

CHAPTER 7

SENATE BILL No. 316

AN ACT concerning civil procedure; relating to executions; issuance; amending K.S.A. 2003 Supp. 60-2401 and repealing the existing section.

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

Section 1. K.S.A. 2003 Supp. 60-2401 is hereby amended to read as follows: 60-2401. (a) *Definitions.* A general execution is a direction to an officer to seize any nonexempt property of a judgment debtor and cause it to be sold in satisfaction of the judgment. A special execution or order of sale is a direction to an officer to effect some action with regard to specified property as the court determines necessary in adjudicating the rights of parties to an action. Notwithstanding the provisions of K.S.A. 60-706, and amendments thereto, executions served under this section shall be by personal service and not by certified mail return receipt requested. If personal service cannot be obtained, other forms of service of process are hereby authorized.

(b) *By whom issued.* ~~At the request of any interested person, executions and orders of sale shall be issued by the clerk at the request of any interested person and signed by a judge. Such executions and orders shall be directed to the appropriate officers of the counties where they such executions and orders are to be levied.~~

To the extent authorized by K.S.A. 39-7,152 and amendments thereto, the secretary of social and rehabilitation services may issue an order of execution, which shall be directed to the appropriate officer of the county where the execution is to be levied. The secretary shall deliver the execution to the appropriate officer, and a copy of the execution shall be filed with the clerk of the district court where the support order was entered or registered. The execution shall thereafter be treated in all respects as though it had been issued at the request of the secretary by the clerk of court where the support order was entered or registered.

(c) *When returnable.* The officer to whom any execution or order of sale is directed shall return it to the court from which it is issued within 60 days from the date thereof. If the execution was issued by the secretary of social and rehabilitation services, the return shall be made to the court where the underlying support order was entered or registered.

(d) *Manner of levy.* Except as provided in subsection (a), a general execution shall be levied upon any real or personal nonexempt property of the judgment debtor in the manner provided for the service and execution of orders of attachment under K.S.A. 60-706 through 60-710, and amendments thereto. Oil and gas leaseholds, for the purposes of this article, shall be treated as real property. Special executions or orders of sale shall be levied and executed as the court determines.

Sec. 2. K.S.A. 2003 Supp. 60-2401 is hereby repealed.

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

Approved March 29, 2004.
