

CHAPTER 36

SENATE BILL No. 269

AN ACT amending the revised Kansas code for care of children; relating to service of process; amending K.S.A. 2006 Supp. 38-2237 and repealing the existing section.

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

Section 1. K.S.A. 2006 Supp. 38-2237 is hereby amended to read as follows: 38-2237. Summons, notice of hearings and other process may be served by one of the following methods:

(a) *Personal and residence service.* Personal and residence service is completed by service in substantial compliance with the provisions of K.S.A. 60-303, and amendments thereto. Personal service upon an individual outside the state shall be made in substantial compliance with the applicable provisions of K.S.A. 60-308, and amendments thereto.

(b) *Service by return receipt delivery.* Service by return receipt delivery is completed upon mailing or sending only in accordance with the provisions of subsection (c) of K.S.A. 60-303, and amendments thereto.

(c) *First class mail service.* Service may be made by first class mail, addressed to the individual to be served at the usual place of residence of the person with postage prepaid, and is completed upon the person appearing before the court in response thereto. If the person fails to appear, the summons, notice or other process shall be delivered by personal service, residential service, certified mail service or publication service.

(d) *Service upon confined parent.* If a parent of a child who is the subject of proceedings under this code is confined in a state or federal penal institution, state or federal hospital or other institution, service shall be made by return receipt delivery to addressee only to both the confined parent and the person in charge of the institution. It shall be the duty of the person in charge of the institution to confer with the parent, if the parent's mental condition is such that a conference will serve any useful purpose, and advise the court in writing as to the wishes of the parent with regard to the child. Personal service on a confined parent who is present in the courtroom cures any defect in notice to the person in charge of the institution.

(e) *Service by publication.* If service cannot be completed after due diligence using any other method provided in this section, service may be made by publication in accordance with this subsection. Before service by publication, the petitioner, or someone on behalf of the petitioner, shall file an affidavit which shall state the affiant has made an attempt, but unsuccessful, with due diligence to ascertain the names or residences, or both, of the persons. The notice shall be published once a week for two consecutive weeks in the newspaper authorized to publish legal notices in the county where the petition is filed. ~~In the case of a parent, publication shall also be in a newspaper authorized to publish legal notices in the locality where the court determines, after due diligence, the parent is most likely to be found.~~ *If a parent cannot be served by other means and due diligence has revealed with substantial certainty that the parent is residing in a particular locality, publication shall also be in a newspaper authorized to publish legal notices in that locality.*

Sec. 2. K.S.A. 2006 Supp. 38-2237 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 23, 2007.

---