

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Elwaine F. Pomeroy at
Chairperson

10:00 a.m. ~~XXXX~~ on January 24, 1984, 19 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~ were: Senators Pomeroy, Winter, Burke, Feleciano, Gaar,
Gaines, Hein, Steineger and Werts.

Committee staff present: Mary Torrence, Revisor of Statutes
Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

Marjorie Van Buren, Office of Judicial Administrator
Evelyn Bower, Kansas Association of Court Clerks and Administrators
Bill Henry, Kansas Engineering Society

Senator Werts presented a proposal for the introduction of a bill (See Attachment No. 1). Following the explanation and committee discussion, Senator Werts moved that the bill be introduced; Senator Gaines seconded the motion, and the motion carried.

Marjorie Van Buren presented a proposal for the introduction of a bill concerning K.S.A. 20-337; retired district magistrate judges would be eligible to be hired to perform judicial service and duties as the magistrate is willing to undertake (See Attachment No. 2). Senator Gaines moved that the bill be introduced; Senator Hein seconded the motion, and the motion carried.

Marjorie Van Buren explained the next proposal concerns garnishment form No. 8a (See Attachment No. 3). Senator Gaines moved that the bill be introduced; Senator Werts seconded the motion, and the motion carried.

Marjorie Van Buren explained this proposal has to do with the duties of the clerk of the court, K.S.A. 60-2691; that it would improve record keeping methods in courts today (See Attachment No. 4). Senator Gaines moved that the bill be introduced; Senator Hein seconded the motion, and the motion carried.

Evelyn Bower explained a proposal requested by the Kansas Association of Court Clerks and Administrators concerning K.S.A. 28-137, fees for publication of legal notices and legal advertisements in newspapers (See Attachment No. 5). A committee member commented this will cause a problem in law offices. She responded, the bill does not say it is mandatory; they have the option. A committee member inquired, how much money are we talking about in your county? She replied, fifty to one hundred dollars per case. Committee discussion followed. There was no motion on the proposal.

Bill Henry presented a proposal for the introduction of a bill. He related the problem an expert witness had testifying on a criminal investigation on what actually caused a fire in this case. The prosecuting attorney told the expert witness he was violating the private detective act. Mr. Henry had suggested language to change the statute to include exempting the professional engineer. Senator Hein moved that the bill be introduced; Senator Gaar seconded the motion, and the motion carried.

Senator Burke brought up a matter concerning expungement and he related a problem a district judge had in a situation where someone was charged with shoplifting, and she was found guilty. The individual's penal record was expunged. She was arrested again in a shopping center in Missouri on the same charge. She then turned around and sued the department store for false arrest saying she had not

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on January 24, 1984.

been arrested before for shoplifting. He inquired, can you hide behind expunge-
ment and recover damages on the basis you have not previously been convicted.
Following committee discussion, Senator Gaar moved that staff check on this matter
and if the matter is not presently covered, to introduce a bill. Senator Gaines
seconded the motion, and the motion carried.

House Bill 2055 - Increased court fees for Sedgwick county law library.

No conferees appeared, just as no one appeared on the two times the bill was
scheduled during the 1983 session. Committee discussion was held on the bill.
Senator Feleciano moved that the bill be reported favorably. The motion failed
for lack of a second.

Senator Hein moved that the minutes of January 18, 1984, be approved; Senator
Feleciano seconded the motion, and the motion carried.

The meeting adjourned.

1-24-84

GUESTS

SENATE JUDICIARY COMMITTEE

NAME

ADDRESS

ORGANIZATION

Margaret VanBuren

Topeka

OSA

Clyde Bowers

Oskaloosa

KIA DCCD

Tom Fustlyen

Lawrence

Sen. Hess

Mr. [unclear]

Topeka

Sen. [unclear]

Bill Henry

Topeka

KS Engineering Society

SENATE BILL NO. _____

AN ACT amending the act for obtaining a guardian or conservator, or both; concerning certain cases involving small estates; amending K.S.A. 59-3015 and repealing the existing section.

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

Section 1. K.S.A. 59-3015 is hereby amended to read as follows: 59-3015. ~~All-courts~~ (a) Any court having control over or custody of any amount of money not exceeding \$5,000, the right to which is vested in a minor, ~~may-in-its-discretion shall have the discretion to authorize,~~ without the appointment of a conservator or the giving of bond, and notwithstanding the provisions of K.S.A. 59-3003 and amendments thereto, ~~---authorize:~~ (1) The deposit thereof of the money in a savings account of a bank or savings and loan association, payable to the conservator when appointed or to the minor upon attaining the age of majority; or (2) the payment thereof of the money to any person, including the natural guardian of the minor or the minor. Such person If paid to a person other than the minor, the person to whom the money is paid shall have the right and duty, ~~---for---the benefit---of---the-minor,~~ to manage, invest or otherwise dispose of such the moneys for the benefit of such the minor. If such the minor is a conservatee, the court shall may authorize the payment thereof of the money to the conservator of such the minor without requiring the giving of bond.

(b) Any court having control over or custody of any amount of money not exceeding \$5,000, the right to which is vested in a person who has been adjudged to be a disabled person, shall have the discretion to authorize, without the giving of bond: (1) The deposit of the money in a savings account of a bank or savings

and loan association, payable to the conservator when appointed or to the disabled person on restoration to capacity; or (2) the payment of the money to the spouse, parent or child of the disabled person, who shall have the right and duty to manage, invest or otherwise dispose of the money for the benefit of the disabled person. If the disabled person is a conservatee, the court may authorize the payment of the money to the conservator of the disabled person without requiring the giving of bond.

Sec. 2. K.S.A. 59-3015 is hereby repealed.

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

20-337. District magistrate judges who are not admitted to practice law, temporary certificates; examinations; manual of laws and principles prepared by supreme court. Any person who takes office as district magistrate judge on January 10, 1977, and any person who thereafter is elected or appointed to the office of district magistrate judge and, in either event, and who has not been regularly admitted to practice law in Kansas, as required by subsection (c)(3) of K.S.A. 20-334, shall be issued a temporary certificate permitting such judge to commence upon the duties of office, conditioned that such judge becomes certified as being qualified to hold such office, as provided herein. The supreme court shall provide by rule for the examination of such district magistrate judges, in order to ensure that each such district magistrate judge possesses the minimum skills and knowledge necessary to carry out the duties of such office. Such examination shall be administered without charge, and shall be given at least once each six months at a time and place designated by the supreme court. If a district magistrate judge fails to successfully complete such examination within eighteen (18) months after the date said judge takes office, said judge shall forfeit his or her office and the district magistrate judge position for which such judge was elected or appointed shall be vacant at the expiration of such eighteen-month period. A district magistrate judge who fails to successfully complete any examination may take such examination again at the next time it is offered prior to the expiration of such eighteen-month period. Any person who fails to successfully complete the examination within the prescribed time shall be ineligible for election or appointment as a district magistrate judge, unless such person subsequently meets all the qualifications prescribed by subsection (c)(3) of K.S.A. 20-334.

Any person who successfully completes the examination administered under this section shall be certified by the supreme court as qualified to hold such office. Any district magistrate judge who has been so certified shall be eligible for reelection or retention in office as provided in this act.

The supreme court shall prepare a manual which shall contain the substantive and procedural rules of law and principles of judicial conduct which are deemed necessary to be understood and practiced by a district magistrate judge. Such manual shall be given to each district magistrate judge who is required to be examined under this section subsequent to the time of such judge's election or appointment. From time to time, as the necessity arises, such manual shall be amended and supplemented to reflect changes in the law or code of judicial conduct.

Upon retirement, a district magistrate judge who holds a certificate of qualification shall be eligible to be designated and assigned to perform judicial service and duties as the magistrate is willing to undertake. Each retired district magistrate judge shall receive compensation for this performance at a daily rate derived from the annual rate in effect under K.S.A. Supp. 75-3120 (k) and K.S.A. Supp. 75-3120 (L).

Form No. 8a in the appendix of forms following article 26 of chapter 61 of the 1982 supplement of the Kansas Statutes Annotated is hereby amended to read as follows:

Attach # 3

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

The defendant Terminated employment on (date) Was never employed.

If one of the above applies, you are not required to complete the remainder of this form and it is not required to be verified. You must return the signed form within the time prescribed in the order of garnishment. If neither of the above applies, you must complete the remainder of this form and have it verified.

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 the defendant's earnings authorized to be delivered to him or her the defendant pursuant to the instructions accompanying this form and that the statements in my answer are true and correct.

INSTRUCTIONS TO GARNISHEE The order of garnishment served upon you has the effect of attaching that portion of the defendant's earnings (defined as compensation for personal services, whether denominated as wages, salary, commission, bonus or otherwise) which is not exempt from wage garnishment. This form is provided for your convenience in furnishing the answer required of you in the order. It is designed so that you may prepare your answer in conjunction with the preparation of your payroll. Wait until the end of the normal pay period in which this order has been served upon you and apply the tests set forth in these instructions to the entire earnings of the defendant-employee during said the pay period, completing your answer in accordance with these instructions. 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.

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

Table I: If the defendant-employee's disposable earnings are less than \$79.50 for a Weekly pay period, \$159.00 for a Bi-Weekly pay period, \$172.25 for a Semi-Monthly pay period, \$344.50 for a Monthly pay period. Pay the employee as if his or her the employee's pay check were not garnished. Table II: If the defendant-employee's disposable earnings are \$79.50 to \$106.00 for a Weekly pay period, \$159.00 to \$212.00 for a Bi-Weekly pay period, \$172.25 to \$229.67 for a Semi-Monthly pay period, \$344.50 to \$459.38 for a Monthly pay period. Any disposable earnings remaining after payment of the above amounts shall be retained until further order of the court. Table III: If the defendant-employee's disposable earnings are more than \$106.00 for a Weekly pay period, \$212.00 for a Bi-Weekly pay period, \$229.67 for a Semi-Monthly pay period, \$459.38 for a Monthly pay period. pay him or her the defendant-employee 75% of his or her the defendant-employee's disposable earnings. Any disposable earnings remaining after payment of the above amounts shall be retained until further order of the court.

Table I: \$100.50 for a Weekly pay period, \$201.00 for a Bi-Weekly pay period, \$217.75 for a Semi-Monthly pay period, \$435.50 for a Monthly pay period. Pay the employee as if the employee's pay check were not garnished. Table II: If the defendant-employee's disposable earnings are \$100.50 to \$134.00 for a Weekly pay period, \$201.00 to \$268.00 for a Bi-Weekly pay period, \$217.75 to \$290.33 for a Semi-Monthly pay period, \$435.50 to \$580.67 for a Monthly pay period. Any disposable earnings remaining after payment of the above amounts shall be retained until further order of the court. Table III: If the defendant-employee's disposable earnings are more than \$134.00 for a Weekly pay period, \$268.00 for a Bi-Weekly pay period, \$290.33 for a Semi-Monthly pay period, \$580.67 for a Monthly pay period. pay the defendant-employee 75% of the defendant-employee's disposable earnings.

IV. SUPPORT ORDERS. If the person seeking the garnishment for court ordered support desires to garnish more than fifty percent (50%) 50% of disposable earnings, he or she that person may request in writing to the clerk of the

Attach 3

60-2601. Duties of clerk of court. (a) General powers and duties. In the performance of their duties all clerks of record shall be under the direction of the court.

(b) *Dockets and journals.* Subject to the provisions of K.S.A. 60-2601a, the clerk of the court shall keep the following dockets and journals and such other books or records which may be ordered by the court in the following manner:

(1) *Appearance docket.* The clerk shall keep one or more appearance dockets and shall enter each civil action in the docket. Actions within each appearance docket shall be assigned consecutive file numbers. The file number of each action shall be noted on the page of the docket [on] which the first entry of the action is made. All papers filed with the clerk, all process issued and returns made and, all appearances, orders, verdicts and judgments shall be noted chronologically in the appearance docket on the page assigned to the action and shall be marked with its file number. These notations shall be brief but shall show the nature of each paper filed or writ issued and the substance of each order or judgment of the court and of the returns showing execution of process. The notation of an order or judgment shall show the date the notation is made.

~~(2) *Judgment docket.* The judgment docket shall be kept in the form of an index, in which the name of each person against whom a judgment is rendered shall appear in alphabetical order. A statement of each judgment upon its rendition shall be entered, containing the names of the parties, the amount or nature of the judgment and costs and the date of its rendition; if the judgment be against several persons, the entry shall be repeated in the name of each person against whom the judgment is rendered, in alphabetical order. The judgment docket also shall be indexed with regard to judgments of cases originally commenced pursuant to chapter 61 of the Kansas Statutes Annotated, in numerical order in a manner that shows all new entries of such judgments in the judgment docket each day.~~

General Index The general index shall be kept in a form in which names are arranged in true alphabetical order. Plaintiffs and petitioners and defendants and respondents shall be listed as well as the case file number.

(c) *Issuance of writs and orders.* All writs and orders for provisional remedies shall be issued by the clerks of the several courts, upon praecipes filed with the clerk, demanding the writs and orders.

Attach # 5

28-137. Fees for publication of legal notices and legal advertisements in newspapers; proof of publication; taxation and collection in actions or proceedings in court. (a) A newspaper shall charge and receive, for publishing a legal advertisement, one of the following, as determined by the newspaper:

litigants and others required by law to publish notice

(1) A rate not exceeding the lowest regular classified advertising rate charged by the newspaper to its commercial customers; or
(2) a rate not exceeding the following rates per line:

Size of line	11 picas Col.	11 1/2 picas Col.	12 picas Col.	12 1/2 picas Col.	14 picas Col.
5 1/2 point	27.50¢	28.75¢	30.00¢	31.25¢	32.50¢
6 point	25.25¢	26.50¢	27.75¢	29.00¢	30.25¢
7 point	23.00¢	24.25¢	25.50¢	26.75¢	28.00¢
8 point	21.00¢	22.25¢	23.50¢	24.75¢	26.00¢
9 point	20.00¢	21.25¢	22.50¢	23.75¢	25.00¢
10 point	18.00¢	19.25¢	20.50¢	21.75¢	23.00¢
11 point	16.82¢	17.91¢	19.00¢	20.12¢	21.25¢
12 point	15.65¢	16.74¢	17.82¢	18.91¢	20.00¢

Where column widths are other than those shown above, the rate per line of type should be proportionately increased or decreased.

(c) On or before July 1 of each year, the publisher of each newspaper which publishes any legal advertisement in this state shall file with the secretary of state a card showing the following, which shall be effective for a period of one year from the July 1 on or before which the filing is made:

- (1) Whether the newspaper's rates for legal advertisements are established pursuant to subsection (a)(1) or (a)(2); and
- (2) if the rates are established pursuant to subsection (a) (1), the newspaper's rates for legal advertisements.

(d) If a newspaper's rates for legal advertisements are established pursuant to subsection (1)(a) [*] any contract rates or volume discounts given to commercial customers by the newspaper shall be available to persons or political subdivisions causing publication of legal advertisements, under the same terms and conditions as for commercial advertisements.

The classified rate for legal advertisements shall not in any year be increased by more than 15% in excess of the rate for the next preceding year.

(e) Proof of the publication of all such notices shall be made in the manner required by law or the order or citation of court or summons, and each such proof of publication shall be accompanied by a verified statement of the fees and charges therefor. ~~The fees and charges of all such publications when made in any action or proceeding in any court of this state shall be taxed as costs and collected in the same manner as other costs in the action or proceeding.~~

At the conclusion of an action or proceeding in any district court of this state

may

as provided in K.S.A. 60-2002 and K.S.A. 60-2003

(g) As used in this section, "legal advertisement" and "political subdivision" have the meanings provided by K.S.A. 28-137b.

History: R.S. 1923, 28-137; L. 1941, ch. 234, § 1; L. 1949, ch. 6, § 1; L. 1959, ch. 185, § 1; L. 1968, ch. 131, § 34; L. 1980, ch. 118, § 3; L. 1981, 173, § 2; L. 1982, ch. 166, § 4; July 1, 1983.

Attach 5