 by striking the words "due or claimed, as"; in line 419 by striking the words "due or claimed as"; in line 422 by striking the words "due or"; in line 423 by striking the words "claimed as"; in line 424 by inserting the following after the period: "Should the garnishee hold funds or credits, or be indebted to defendant, in two or more accounts the garnishee may withhold payment of the amount attached from any one or more of such accounts."; in line 428 by striking the words "due or claimed as".

Following line 434 by inserting the following: "Sec. 10. K.S.A. 61-2006 is hereby amended to read as follows: 61-2006. Within ten (10) days after service upon him or her of an order of garnishment issued for the purpose of attaching any property, funds, credits or indebtedness belonging to or owing the defendant, other than earnings, and within thirty (30) days after service upon him or her of an order of garnishment issued for the purpose of attaching any earnings due and owing the defendant, the garnishee shall file his or her verified answer thereto with the clerk of the court stating the facts with respect to the demands of the order: provided, That where the office or principal place of business of the garnishee is outside the county where said court is situated, said garnishee shall file an answer within thirty (30) days. If the answer of the garnishee is mailed to the clerk of the court, it shall be deemed filed when mailed. The answer of the garnishee may be on the appropriate form prescribed in the appendix to this act, but in no event shall the garnishee's answer contain less than that so prescribed in said form.

"The clerk shall cause a copy of the answer to be mailed promptly to the plaintiff and also to the defendant at the address to which summons was directed. Within ten (10) days after the filing receipt of the answer and the filing of the answer by the clerk, the plaintiff or defendant, or both of them, may reply thereto, controverting any statement therein.

"If the garnishee fails to answer...

"Sec. 11. K.S.A. 61-2009 is hereby amended to read as follows: 61-2009. The provisions of K.S.A. 60-721, as amended, shall be applicable to actions pursuant to this chapter."

In line 435, by renumbering the section as section 12; by

striking line 452 and inserting the following in lieu thereof: "If you hold any property, funds, credits or indebtedness belonging to or owing the defendant, the amount to be withheld by you pursuant to this order of garnishment is not to exceed \$ _____. You are"; in line 457 by inserting after the word "property" the following: ", funds or credits"; in line 460 by inserting after the word "such" the following: "funds, credits or"; in line 462 by inserting after the word "property" the phrase "credits, indebtedness"; in line 465 by inserting after the word "property" the following phrase: ", credits, indebtedness"; in line 466 by striking the words "due or claimed as";

In line 498 by renumbering the section as section 13; in line 513 by striking the words "due or claimed in" and inserting in lieu thereof the following: "to be withheld by you pursuant to", and by inserting the words "not to exceed" before the dollar sign; in line 524 by striking the words "due or"; in line 525 by striking the words "claimed as".

In line 555 by renumbering the section as section 14; in line 566 by striking the words "money, personal" and "goods, chattels,"; in line 567 by striking the words "stocks, rights" and inserting the word "funds" in lieu thereof, and by striking the words "evidence of"; in line 568 by striking the words "or money held by me" and inserting in lieu thereof the words "except that", and by striking the words "due or"; in line 569 by striking the words "claimed as"; in line 571 by inserting after the word "money" the following: "or credits"; in line 581 by inserting after the word "funds" the words ", credits, indebtedness"; in line 586 by inserting after the word "estate" the following: "up to the amount stated in the order of garnishment"; in line 587 by inserting after the word "property" the following: ", credits, indebtedness", and by striking the phrase "other than money held by me"; in line 588 by striking the phrase "which is", and by striking the phrase "due or claimed as"; in line 592 by striking the word "moneys" and inserting in lieu thereof the following: "funds, property, credits and indebtedness", and by striking the words: "due or claimed as".

In line 604 by renumbering the section as section 15; in line 623 by striking the phrase: "due or claimed as"; in line 710 by striking the phrase "due or claimed as"; in line 716 by striking the phrase "due or claimed as"; in line 725 by striking the phrase "due or claimed as".

In line 733, by striking the line and inserting in lieu thereof the following: "Sec. 16. K.S.A. 60-715, 60-716, 60-721, 61-2003, 61-2004, 61-2006 and 61-2009, and K.S.A. 1978 Supp. 60-717, 60-718 and 61-2005 are".

In line 735 by renumbering the section as section 17.

Make appropriate amendments to the title of the bill.

HOUSE BILL No. 2190

By Representatives Augustine, Brewster and Stites

1-24

0016 AN ACT relating to garnishment; requiring orders of garnish-
0017 ment to specify the amount of money due or claimed; amend-
0018 ing K.S.A. 1978 Supp. 60-717, 60-718 and 61-2005 and repeal-
0019 ing the existing sections; also amending Forms Nos. 7, 7a, 8
0020 and 8a of the appendix of forms following K.S.A. 61-2605.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 New Section 1. (a) All orders of garnishment issued in this
0023 state shall specify the amount of ~~money which is due to or~~
0024 ~~claimed by the party seeking the garnishment. A garnishee hold-~~
0025 ~~ing money belonging or owed to the person whose money is~~
0026 ~~being garnished may pay to such person that portion of such~~
0027 ~~money which is in excess of the amount due or claimed as stated~~
0028 in the order of garnishment.

0029 ~~(b) - In the case of any prejudgment garnishment the judge~~
0030 ~~reviewing the affidavits in support of the order shall designate~~
0031 ~~the amount claimed for which the judge will permit an order of~~
0032 ~~garnishment to be issued, and such amount shall be stated in the~~
0033 ~~order. In the case of post judgment garnishments the party seek-~~
0034 ~~ing the garnishment shall inform the clerk of the district court of~~
0035 ~~the amount due; and the clerk shall state such amount in the order~~
0036 ~~of garnishment.~~

0037 Sec. 2. K.S.A. 1978 Supp. 60-717 is hereby amended to read
0038 as follows: 60-717. (a) Form. (1) An order of garnishment, issued
0039 independently of an attachment, either prior to judgment or as an
0040 aid for the enforcement of a judgment, for the purpose of attach-
0041 ing any property, funds, credits or indebtedness belonging to or
0042 owing the defendant, other than earnings, is declared to be
0043 sufficient if substantially in the following form:

0044 "In the District Court of _____ County, Kansas, A. B.,
0045 Plaintiff, vs. C. D., Defendant, and E. F., Garnishee. The State of Kansas to said

property, funds, credits or
indebtedness to be withheld
by garnishee

property, funds, credits or
indebtedness

defendant

the defendant

property, funds, credits or
indebtedness

Well Paved Case

Sec. 2. K.S.A. 60-715 is hereby amended to read as follows: 60-715. An order of garnishment before judgment may be obtained and shall be issued by the clerk of the court where the action is pending, upon the filing of an affidavit showing a ground or grounds of attachment, the amount of the plaintiff's claim in the principal action, the payment of a search fee of \$ to be allowed as costs in the action, and the giving of a bond, if required by this article for the procurement of an order of attachment, except that garnishment shall not be commenced before judgment on plaintiff's claim in the principal action where such garnishment proceedings affect the earnings of the defendant. The order of garnishment may be in lieu of, or in addition to, the order of attachment, as designated by the written direction of the party seeking

Sec. 3. K.S.A. 60-716 is hereby amended to read as follows: 60-716. As an aid to the enforcement of the judgment, an order of garnishment may be obtained and shall be issued by the clerk of the court from which execution is issuable, either in connection with an execution or independently thereof as designated by the written direction shall be accompanied by a search fee of \$ to be allowed as costs in the action and shall designate whether the order of garnishment is to be issued for the purpose of attaching earnings or for the purpose of attaching other property of the judgment debtor, and shall state the amount of the judgment. If such party seeks to attach earnings of the judgment debtor for the purpose of enforcing (1) an order of any court for the support of any person, (2) an order of any court of bankruptcy under Chapter XIII of the Federal Bankruptcy Act or (3) a debt due for any state or federal tax, his or her written direction shall so indicate. No bond is required for an order of garnishment issued after judgment.

of the party submitted to the judgment shall without direction

4 shall state the amount of property, funds, credits or indebtedness to be withheld by garnishee which shall be one and one-half (1-1/2) times the amount of plaintiff's claim as stated in the affidavit or one and one-half (1-1/2) times the amount of the judgment in the principal action as stated in the written direction of the party seeking to enforce

Atch. 3

0046 Garnishee: ~~The amount due or claimed in this order of garnishment is \$~~
 0047 You are hereby ordered as a garnishee to file with the clerk of the above named
 0048 court, within twenty (20) days after service of this order upon you, your answer
 0049 under oath stating whether you are at the time of the service of this order upon
 0050 you, and also whether at any time thereafter but before you file your answer,
 0051 indebted to the defendant, or have in your possession or control any property
 0052 belonging to the defendant, excluding earnings (compensation for personal ser-
 0053 vices, whether denominated as wages, salary, commission, bonus or otherwise)
 0054 due and owing the defendant, and stating the amount of any such indebtedness
 0055 and description of any such property. For the purpose of this order, if you are, at
 0056 the time this order is served upon you, an executor or administrator of an estate
 0057 containing property for funds to which defendant is or may become entitled as a
 0058 legatee or distributee of the estate upon its distribution, you are deemed to be
 0059 indebted to the defendant to the extent of such property for funds. You are further
 0060 ordered to withhold the payment of any such indebtedness, ~~up to the amount due~~
 0061 ~~or claimed as stated above~~, or the delivery away from yourself of any such
 0062 property, until the further order of the court. Your answer on the form served
 0063 herewith shall constitute substantial compliance with this order.
 0064 "Failure to file your answer as aforesaid may entitle the plaintiff to judgment
 0065 against you for the full amount of the claim and costs.
 0066 "Witness my hand and seal of said court at _____ in said
 0067 county, this _____ day of _____, 19____,
 0068 _____, Clerk of said court,
 0069 County."

0070 (2) An order of garnishment, issued independently of an at-
 0071 tachment as an aid for the enforcement of a judgment and for the
 0072 purpose of attaching earnings of the defendant, is declared to be
 0073 sufficient if substantially in the following form:

0074 "In the District Court of _____ County, Kansas, A. B.,
 0075 Plaintiff, vs. C. D., Defendant, and E. F., Garnishee: The State of Kansas to said
 0076 Garnishee: ~~The amount due or claimed in this order of garnishment is \$~~
 0077 You are hereby ordered as a garnishee to file with the clerk of the above named
 0078 court, within thirty (30) days after service of this order upon you, your answer
 0079 under oath stating whether you are indebted to the defendant by reason of
 0080 earnings (compensation for personal services, whether denominated as wages,
 0081 salary, commission, bonus or otherwise) due and owing the defendant, and stating
 0082 the amount of any such indebtedness. Computation of the amount of your
 0083 indebtedness shall be made in the manner prescribed by the answer form served
 0084 herewith and shall be based upon defendant's earnings for the entire normal pay
 0085 period in which this order is served upon you. You are further ordered to withhold
 0086 the payment of that portion of defendant's earnings required to be withheld
 0087 pursuant to the directions accompanying said answer form, ~~up to the amount due~~
 0088 ~~or claimed as stated above~~, until the further order of the court. Your answer on
 0089 said form shall constitute substantial compliance with this order.
 0090 "Failure to file your answer as aforesaid may entitle the plaintiff to judgment
 0091 against you for the full amount of the claim and costs.
 0092 "Witness my hand and seal of said court at _____ in said
 0093 county, this _____ day of _____, 19____,
 0094 _____, Clerk of said court,
 0095 County."

0096 If such order of garnishment is issued at the written direction
 0097 of the party entitled to enforce the judgment, pursuant to K.S.A.
 0098 60-716 for the purpose of enforcing (1) an order of any court for
 0099 the support of any person, (2) an order of any court of bankruptcy
 0100 under chapter XI of the federal bankruptcy act or (3) a del

If you hold any property, funds, credits or indebtedness belonging to or owing the defendant

the

to be withheld by you pursuant to

not to exceed

funds or credits

funds, credits or

credits, indebtedness

credits, indebtedness

credits or funds

to be held by you pursuant to

not to exceed

as amended

0101 for any state or federal tax, the clerk of the district court shall
 0102 cause such purpose to be clearly stated on the order of garnish-
 0103 ment and the accompanying garnishee's answer form immedi-
 0104 ately below the caption thereof. If the garnishment is to enforce a
 0105 court order for the support of any person, the garnishment shall
 0106 not exceed fifty percent (50%) of an individual's disposable
 0107 earnings unless the person seeking the garnishment specifies to
 0108 the garnishee a greater percent to be withheld, as authorized by
 0109 subsection (g) of K.S.A. 1978 Supp. 60-2310.

0110 (b) *Service and return.* The order of garnishment shall be
 0111 served on the garnishee, together with two (2) copies of the form
 0112 for the garnishee's answer prescribed in K.S.A. 1978 Supp. 60-
 0113 718, and amendments thereto, and returned by the officer making
 0114 service in the same manner as an order of attachment. If the order
 0115 is served prior to a judgment on the plaintiff's claim, said order
 0116 shall also be served on the defendant, if he or she can be found,
 0117 but failure to serve the defendant shall not relieve the garnishee
 0118 from liability under said order.

the search fee and

0119 (c) *Effect.* An order of garnishment issued for the purpose of
 0120 attaching any property, funds, credits or other indebtedness be-
 0121 longing to or owing the defendant, other than earnings, shall have
 0122 the effect of attaching (1) all such property of the defendant
 0123 which is in the possession or under the control of the garnishee,

, funds

0124 and all such credits and indebtedness due from the garnishee to
 0125 the defendant at the time of service of the order up to the amount
 0126 ~~due or claimed as stated in the order of garnishment,~~ and (2) all

, funds

0127 such property coming into the possession or control of the gar-
 0128 nishee and belonging to the defendant, and all such credits and
 0129 indebtedness becoming due to the defendant between the time of
 0130 the serving of the order of garnishment and the time of the filing
 0131 of the answer of the garnishee, except that up to the amount ~~due~~
 0132 ~~or claimed as stated in the order of garnishment.~~ Where the
 0133 garnishee is an executor or administrator of an estate where the
 0134 defendant is or may become a legatee or distributee thereof, the
 0135 order of garnishment shall have the effect of attaching and
 0136 creating a first and lien upon any property or funds of su
 0137 estate to which the defendant is entitled upon distribution of the

0138 estate up to the amount due or claimed as stated in the order of
 0139 garnishment, and such garnishee shall be prohibited from paying
 0140 over to the defendant any of such property or funds, other than
 0141 money in excess of the amount due or claimed as stated in the
 0142 order, until so ordered by the court from which said order of
 0143 garnishment was issued.

Should the garnishee hold funds or credits, or be indebted to defendant, in two or more accounts, the garnishee may withhold payment of the amount attached from any one or more of such accounts.

0144 An order of garnishment issued for the purpose of attaching
 0145 earnings of the defendant shall have the effect of attaching the
 0146 non-exempt portion of the defendant's earnings up to the amount
 0147 due or claimed as stated in the order of garnishment for the entire
 0148 normal pay period in which the order is served. Non-exempt
 0149 earnings are earnings which are not exempt from wage garnish-
 0150 ment pursuant to K.S.A. 1978 Supp. 60-2310, and computation
 0151 thereof for a normal pay period shall be made in accordance with
 0152 the directions accompanying the garnishee's answer form served
 0153 with the order of garnishment.

0154 Sec. 3. K.S.A. 1978 Supp. 60-718 is hereby amended to read
 0155 as follows: 60-718. (a) Within twenty (20) days after service upon
 0156 him or her of an order of garnishment issued for the purpose of
 0157 attaching any property, funds, credits or indebtedness belonging
 0158 to or owing the defendant, other than earnings, the garnishee
 0159 shall file a verified answer thereto with the clerk of the court,
 0160 stating the facts with respect to the demands of the order. The
 0161 answer of the garnishee is declared to be sufficient if substan-
 0162 tially in the following form, but in no event shall the garnishee's
 0163 answer contain less than that so prescribed in said form:

5

If the answer of the garnishee is mailed to the clerk of the court it shall be deemed filed when mailed.

ANSWER OF GARNISHEE

0164 State of Kansas ss.
 0165 County of _____

0166 _____ being first duly sworn, say that on the
 0167 _____ day of _____, 19____, I was served with an order of
 0168 garnishment in the above entitled action, that I have not delivered to the defend-
 0169 ant _____ any money, personal property, goods, chattels,
 0170 stocks, rights, credits nor evidence of indebtedness belonging to him or her, other
 0171 than earnings or money held by me, which is in excess of the amount due or
 0172 claimed as stated in the order of garnishment, since receiving said order of
 0173 garnishment, and that the following is a true and correct statement:

funds

earnings,

0174 (1) (Money or indebtedness due) I hold money or am indebted to said de-
 0175 fendant, other than for earnings due and owing defendant, as of the date of this
 0176 answer, in the following manner and amounts, to wit: _____
 0177

except that

0178 (2) (Personal property in possession) I have possession of personal property
 0179 goods, chattels, _____ rights, credits, or effects of said defendant, as of _____ date of
 0180 this answer, described _____ and having an estimated value as follows, to v _____
 0181

or credits

0182 answered by garnishee who is an executor or administrator of an
 0183 estate of _____ (executor or administrator) of the
 0184 estate of _____ containing funds for property to which defendant is
 0185 or may become entitled as a _____, (legatee or distribu-
 0186 tee) and I understand that the order of garnishment has the effect of attaching and
 0187 creating a first and prior lien on all such property or funds to which defendant
 0188 becomes entitled upon distribution of the estate and that I am prohibited from
 0189 delivering to the defendant any such property or funds, ~~other than money held by~~
 0190 ~~me which is in excess of the amount due or claimed as stated in the order of~~
 0191 ~~garnishment~~, until further order of the court from which the order of garnishment
 0192 was issued. The approximate date for distributing the assets of the estate is
 0193 _____, 19____.

credits, indebtedness

up to the amount stated in the order of garnishment

credits, indebtedness

0194 I will hold the above described moneys, ~~up to the amount due or claimed as~~
 0195 ~~stated in the order of garnishment~~, or other items in my possession until the
 0196 further order of the court.

funds, property, credits and indebtedness

0197 _____ (Signature), Garnishee
 0198 Subscribed and sworn to before me this _____ day of
 0199 _____, 19____.

0201 INSTRUCTIONS TO GARNISHEE
 0202 This form is provided for your convenience in furnishing the answer required
 0203 of you in the order of garnishment. If you do not choose to use this form, your
 0204 answer, under oath, shall not contain less than that prescribed herein. Your
 0205 answer must be filed with the clerk of the above-named court within the time
 0206 prescribed in the order of garnishment.

0207 (b) Within thirty (30) days after service upon him or her of an
 0208 order of garnishment issued for the purpose of attaching any
 0209 earnings due and owing the defendant, the garnishee shall file a
 0210 verified answer thereto with the clerk of the court, stating the
 0211 facts with respect to the demands of the order. The answer of the
 0212 garnishee is declared to be sufficient if substantially in the
 0213 following form, but in no event shall the garnishee's answer
 0214 contain less than that so prescribed in said form:

ANSWER OF GARNISHEE

0215 State of Kansas
 0216 ss.
 0217 County of _____
 0218 _____, being first duly sworn, say that on the
 0219 _____ day of _____, 19____, I was served with an order of
 0220 garnishment in the above entitled action, that since being served with said order I
 0221 have delivered to the defendant _____, only that portion of his or
 0222 her earnings authorized to be delivered to him or her pursuant to the instructions
 0223 accompanying this form and that the statements in my answer are true and correct.

0224 INSTRUCTIONS TO GARNISHEE
 0225 The order of garnishment served upon you has the effect of attaching that
 0226 portion of the defendant's earnings (defined as compensation for personal ser-
 0227 vices, whether denominated as wages, salary, commission, bonus or otherwise)
 0228 which is not exempt from wage garnishment and which is not in excess of the
 0229 amount due or retained as stated in the order of garnishment. This form is
 0230 provided for your convenience in furnishing the answer required of you in the
 0231 order. It is designed so that you may prepare your answer in conjunction with the
 0232 preparation of your payroll. Wait until the end of the normal pay period in which
 0233 this order has been served upon you and apply the tests set forth in these
 0234 instructions to the entire earnings of the defendant-employee during said pay
 0235 period, completing your answer in accordance with these instructions. If y

0236 not choose to use this form, your answer, under oath, shall not contain less than
0237 that prescribed herein. Your answer must be filed with the clerk of the above-
0238 named court within the time prescribed in the order of garnishment.

0239 First, furnish the information required by paragraphs (a) through (f) of the form
0240 below. Read carefully the "Note to Garnishee" following paragraph (f). Then, if
0241 the total amount of the defendant-employee's disposable earnings are not exempt
0242 from wage garnishment, complete paragraphs (g) and (h) of the form by comput-
0243 ing the amount of defendant-employee's disposable earnings which are to be paid
0244 over to him or her by using the following table:

0245 I. If the defendant-employee's disposable earnings are less than
0246 \$70.50 \$87.00 for a Weekly pay period
0247 \$150.00 \$174.00 for a Bi-Weekly pay period
0248 \$172.25 \$188.50 for a Semi-Monthly pay period
0249 \$344.50 \$377.00 for a Monthly pay period
0250 Pay the employee as if his or her pay check were not garnisheed.

0251 II. If the defendant-employee's disposable earnings are
0252 \$70.50 to \$100.00 \$87.00 to \$116.00 for a Weekly pay period
0253 pay him or her \$70.50 \$87.00
0254 \$150.00 to \$212.00 \$174.00 to \$232.00 for a Bi-Weekly pay period
0255 pay him or her \$150.00 \$174.00
0256 \$172.25 to \$220.67 \$188.50 to \$251.33 for a Semi-Monthly pay period
0257 pay him or her \$172.25 \$188.50
0258 \$344.50 to \$450.38 \$377.00 to \$502.67 for a Monthly pay period
0259 pay him or her \$344.50 \$377.00

0260 Any disposable earnings remaining after payment of the above amounts, up to
0261 the amount due or claimed as specified in the order of garnishment, shall be
0262 retained until further order of the court.

0263 III. If the defendant-employee's disposable earnings are more than
0264 \$100.00 \$116.00 for a Weekly pay period
0265 pay him or her 75% of his or her disposable earnings
0266 \$212.00 \$232.00 for a Bi-Weekly pay period
0267 pay him or her 75% of his or her disposable earnings
0268 \$220.67 \$251.33 for a Semi-Monthly pay period
0269 pay him or her 75% of his or her disposable earnings
0270 \$450.38 \$502.67 for a Monthly pay period
0271 pay him or her 75% of his or her disposable earnings

0272 Any disposable earnings remaining after payment of the above amounts, up to
0273 the amount due or claimed as specified in the order of garnishment, shall be
0274 retained until further order of the court.

0275 IV. SUPPORT ORDERS. If the person seeking the garnishment for court
0276 ordered support desires to garnish more than fifty percent (50%) of disposable
0277 earnings, he or she may request in writing to the clerk of the court to check one of
0278 the below applicable percentages:

- 0279 55% Employee also supports a spouse or dependent child not covered by this
0280 support order and payments are 12 weeks overdue.
- 0281 60% Employee does not support a spouse or dependent child and payments
0282 are not 12 weeks overdue.
- 0283 65% Employee does not support a spouse or dependent child and payments
0284 are 12 weeks overdue.

0285 STATEMENT OF GARNISHEE

0286 (a) The normal pay period for defendant is weekly _____ every two weeks
0287 _____ semi-monthly _____ monthly _____ (designate one).

0288 (b) This answer covers earnings for the normal pay period beginning on the
0289 _____ day of _____, 19____, and ending on the _____
0290 day of _____, 19____, which normal pay period includes the day on
0291 which the order of garnishment was served upon me.

0292 (c) Total gross earnings due for the normal pay period covered by
0293 (b) above are \$_____

0294 (d) Average gross earnings for normal pay period as designated
0295 in (a) above \$_____

0296 (e) Amounts rec _____ by law to be withheld for the normal pay period _____

0297 by (b) above are:
 0298 (1) Federal social security tax \$ _____
 0300 (2) Federal income tax \$ _____
 0302 (3) State income tax \$ _____
 0304 (4) Railroad retirement tax \$ _____
 0306 Total \$ _____

0308 (Deduct only those items listed above)
 0310 (f) Disposable earnings for the normal pay period covered by (b)
 0311 above are \$ _____
 0313 (c minus e)

0314 Note to Garnishee: If the order of garnishment states at the top of the order that
 0315 it is issued for the purpose of enforcing (1) an order of any court of bankruptcy
 0316 under chapter XIII of the federal bankruptcy act or (2) a debt due for any state or
 0317 federal tax, you must retain in your possession until further order of the court all
 0318 of the disposable earnings shown in (f) above up to the amount due or claimed as
 0319 stated in the order of garnishment. If the order of garnishment states at the top of
 0320 the order that it is issued for the purpose of enforcing an order of any court for the
 0321 support of any person, you must retain in your possession until further order of
 0322 the court fifty percent (50%) of the disposable earnings shown in (f) above, or such
 0323 greater percentage as may be indicated in paragraph IV above, up to the amount
 0324 due or claimed as stated in the order of garnishment. If the order of garnishment is
 0325 not issued for any of such purposes, compute the amount of earnings which may
 0326 be paid to defendant pursuant to the instructions accompanying this form and
 0327 furnish the information required by (g) and (h) below.

0328 (g) In accordance with the instructions accompanying this answer form, I
 0329 have determined that the amount which may be paid to defendant
 0330 is \$ _____

0331 (h) After paying to defendant the amount stated in (g) above, I am holding the
 0332 remainder of defendant's disposable earnings in the amount of \$ _____
 0333 I will hold in my possession until further order of the court all of the moneys
 0334 required herein to be withheld, up to the amount due or claimed as stated in the
 0335 order of garnishment.

0336 _____
 0337 (Signature), Garnishee
 0338 Subscribed and sworn to before me this ____ day of _____, 19____;
 0339 Answer of garnishee must be filed with the clerk of this court pursuant to
 0340 Kansas law.

0341 (c) The clerk shall cause a copy of the answer to be mailed
 0342 promptly to the plaintiff and the defendant. Within twenty (20)
 0343 days after the filing of the answer the plaintiff or the defendant or
 0344 both of them may reply thereto controverting any statement in the
 0345 answer. If the garnishee fails to answer within the time and
 0346 manner herein specified, the court may grant judgment against
 0347 garnishee for the amount of the plaintiff's judgment or claim
 0348 against the defendant, but if the claim of the plaintiff has not
 0349 been reduced to judgment, the liability of the garnishee shall be
 0350 limited to the judgment ultimately rendered against the defend-
 0351 ant. Said judgments may be taken only upon written motion and
 0352 notice given in accordance with K.S.A. 60-206. Notwithstanding
 0353 the foregoing, if the garnishee is a public officer for the state or
 0354 any instrumentalities thereof and the indebtedness sought
 0355 plaintiff to be withheld from defendant is an indebtedness

receipt

and the filing of the answer by the clerk

defendant incurred by or on behalf of the state or any instrumentality thereof, judgment against the state or such instrumentality shall be limited to an amount for claim and costs not exceeding the total amount of the indebtedness of the state or instrumentality thereof to defendant. If the garnishee answers as required herein and no reply thereto is filed, the allegations of the answer are deemed to be confessed. If a reply is filed as herein provided, the court shall try the issues joined, the burden being upon the party filing the reply to disprove the sworn statements of the answer, except that the garnishee shall have the burden of proving offsets or indebtedness claimed to be due from the defendant to the garnishee, or liens asserted by the garnishee against property of the defendant.

Sec. 4. K.S.A. 1978 Supp. 61-2005 is hereby amended to read as follows: 61-2005. (a) *Form of garnishment order.* An order of garnishment, issued independently of an attachment for the purpose of attaching earnings or for the purpose of attaching other property of the defendant, and the answer of the garnishee are declared to be sufficient if substantially in compliance with the appropriate form prescribed in the appendix to this act. If such order of garnishment is issued at the written direction of the party entitled to enforce the judgment, pursuant to K.S.A. 61-2004, for the purpose of enforcing (1) an order of any court for the support of any person, (2) an order of any court of bankruptcy under chapter XIII of the federal bankruptcy act or (3) a debt due for any state or federal tax, the clerk of the court shall cause such purpose to be clearly stated on the order of garnishment and the accompanying garnishee's answer form immediately below the caption thereof. If the garnishment is to enforce a court order for the support of any person, the garnishment shall not exceed fifty percent (50%) of an individual's disposable earnings unless the person seeking the garnishment specifies to the garnishee a greater percent to be withheld, as authorized by subsection (g) of K.S.A. 1978 Supp. 60-2310.

(b) *Service and return.* The order of garnishment shall be served on the garnishee, together with two (2) copies of the appropriate form for the garnishee's answer prescribed in the

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as amended

the search fee and

Sec. 6. K.S.A. 1978 Supp. 60-721 is hereby amended to read as follows: 60-721. (a) Upon determination of the issues, either by admissions in the answer or reply, or by default, or by findings of the court on controverted issues, judgment shall be entered fixing the rights and liabilities of all the parties in the garnishment proceedings (1) by determining the liability of garnishee upon default, or (2) discharging the garnishee, or (3) making available to the satisfaction of the claim of the plaintiff any indebtedness due from the garnishee to the defendant which has been attached or any property in the hands of the garnishee belonging to the defendant which has been attached, including ordering the payment of money by the garnishee into court, or the impoundment, preservation and sale of property as provided for the disposition of attached property, or (4) rendering judgment against the garnishee for the amount of his or her indebtedness to the defendant which has been attached, or for the value of any property of the defendant held by the garnishee which has been attached, and (5) if the answer of a garnishee is controverted without good cause, the court may award the garnishee judgment against the party controverting such answer

including reasonable attorneys' fees, necessarily incurred in substantiating the same.

(b) When judgment...

Sec. 7. K.S.A. 61-2003 is hereby amended to read as follows: 61-2003 An order of garnishment before judgment may be obtained and shall be issued by the clerk of the court where the action is pending, upon the filing of an affidavit showing a ground or grounds of attachment, the amount of the plaintiff's claim in the principal action, the payment of a search fee of \$ to be allowed as cost in the action, and the giving of a bond if required for the procurement of an order of attachment, except that garnishment proceedings shall not be commenced before judgment on plaintiff's claim in the principal action where such garnishment proceedings affect the earnings of the defendant: provided, That in all personal actions arising upon contract no bond shall be required upon the filing of an affidavit by one of the parties, his or her agent or attorney that (1) the opposing party is justly indebted upon contract to the party filing the affidavit in a given amount over and above all just credits and set-offs and (2) that he or she believes that the named garnishee defendant has property or credits in his or her custody or control belonging to such opposing party.

The order of garnishment may be in lieu of, or in addition to, the order of attachment, as designated by the written direction of the party seeking the order.

Sec. 8. K.S.A. 61-2004 is hereby amended to read as follows: 61-2004 As an aid to the enforcement of the judgment, an order of garnishment may be obtained and shall be issued by the clerk of the court from which execution is issuable, either in connection with an execution or independently thereof, and without the requirement that an execution be returned unsatisfied, as designated by the written direction of the party entitled to enforce the judgment. Such written direction shall be accompanied by a search fee of \$ to be allowed as costs in the action and shall designate whether the order of garnishment is to be issued for the purpose of attaching earnings or for the purpose of attaching other property of the judgment debtor, and shall state the amount of the judgment. If such party seek to attach earnings of the judgment debtor for the purpose of enforcing (1) an order of any court for the support of any person, (2) an order of any court of bankruptcy under Chapter XIII of the Federal Bankruptcy Act or (3) a debt due from any state or federal tax, his or her written direction shall so indicate. No bond is required for an order of garnishment issued after judgment.

0393 appendix to this act, and returned by the officer making service in
 0394 the same manner as an order of attachment. If the order is served
 0395 prior to a judgment on the plaintiff's claim, said order shall also
 0396 be served on the defendant, if he or she can be found, except that
 0397 said order shall not be served on the defendant until after service
 0398 has been made on the garnishee, but failure to serve the defend-
 0399 ant shall not relieve the garnishee from liability under said order.

0400 (c) *Effect.* An order of garnishment issued for the purpose of
 0401 attaching any property, funds, credits or other indebtedness be-
 0402 longing to or owing the judgment debtor, other than earnings,
 0403 shall have the effect of attaching (1) all such personal property of
 0404 the defendant which is in the possession or under the control of

0405 the garnishee, and all such credits and indebtedness due from the funds
 0406 garnishee to the defendant at the time of service of the order up to
 0407 ~~the amount due or claimed as stated in the order of garnishment,~~
 0408 and (2) all such personal property coming into the possession or
 0409 control of the garnishee and belonging to the defendant, and all

0410 such credits and indebtedness becoming due to the defendant funds
 0411 between the time of the serving of the order of garnishment and
 0412 the time of the filing of the answer of the garnishee, ~~except that~~
 0413 ~~up to the amount due or claimed, as stated in the order of~~
 0414 ~~garnishment.~~ Where the garnishee is an executor or administrator

0415 of an estate where the defendant is or may become a legatee or
 0416 distributee thereof, the order of garnishment shall have the effect
 0417 of attaching and creating a first and prior lien upon any property
 0418 or funds of such estate to which the defendant is entitled upon
 0419 distribution of the estate up to the amount ~~due or claimed as~~
 0420 ~~stated in the order of garnishment,~~ and such garnishee shall be
 0421 prohibited from paying over to the defendant any of such prop-
 0422 erty or funds, *other than money in excess of the amount due or*
 0423 *claimed as stated in the order of garnishment,* until so ordered by
 0424 the court from which said order of garnishment was issued.

0425 An order of garnishment issued for the purpose of attaching
 0426 earnings of the defendant shall have the effect of attaching the
 0427 nonexempt portion of the defendant's earnings up to the amount
 0428 ~~due or claimed as stated in the order of garnishment~~ for the entire
 0429 normal pay period which the order is served. Nonexem

Should the garnishee hold funds or credits, or be indebted to defendant, in two or more accounts the garnishee may withhold payment of the amount attached from any one or more of such accounts

0-130 earnings are earnings which are not exempt from wage garnish-
 0-131 ment pursuant to K.S.A. 1978 Supp. 60-2310 and computation
 0-132 thereof for a normal pay period shall be made in accordance with
 0-133 the directions accompanying the garnishee's answer form served
 0-134 with the order of garnishment. *

0-135 Sec. 5. Form No. 7 in the appendix of forms following K.S.A.
 0-136 61-2605 is hereby amended to read as follows:

0-137 Form No. 7: ORDER OF GARNISHMENT AND RETURN WHERE ORDER
 0-138 ISSUED TO ATTACH PROPERTY OTHER THAN EARNINGS OF DE-
 0-139 FENDANT

0-140 In the _____ Court of _____
 0-141 County, Kansas.
 0-142 _____
 0-143 vs. _____ Plaintiff,
 0-144 _____ No. _____
 0-145 and _____ Defendant,
 0-146 _____ Garnishee.

0-150 ORDER OF GARNISHMENT

0-151 To the above-named garnishee:
 0-152 The amount due or claimed in this order of garnishment is \$ _____. You are
 0-153 hereby ordered as a garnishee to file with the clerk of the above-named court,
 0-154 within _____ days after service of this order upon you, your answer under
 0-155 oath stating whether you are at the time of the service of this order upon you, and
 0-156 also whether at any time thereafter but before you file your answer, indebted to or
 0-157 have in your possession or control any personal property belonging to the
 0-158 defendant, excluding earnings (compensation for personal services, whether de-
 0-159 nominated as wages, salary commission, bonus or otherwise) due and owing
 0-160 defendant, and stating the amount of any such indebtedness and description of
 0-161 any such property. For the purpose of this order, if you are, at the time this order is
 0-162 served upon you, an executor or administrator of an estate containing property or
 0-163 funds to which defendant is or may become entitled as a legatee or distributee of
 0-164 the estate upon its distribution, you are deemed to be indebted to the defendant to
 0-165 the extent of such property or funds. You are further ordered to withhold the
 0-166 payment of any such indebtedness, up to the amount due or claimed as stated
 0-167 above, or the delivery away from yourself of any such property, until the further
 0-168 order of the court. Your answer on the form served herewith shall constitute
 0-169 substantial compliance with this order.

0-170 Failure to file your answer as aforesaid may entitle the plaintiff to judgment
 0-171 against you for the full amount of his or her claim and costs.

0-172 Dated _____ (Signature), Clerk
 0-173 [Seal of the Court]

0-174 * (The defendant's address should be shown following his or her name if the
 0-175 case is not yet in judgment and service on the defendant is also desired.)
 0-176

0-177 RETURN ON ORDER OF GARNISHMENT

0-178 On _____, 19____, at _____ o'clock, _____ M., I received this order of
 0-179 garnishment and I hereby certify that I served the same as follows:
 0-180 (1) Service on Garnishee. I served said order of garnishment, together with two
 0-181 (2) copies of a form for garnishee's answer, on each of the garnishees at the time
 0-182 and in the manner following, to wit: _____
 0-183 (2) Service on Defendant. I also served a copy of said order of garnishment on
 0-184 each of the defendants on the dates and in the manner following, to wit: _____

0-185 Fees

* Sec. 10. K.S.A. 61-6006 is hereby
 amended to read as follows: 61-2006.
 Within ten (10) days after service
 upon him or her of an order of
 garnishment issued for the purpose
 of attaching any property, funds,
 credits or indebtedness belonging to
 or owing the defendant, other than
 earnings, and within thirty (30)
 days after service upon him or her
 of an order of garnishment issued
 for the purpose of attaching any
 earnings due and owing the defendant,
 the garnishee shall file his or her
 verified answer thereto with the
 clerk of the court stating the facts
 with respect to the demands of the
 order: provided, That where the
 office or principal place of business
 of the garnishee is outside the
 county where said court is situated,
 said garnishee shall file an answer
 within thirty (30) days. If the
 answer of the garnishee is mailed
 to the clerk of the court, it shall
 be deemed filed when mailed. The
 answer of the garnishee may be on
 the appropriate form prescribed in
 the appendix to this act, but in no
 event shall the garnishee's answer
 contain less than that so prescribed
 in said form.

The clerk shall cause a copy of the
 answer to be mailed promptly to
 the plaintiff and also to the defen-
 dant at the address to which summons
 was directed. Within ten (10) days
 after the filing receipt of the
 answer and the filing of the answer
 by the clerk, the plaintiff or
 defendant, or both of them, may reply
 thereto, controverting any statement
 therein.

If the garnishee fails to answer....

*-CONT'D.

Sec. 11. K.S.A. 61-2009 is hereby
 amended to read as follows: 61-2009.
 The provisions of K.S.A. 60-721, as
 amended, shall be applicable to
 actions pursuant to this chapter.

12

If you hold any property, funds,
 credits or indebtedness belonging
 to or owing the defendant, the
 amount to be withheld by you pursuant
 to this order of garnishment is not
 to exceed \$ _____. You are

, funds or credits

funds, credits or

, credits, indebtedness

, credits, indebtedness

0486 Service, First Person \$ _____
 0488 Additional Persons \$ _____
 0490 Persons Not Found \$ _____
 0492 Mileage: _____ miles \$ _____
 0494
 0496 Total \$ _____

0498 Sec. 6: Form No. 7a in the appendix of forms following 13

0499 K.S.A. 61-2605 is hereby amended to read as follows:

0500 Form No. 7a: ORDER OF GARNISHMENT AND RETURN WHERE ORDER
 0501 ISSUED TO ATTACH EARNINGS OF DEFENDANT

0502 In the _____ Court of _____ County, Kansas.

0503 _____
 0504 vs. Plaintiff,
 0506 _____ No. _____
 0508 and Defendant,
 0509 _____
 0510 Garnishee.

not to exceed

ORDER OF GARNISHMENT

0511 To the above-named garnishee:
 0512 The amount due or claimed in this order of garnishment is \$ _____. You are to be withheld by you pursuant to

0513 hereby ordered as a garnishee to file with the clerk of the above-named court,
 0514 within thirty (30) days after service of this order upon you, your answer under
 0515 oath stating whether you are indebted to the defendant by reason of earnings
 0516 (compensation for personal services, whether denominated as wages, salary,
 0517 commission, bonus or otherwise) due and owing the defendant, and stating the
 0518 amount of any such indebtedness. Computation of the amount of your indebted-
 0519 ness shall be made in the manner prescribed by the answer form served herewith
 0520 and shall be based upon defendant's earnings for the entire normal pay period in
 0521 which this order is served upon you. You are further ordered to withhold the
 0522 payment of that portion of defendant's earnings required to be withheld pursuant
 0523 to the directions accompanying said answer form, up to the amount due or
 0524 claimed as stated above, until the further order of the court. Your answer on said
 0525 form shall constitute substantial compliance with this order.

0526 Failure to file your answer as aforesaid may entitle the plaintiff to judgment
 0527 against you for the full amount of his or her claim and costs.

0528 Dated _____ (Signature), Clerk

0530 [Seal of the Court]

0531 *(The defendant's address should be shown following his or her name if the
 0532 case is not yet in judgment and service on the defendant is also desired.)

RETURN ON ORDER OF GARNISHMENT

0534 On _____, 19____, at _____ o'clock, _____ M., I received this order of
 0535 garnishment and I hereby certify that I served the same as follows:

0536 (1) Service on Garnishee. I served said order of garnishment, together with two
 0537 (2) copies of a form for garnishee's answer, on each of the garnishees at the time
 0538 and in the manner following, to wit: _____

0539 (2) Service on Defendant. I also served a copy of said order of garnishment on
 0540 each of the defendants on the dates and in the manner following, to wit: _____

0541 Fees
 0542 Service, First Person \$ _____
 0543 Additional Persons \$ _____
 0544 Persons Not Found \$ _____
 0545 Mileage: _____ miles \$ _____
 0546
 0547 Total \$ _____

0555 Sec. 7: Form No. 8 in the appendix of forms following K.S.A. 14

0556 61-2605 is hereby amended to read as follows:

Form No. 8: GARNISHEE'S ANSWER TO ACCOMPANY ORDER OF GARNISHMENT IN FORM No. 7
 (Caption of Case)
 ANSWER OF GARNISHEE

State of Kansas
 County of _____ ss.

being first duly sworn, say that on the ____ day of _____, 19____, I was served with an order of garnishment in the above entitled action, that I have not delivered to the defendant, ~~any money, personal property, goods, chattels,~~

~~stocks, rights, credits nor evidence of indebtedness belonging to him or her, other than earnings or money held by me which is in excess of the amount due or claimed as stated in the order of garnishment,~~ since receiving said order of garnishment, and that the following is a true and correct statement:

(1) (Money or Indebtedness Due) I hold money, ~~or am indebted to said defendant, other than for earnings due and owing defendant, as of the date of this answer, in the following manner and amounts, to wit:~~

(2) (Personal Property in Possession) I have possession of personal property, goods, chattels, stocks, rights, credits or effects of said defendant, as of the date of this answer, described and having an estimated value as follows, to wit:

(3) (To be answered by garnishee who is an executor or administrator of an estate) I am an _____

(*executor or administrator*) of the estate of _____ containing funds, or property to which defendant is or may become entitled as a _____

(*legatee or distributee*) and I understand that the order of garnishment has the effect of attaching and creating a first and prior lien on all such property or funds to which defendant becomes entitled upon distribution of the estate and that I am prohibited from delivering to defendant any such property or funds, ~~other than money held by me which is in excess of the amount due or claimed as stated in the order of garnishment~~ until further order of the court from which the order of garnishment was issued. The approximate date for distributing the assets of the estate is _____, 19____.

I will hold the above described moneys, ~~up to the amount due or claimed as stated in the order of garnishment,~~ or other items in my possession until the further order of the court.

 (Signature), Garnishee

funds

except that

or credits

credits, indebtedness

up to the amount stated in the order of garnishment

, credits, indebtedness

funds, property, credits and indebtedness

[Jurat]
 INSTRUCTIONS TO GARNISHEE
 This form is provided for your convenience in furnishing the answer required of you in the order of garnishment. If you do not choose to use this form, your answer, under oath, shall not contain less than that prescribed herein. Your answer must be filed with the clerk of the above-named court within the time prescribed in the order of garnishment.

Sec. 8. Form No. 8a in the appendix of forms following 15

K.S.A. 61-2605 is hereby amended to read as follows:

Form No. 8a: GARNISHEE'S ANSWER TO ACCOMPANY ORDER OF GARNISHMENT IN FORM No. 7a
 (Caption of Case)
 ANSWER OF GARNISHEE

State of Kansas
 County of _____ ss.

being first duly sworn, say that on the ____ day of _____, 19____, I was served with an order of garnishment in the above entitled action, that I have delivered to the defendant, _____, only that portion of his or her earnings authori-

0616 to be delivered to him or her pursuant to the instructions accompanying this form
0617 and that the statements in my answer are true and correct.

INSTRUCTIONS TO GARNISHEE

0618 The order of garnishment served upon you has the effect of attaching that
0619 portion of the defendant's earnings (defined as compensation for personal ser-
0620 vices, whether denominated as wages, salary, commission, bonus or otherwise)
0621 which is not exempt from wage garnishment and which is not in excess of the
0622 amount due or claimed as stated in the order of garnishment. This form is
0623 provided for your convenience in furnishing the answer required of you in the
0624 order. It is designed so that you may prepare your answer in conjunction with the
0625 preparation of your payroll. Wait until the end of the normal pay period in which
0626 this order has been served upon you and apply the tests set forth in these
0627 instructions to the entire earnings of the defendant-employee during said pay
0628 period, completing your answer in accordance with these instructions. If you do
0629 not choose to use this form, your answer, under oath, shall not contain less than
0630 that prescribed herein. Your answer must be filed with the clerk of the above-
0631 named court within the time prescribed in the order of garnishment.

0632 First, furnish the information required by paragraphs (a) through (f) of the form
0633 below. Read carefully the "Note to Garnishee" following paragraph (f). Then, if
0634 the total amount of the defendant-employee's disposable earnings are not exempt
0635 from wage garnishment, complete paragraphs (g) and (h) of the form by comput-
0636 ing the amount of defendant-employee's disposable earnings which are to be paid
0637 over to him or her by using the following table:

0638 I. If the defendant-employee's disposable earnings are less than

0640 \$70.50 \$87.00 for a Weekly pay period

0644 \$150.00 \$174.00 for a Bi-Weekly pay period

0648 \$172.25 \$188.50 for a Semi-Weekly Monthly pay period

0643 \$344.50 \$377.00 for a Monthly pay period

0644 Pay the employee as if his or her pay check were not garnished.

0645 II. If the defendant-employee's disposable earnings are

0646 \$70.50 to \$106.00 \$87.00 to \$116.00 for a Weekly pay period

0647 pay him or her \$70.50 \$87.00

0648 \$150.00 to \$212.00 \$174.00 to \$232.00 for a Bi-Weekly pay period

0649 pay him or her \$150.00 \$174.00

0650 \$172.25 to \$220.67 \$188.50 to \$251.33 for a Semi-Monthly pay period

0651 pay him or her \$172.25 \$188.50

0652 \$344.50 to \$450.38 \$377.00 to \$502.67 for a Monthly pay period

0653 pay him or her \$344.50 \$377.50

0654 Any disposable earnings remaining after payment of the above amounts, up to

0655 the amount due or claimed as specified in the order of garnishment, shall be

0656 retained until further order of the court.

0657 III. If the defendant-employee's disposable earnings are more than

0658 \$106.00 \$116.00 for a Weekly pay period

0659 pay him or her 75% of his or her disposable earnings

0660 \$212.00 \$232.00 for a Bi-Weekly pay period

0661 pay him or her 75% of his or her disposable earnings

0662 \$220.67 \$251.33 for a Semi-Monthly pay period

0663 pay him or her 75% of his or her disposable earnings

0664 \$450.38 \$502.67 for a Monthly pay period

0665 pay him or her 75% of his or her disposable earnings

0666 Any disposable earnings remaining after payment of the above amounts, up to

0667 the amount due or claimed as specified in the order of garnishment, shall be

0668 retained until further order of the court.

0669 IV. SUPPORT ORDERS. If the person seeking the garnishment for court

0670 ordered support desires to garnish more than fifty percent (50%) of disposable

0671 earnings, he or she may request in writing to the clerk of the court to check one of

0672 the below applicable percentages:

0673 55% Employee also supports a spouse or dependent child not covered by this

0674 support order and payments are 12 weeks overdue.

0675 60% Employee does not support a spouse or dependent child and payments

0676 are not 12 weeks over

0677 65% Employee does not support a spouse or dependent child and payments
0678 are 12 weeks overdue.

0679 STATEMENT OF GARNISHEE

0680 (a) The normal pay period for defendant is weekly _____ every two weeks
0681 _____ semi-monthly _____ monthly _____ (designate one).

0682 (b) This answer covers earnings for the normal pay period beginning on the
0683 ____ day of _____, 19____, and ending on the ____ day of
0684 _____, 19____, which normal pay period includes the day on which
0685 the order of garnishment was served upon me.

0686 (c) Total gross earnings due for the period covered by (b) above
0687 are \$ _____

0688 (d) Average gross earnings for normal pay period as designated in (b) above
0689 are \$ _____

0690 (e) Amounts required by law to be withheld for the period covered by (b)
0691 above are:

- 0692 (1) Federal social security tax \$ _____
- 0694 (2) Federal income tax \$ _____
- 0696 (3) State income tax \$ _____
- 0698 (4) Railroad retirement tax \$ _____
- 0700 Total \$ _____

0702 (Deduct only those items listed above)

0703 (f) Disposable earnings for the period covered
0704 by (b) above are \$ _____

0705 (c minus e)

0706 Note to Garnishee: If the order of garnishment states at the top of the order that
0707 it is issued for the purpose of enforcing (1) an order of any court of bankruptcy
0708 under chapter XIII of the federal bankruptcy act or (2) a debt due for any state or
0709 federal tax, you must retain in your possession until further order of the court all
0710 of the disposable earnings shown in (f) above up to the amount due or claimed as
0711 stated in the order of garnishment. If the order of garnishment states at the top of
0712 the order that it is issued for the purpose of enforcing an order of any court for the
0713 support of any person, you must retain in your possession until further order of
0714 the court fifty percent (50%) of the disposable earnings shown in (f) above, or such
0715 greater percentage as may be indicated in paragraph IV above, up to the amount
0716 due or claimed as stated in the order of garnishment. If the order of garnishment is
0717 not issued for any of such purposes, compute the amount of earnings which may
0718 be paid to defendant pursuant to the instructions accompanying this form and
0719 furnish the information required by (g) and (h) below.

0720 (g) In accordance with the instructions accompanying this answer form, I
0721 have determined that the amount which may be paid to defendant is \$ _____

0722 (h) After paying to defendant the amount stated in (g) above, I am holding the
0723 remainder of defendant's disposable earnings in the amount of \$ _____

0724 I will hold in my possession until further order of the court all of the moneys
0725 required to be withheld, up to the amount due or claimed as stated in the order of
0726 garnishment.

0727 _____
0728 (Signature), Garnishee

0729 [Jurat]

0730 _____
0731 Answer of garnishee must be filed with the clerk of this court pursuant to
0732 Kansas law.

0733 ~~Sec. 9. K.S.A. 1978 Supp. 60-717, 60-718 and 61-2005 are~~
0734 hereby repealed.

0735 Sec. 10. This act shall take effect and be in force from and 17.
0736 after its publication in the statute book.

Sec. 16. K.S.A. 60-715, 60-716,
60-721, 61-2003, 61-2004, 61-2006,
61-2009, and K.S.A. 1978 Supp.
60-717, 60-718 and 61-2005 are