

CHAPTER 45
SENATE BILL No. 50

AN ACT concerning members of the armed forces; relating to references to the soldiers and sailors civil relief act; amending K.S.A. 59-2208, 59-2223 and 60-203 and K.S.A. 2004 Supp. 58-665 and repealing the existing sections.

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

Section 1. K.S.A. 2004 Supp. 58-665 is hereby amended to read as follows: 58-665. The Kansas power of attorney act adopts by reference 50 U.S.C. 591 592 of the ~~soldiers and sailors~~ *servicemembers* civil relief act.

Sec. 2. K.S.A. 59-2208 is hereby amended to read as follows: 59-2208. When notice of any probate proceedings is required by law or deemed necessary by the court and the manner of giving it is not directed by law, the court shall order notice to be given to all persons interested, in such manner and for such length of time as the court considers reasonable. A copy of the petition, any attachments to it and, when applicable, a copy of the will, accounting and settlement agreement shall be served with the notice, unless excused by court order. Any required notice may be waived in writing by: Any competent person; any fiduciary; a trustee on behalf of the trustee and all beneficiaries of the trust; a conservator on behalf of the conservator and all the conservator's conservatees; a guardian on behalf of the guardian and all the guardian's wards; a guardian *ad litem* on behalf of the guardian *ad litem* and all those whom the guardian *ad litem* represents; or an attorney under the ~~soldiers and sailors~~ *servicemembers* civil relief act on behalf of an attorney appointed pursuant to that act and all those whom such attorney represents.

Sec. 3. K.S.A. 59-2223 is hereby amended to read as follows: 59-2223. When a petition is filed for the probate of a will, for the determination that a consent of a spouse to a will is a valid and binding consent or for administration, if all the parties interested as heirs, devisees and legatees enter their appearance in writing, duly acknowledged, waive the notice otherwise required and consent to an immediate hearing, a hearing may be held, in the discretion of the court, as if notice had been given. Such entry of appearance, waiver of notice and consent to an immediate hearing may be given by: (a) A trustee on behalf of the trustee and all beneficiaries of the trust; (b) a conservator on behalf of the conservator and all the conservator's conservatees; (c) a guardian on behalf of the guardian and all the guardian's wards; (d) a guardian *ad litem* on behalf of the guardian *ad litem* and all of those whom the guardian *ad litem* represents; or (e) by an attorney under the ~~soldiers and sailors~~ *servicemembers* civil relief act on behalf of an attorney appointed pursuant to the ~~soldiers and sailors~~ *servicemembers* civil relief act and all of those whom such attorney represents.

Sec. 4. K.S.A. 60-203 is hereby amended to read as follows: 60-203. (a) A civil action is commenced at the time of: (1) Filing a petition with the clerk of the court, if service of process is obtained or the first publication is made for service by publication within 90 days after the petition is filed, except that the court may extend that time an additional 30 days upon a showing of good cause by the plaintiff; or (2) service of process or first publication, if service of process or first publication is not made within the time specified by provision (1).

(b) If service of process or first publication purports to have been made but is later adjudicated to have been invalid due to any irregularity in form or procedure or any defect in making service, the action shall nevertheless be deemed to have been commenced at the applicable time under subsection (a) if valid service is obtained or first publication is made within 90 days after that adjudication, except that the court may extend that time an additional 30 days upon a showing of good cause by the plaintiff.

(c) The filing of an entry of appearance shall have the same effect as service. Written contact with the court by a defendant or an attorney for a defendant evoking the protection for such defendant under the ~~soldiers and sailors~~ *servicemembers* civil relief act shall not be deemed an entry of appearance by the court.

(d) As used in this section, filing a petition with the clerk of the court shall include receipt by the clerk of a petition by telefacsimile commu-

lication complying with supreme court rules.

Sec. 5. K.S.A. 59-2208, 59-2223 and 60-203 and K.S.A. 2004 Supp. 58-665 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 4, 2005.
