

CHAPTER 11

HOUSE BILL No. 2364

(Amended by Chapters 135 and 155)

AN ACT concerning court procedure; time limitations for filing; amending K.S.A. 23-106, 23-9,307, 59-2947, 59-3052, 59-3073, 60-703, 60-906, 60-1503 and 61-3803 and K.S.A. 2009 Supp. 38-2229, 38-2232, 38-2242, 38-2243, 38-2260, 38-2343, 38-2361, 38-2366 and 60-206 and repealing the existing sections.

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

Section 1. K.S.A. 23-106 is hereby amended to read as follows: 23-106. (a) The clerks of the district courts or judges thereof, when applied to for a marriage license by any person who is one of the parties to the proposed marriage and who is legally entitled to a marriage license, shall issue a marriage license in substance as follows:

MARRIAGE LICENSE

(Name of place where office located, month, day and year.)

TO ANY PERSON authorized by law to perform the marriage ceremony, Greeting:

You are hereby authorized to join in marriage A B of _____, date of birth _____, and C D of _____, date of birth _____, (and name of parent or guardian consenting), and of this license, duly endorsed, you will make due return to this office immediately after performing the ceremony.

E F, (title of person issuing the license).

(b) No clerk or judge of the district court shall issue a marriage license before the third calendar day (Sunday ~~and~~, holidays, *and days on which the office of the clerk of the court is not accessible* included) following the date of the filing of the application therefor in such clerk's or judge's office except that in cases of emergency or extraordinary circumstances, a judge of the district court may upon proper showing being made, permit by order of the court the issuance of such marriage license without waiting three days. Each district court shall keep a record of all marriages resulting from licenses issued by the court, which record shall show the names of the persons who were married and the date of the marriage.

(c) No clerk or judge shall issue a license authorizing the marriage of any person:

(1) Under the age of 16 years, except that a judge of the district court may, after due investigation, give consent and issue the license authorizing the marriage of a person 15 years of age when the marriage is in the best interest of the person 15 years of age; or

(2) who is 16 or 17 years of age without the express consent of such person's father, mother or legal guardian and the consent of the judge unless consent of both the mother and father and any legal guardian or all then living parents and any legal guardian is given in which case the consent of the judge shall not be required. If not given in person at the time of the application, the consent shall be evidenced by a written certificate subscribed thereto and duly attested. Where the applicants or either of them are 16 or 17 years of age and their parents are dead and there is no legal guardian then a judge of the district court may after due investigation give consent and issue the license authorizing the marriage.

(d) The judge or clerk may issue a license upon the affidavit of the party personally appearing and applying therefor, to the effect that the parties to whom such license is to be issued are of lawful age, as required by this section, and the judge or clerk is hereby authorized to administer oaths for that purpose.

(e) Every person swearing falsely in such affidavit shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$500. A clerk or judge of the district court shall state in every license the birth dates of the parties applying for the same, and if either or both are 16 or 17 years of age, the name of the father, mother, or guardian consenting to such marriage.

(f) Every marriage license shall expire at the end of six months from the date of issuance if the marriage for which the license was issued does not take place within the six-month period of time.

Sec. 2. K.S.A. 23-9,307 is hereby amended to read as follows: 23-9,307. (a) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this act.

(b) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(1) Take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(2) request an appropriate tribunal to set a date, time and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) within two days, exclusive of Saturdays, Sundays ~~and~~ legal holidays, *and days on which the office of the clerk of the court is not accessible*, after receipt of a written notice from an initiating, responding or registering tribunal, send a copy of the notice only by personal service or registered mail, return receipt requested to the petitioner;

(5) within two days, exclusive of Saturdays, Sundays ~~and~~ legal holidays, *and days on which the office of the clerk of the court is not accessible*, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(6) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) This act does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Sec. 3. K.S.A. 2009 Supp. 38-2229 is hereby amended to read as follows: 38-2229. (a) The secretary, a law enforcement officer, or a multidisciplinary team appointed pursuant to K.S.A. 2009 Supp. 38-2228, and amendments thereto, may request disclosure of documents, reports or information in regard to a child, who is the subject of a report of abuse or neglect, by making a written verified application to the district court. Upon a finding by the court that there is probable cause to believe the information sought will assist in the investigation of a report of child abuse or neglect, the court may issue a subpoena, subpoena *duces tecum* or an order for the production of the requested documents, reports or information and directing the documents, reports or information to be delivered to the applicant at a specific time, date and place.

(b) The time and date of delivery shall not be sooner than five days after the service of the subpoena or order, excluding Saturdays, Sundays ~~and~~ holidays, *and days on which the office of the clerk of the court is not accessible*. The court issuing the subpoena or order shall keep all applications filed pursuant to this subsection and a copy of the subpoena or order in a special file maintained for that purpose. Upon receiving service of a subpoena, subpoena *duces tecum* or an order for production pursuant to this section, the person or agency served shall give oral or written notice of service to any person known to have a right to assert a privilege or assert a right of confidentiality in regard to the documents, reports or information sought at least three days before the date of delivery.

(c) Any parent, child, guardian *ad litem*, person or entity subpoenaed or subject to an order of production or person or entity who claims a privilege or right of confidentiality may request in writing that the court issuing the subpoena or order of production quash the subpoena, subpoena *duces tecum* or order for production issued pursuant to this section. The request shall automatically stay the operation of the subpoena, subpoena *duces tecum* or order for production and the documents, reports or information requested shall not be delivered until the issuing court has held a hearing to determine if the documents, reports or information are subject to the claimed privilege or right of confidentiality, and whether it is in the best interests of the child for the subpoena or order to produce to be honored. The request to quash shall be filed with the district court issuing the subpoena or order at least 24 hours prior to the specified time and date of delivery, excluding Saturdays, Sundays ~~or~~ holidays, *or days on which the office of the clerk of the court is not accessible*, and a copy of the written request must be given to the person subpoenaed or subject to the order for production at least 24 hours prior to the specified time and date of delivery.

Sec. 4. K.S.A. 2009 Supp. 38-2232 is hereby amended to read as follows: 38-2232. (a) To the extent possible, when any law enforcement officer takes into custody a child under the age of 18 years without a court order, the child shall forthwith be delivered to the custody of the child's parent or other custodian unless there are reasonable grounds to believe that such action would not be in the best interests of the child. Except as provided in subsection (b), if the child is not delivered to the custody of the child's parent or other custodian, the child shall forthwith be delivered

to a shelter facility designated by the court, court services officer, juvenile intake and assessment worker, licensed attendant care center or other person or, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to a facility or person designated by the secretary. If, after delivery of the child to a shelter facility, the person in charge of the shelter facility at that time and the law enforcement officer determine that the child will not remain in the shelter facility and if the child is presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2009 Supp. 38-2202, and amendments thereto, the law enforcement officer shall deliver the child to a juvenile detention facility or other secure facility, designated by the court, where the child shall be detained for not more than 24 hours, excluding Saturdays, Sundays ~~and~~, legal holidays, *and days on which the office of the clerk of the court is not accessible*. No child taken into custody pursuant to this code shall be placed in a juvenile detention facility or other secure facility, except as authorized by this section and by K.S.A. 2009 Supp. 38-2242, 38-2243 and 38-2260, and amendments thereto. It shall be the duty of the law enforcement officer to furnish to the county or district attorney, without unnecessary delay, all the information in the possession of the officer pertaining to the child, the child's parents or other persons interested in or likely to be interested in the child and all other facts and circumstances which caused the child to be taken into custody.

(b) When any law enforcement officer takes into custody any child as provided in subsection (b)(2) of K.S.A. 2009 Supp. 38-2231, and amendments thereto, proceedings shall be initiated in accordance with the provisions of the interstate compact on juveniles, K.S.A. 38-1001 et seq., and amendments thereto, or K.S.A. 2009 Supp. 38-1008, and amendments thereto, when effective. Any child taken into custody pursuant to the interstate compact on juveniles may be detained in a juvenile detention facility or other secure facility.

(c) Whenever a child under the age of 18 years is taken into custody by a law enforcement officer without a court order and is thereafter placed as authorized by subsection (a), the facility or person shall, upon written application of the law enforcement officer, have physical custody and provide care and supervision for the child. The application shall state:

- (1) The name and address of the child, if known;
- (2) the names and addresses of the child's parents or nearest relatives and persons with whom the child has been residing, if known; and
- (3) the officer's belief that the child is a child in need of care and that there are reasonable grounds to believe that the circumstances or condition of the child is such that the child would be harmed unless placed in the immediate custody of the shelter facility or other person.

(d) A copy of the application shall be furnished by the facility or person receiving the child to the county or district attorney without unnecessary delay.

(e) The shelter facility or other person designated by the court who has custody of the child pursuant to this section shall discharge the child not later than 72 hours following admission, excluding Saturdays, Sundays ~~and~~, legal holidays, *and days on which the office of the clerk of the court is not accessible*, unless a court has entered an order pertaining to temporary custody or release.

(f) In absence of a court order to the contrary, the county or district attorney or the placing law enforcement agency shall have the authority to direct the release of the child at any time.

(g) When any law enforcement officer takes into custody any child as provided in subsection (d) of K.S.A. 2009 Supp. 38-2231, and amendments thereto, the child shall forthwith be delivered to the school in which the child is enrolled, any location designated by the school in which the child is enrolled or the child's parent or other custodian.

Sec. 5. K.S.A. 2009 Supp. 38-2242 is hereby amended to read as follows: 38-2242. (a) The court, upon verified application, may issue ex parte an order directing that a child be held in protective custody and, if the child has not been taken into custody, an order directing that the child be taken into custody. The application shall state for each child:

- (1) The applicant's belief that the child is a child in need of care;
- (2) that the child is likely to sustain harm if not immediately removed from the home;

(3) that allowing the child to remain in the home is contrary to the welfare of the child; and

(4) the facts relied upon to support the application, including efforts known to the applicant to maintain the family unit and prevent the unnecessary removal of the child from the child's home, or the specific facts supporting that an emergency exists which threatens the safety of the child.

(b) (1) The order of protective custody may be issued only after the court has determined there is probable cause to believe the allegations in the application are true. The order shall remain in effect until the temporary custody hearing provided for in K.S.A. 2009 Supp. 38-2243, and amendments thereto, unless earlier rescinded by the court.

(2) No child shall be held in protective custody for more than 72 hours, excluding Saturdays, Sundays ~~and~~, legal holidays, *and days on which the office of the clerk of the court is not accessible*, unless within the 72-hour period a determination is made as to the necessity for temporary custody in a temporary custody hearing. The time spent in custody pursuant to K.S.A. 2009 Supp. 38-2232, and amendments thereto, shall be included in calculating the 72-hour period. Nothing in this subsection shall be construed to mean that the child must remain in protective custody for 72 hours. If a child is in the protective custody of the secretary, the secretary shall allow at least one supervised visit between the child and the parent or parents within such time period as the child is in protective custody. The court may prohibit such supervised visit if the court determines it is not in the best interest of the child.

(c) (1) Whenever the court determines the necessity for an order of protective custody, the court may place the child in the protective custody of:

(A) A parent or other person having custody of the child and may enter a restraining order pursuant to subsection (e);

(B) a person, other than the parent or other person having custody, who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(C) a youth residential facility;

(D) a shelter facility; or

(E) the secretary, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse.

(2) If the secretary presents the court with a plan to provide services to a child or family which the court finds will assure the safety of the child, the court may only place the child in the protective custody of the secretary until the court finds the services are in place. The court shall have the authority to require any person or entity agreeing to participate in the plan to perform as set out in the plan. When the child is placed in the protective custody of the secretary, the secretary shall have the discretionary authority to place the child with a parent or to make other suitable placement for the child. When the child is presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2009 Supp. 38-2202, and amendments thereto, the child may be placed in a juvenile detention facility or other secure facility pursuant to an order of protective custody for a period of not to exceed 24 hours, excluding Saturdays, Sundays ~~and~~, legal holidays, *and days on which the office of the clerk of the court is not accessible*.

(d) The order of protective custody shall be served pursuant to subsection (a) of K.S.A. 2009 Supp. 38-2237, and amendments thereto, on the child's parents and any other person having legal custody of the child. The order shall prohibit the removal of the child from the court's jurisdiction without the court's permission.

(e) If the court issues an order of protective custody, the court may also enter an order restraining any alleged perpetrator of physical, sexual, mental or emotional abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child, other family member or witness; or attempting to visit, contact, harass or intimidate the child, other family member or witness. Such restraining order shall be served by personal service pursuant to subsection (a) of K.S.A. 2009 Supp. 38-2237, and amendments thereto, on any alleged perpetrator to whom the order is directed.

(f) (1) The court shall not enter an order removing a child from the custody of a parent pursuant to this section unless the court first finds

probable cause that: (A)(i) the child is likely to sustain harm if not immediately removed from the home;

(ii) allowing the child to remain in home is contrary to the welfare of the child; or

(iii) immediate placement of the child is in the best interest of the child; and

(B) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

(2) Such findings shall be included in any order entered by the court. If the child is placed in the custody of the secretary, the court shall provide the secretary with a written copy of any orders entered upon making the order.

Sec. 6. K.S.A. 2009 Supp. 38-2243 is hereby amended to read as follows: 38-2243. (a) Upon notice and hearing, the court may issue an order directing who shall have temporary custody and may modify the order during the pendency of the proceedings as will best serve the child's welfare.

(b) A hearing pursuant to this section shall be held within 72 hours, excluding Saturdays, Sundays ~~and~~, legal holidays, *and days on which the office of the clerk of the court is not accessible*, following a child having been taken into protective custody.

(c) Whenever it is determined that a temporary custody hearing is required, the court shall immediately set the time and place for the hearing. Notice of a temporary custody hearing shall be given to all parties and interested parties.

(d) Notice of the temporary custody hearing shall be given at least 24 hours prior to the hearing. The court may continue the hearing to afford the 24 hours prior notice or, with the consent of the party or interested party, proceed with the hearing at the designated time. If an order of temporary custody is entered and the parent or other person having custody of the child has not been notified of the hearing, did not appear or waive appearance and requests a rehearing, the court shall rehear the matter without unnecessary delay.

(e) Oral notice may be used for giving notice of a temporary custody hearing where there is insufficient time to give written notice. Oral notice is completed upon filing a certificate of oral notice.

(f) The court may enter an order of temporary custody after determining there is probable cause to believe that the: (1) Child is dangerous to self or to others; (2) child is not likely to be available within the jurisdiction of the court for future proceedings; or (3) health or welfare of the child may be endangered without further care.

(g) (1) Whenever the court determines the necessity for an order of temporary custody the court may place the child in the temporary custody of:

(A) A parent or other person having custody of the child and may enter a restraining order pursuant to subsection (h);

(B) a person, other than the parent or other person having custody, who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(C) a youth residential facility;

(D) a shelter facility; or

(E) the secretary, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse.

(2) If the secretary presents the court with a plan to provide services to a child or family which the court finds will assure the safety of the child, the court may only place the child in the temporary custody of the secretary until the court finds the services are in place. The court shall have the authority to require any person or entity agreeing to participate in the plan to perform as set out in the plan. When the child is placed in the temporary custody of the secretary, the secretary shall have the discretionary authority to place the child with a parent or to make other suitable placement for the child. When the child is presently alleged, but not yet adjudicated to be a child in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2009 Supp. 38-2202, and amendments thereto, the child may be placed in a juvenile detention facility or other secure facility, but the total amount of time that the child may be held in such facility under this section and K.S.A. 2009 Supp. 38-2242, and

amendments thereto, shall not exceed 24 hours, excluding Saturdays, Sundays ~~and~~, legal holidays, *and days on which the office of the clerk of the court is not accessible*. The order of temporary custody shall remain in effect until modified or rescinded by the court or an adjudication order is entered but not exceeding 60 days, unless good cause is shown and stated on the record.

(h) If the court issues an order of temporary custody, the court may also enter an order restraining any alleged perpetrator of physical, sexual, mental or emotional abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child; or attempting to visit, contact, harass or intimidate the child, other family members or witnesses. Such restraining order shall be served by personal service pursuant to subsection (a) of K.S.A. 2009 Supp. 38-2237, and amendments thereto, on any alleged perpetrator to whom the order is directed.

(i) (1) The court shall not enter an order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that: (A)(i) the child is likely to sustain harm if not immediately removed from the home;

(ii) allowing the child to remain in home is contrary to the welfare of the child; or

(iii) immediate placement of the child is in the best interest of the child; and

(B) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

(2) Such findings shall be included in any order entered by the court. If the child is placed in the custody of the secretary, upon making the order the court shall provide the secretary with a written copy.

(j) If the court enters an order of temporary custody that provides for placement of the child with a person other than the parent, the court shall make a child support determination pursuant to K.S.A. 2009 Supp. 38-2277, and amendments thereto.

Sec. 7. K.S.A. 2009 Supp. 38-2260 is hereby amended to read as follows: 38-2260. (a) *Valid court order*. During proceedings under this code, the court may enter an order directing a child who is the subject of the proceedings to remain in a present or future placement if:

(1) The child and the child's guardian ad litem are present in court when the order is entered;

(2) the court finds that the child has been adjudicated a child in need of care pursuant to subsections (d)(6), (d)(7), (d)(8), (d)(9), (d)(10) or (d)(12) of K.S.A. 2009 Supp. 38-2202, and amendments thereto, and that the child is not likely to be available within the jurisdiction of the court for future proceedings;

(3) the child and the guardian ad litem receive oral and written notice of the consequences of violation of the order; and

(4) a copy of the written notice is filed in the official case file.

(b) *Application*. Any person may file a verified application for determination that a child has violated an order entered pursuant to subsection (a) and for an order authorizing holding the child in a secure facility or juvenile detention facility. The application shall state the applicant's belief that the child has violated the order entered pursuant to subsection (a) without good cause and the specific facts supporting the allegation.

(c) *Ex parte order*. After reviewing the application filed pursuant to subsection (b), the court may enter an ex parte order directing that the child be taken into custody and held in a secure facility or juvenile detention facility designated by the court, if the court finds probable cause that the child violated the court's order to remain in placement without good cause. Pursuant to K.S.A. 2009 Supp. 38-2237, and amendments thereto, the order shall be served on the child's parents, the child's legal custodian and the child's guardian ad litem.

(d) *Preliminary hearing*. Within 24 hours following a child's being taken into custody pursuant to an order issued under subsection (c), the court shall hold a preliminary hearing to determine whether the child admits or denies the allegations of the application and, if the child denies the allegations, to determine whether probable cause exists to support the allegations.

(1) Notice of the time and place of the preliminary hearing shall be given orally or in writing to the child's parents, the child's legal custodian and the child's guardian ad litem.

(2) At the hearing, the child shall have the right to a guardian ad litem and shall be served with a copy of the application.

(3) If the child admits the allegations or enters a no contest statement and if the court finds that the admission or no contest statement is knowledgeable and voluntary, the court shall proceed without delay to the placement hearing pursuant to subsection (f).

(4) If the child denies the allegations, the court shall determine whether probable cause exists to hold the child in a secure facility or juvenile detention facility pending an evidentiary hearing pursuant to subsection (e). After hearing the evidence, if the court finds that: (A) There is probable cause to believe that the child has violated an order entered pursuant to subsection (a) without good cause; and (B) placement in a secure facility or juvenile detention facility is necessary for the protection of the child or to assure the presence of the child at the evidentiary hearing pursuant to subsection (e), the court may order the child held in a secure facility or juvenile detention facility pending the evidentiary hearing.

(e) *Evidentiary hearing.* The court shall hold an evidentiary hearing on an application within 72 hours of the child's being taken into custody. Notice of the time and place of the hearing shall be given orally or in writing to the child's parents, the child's legal custodian and the child's guardian ad litem. At the evidentiary hearing, the court shall determine by a clear and convincing evidence whether the child has:

(1) Violated a court order entered pursuant to subsection (a) without good cause;

(2) been provided at the hearing with the rights enumerated in subsection (d)(2); and

(3) been informed of:

(A) The nature and consequences of the proceeding;

(B) the right to confront and cross-examine witnesses and present evidence;

(C) the right to have a transcript or recording of the proceedings; and

(D) the right to appeal.

(f) *Placement.* (1) If the child admits violating the order entered pursuant to subsection (a) or if, after an evidentiary hearing, the court finds that the child has violated such an order, the court shall immediately proceed to a placement hearing. The court may enter an order awarding custody of the child to:

(A) A parent or other legal custodian;

(B) a person other than a parent or other person having custody, who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(C) a youth residential facility; or

(D) the secretary, if the secretary does not already have legal custody of the child.

(2) The court may authorize the custodian to place the child in a secure facility or juvenile detention facility, if the court determines that all other placement options have been exhausted or are inappropriate, based upon a written report submitted by the secretary, if the child is in the secretary's custody, or submitted by a public agency independent of the court and law enforcement, if the child is in the custody of someone other than the secretary. The report shall detail the behavior of the child and the circumstances under which the child was brought before the court and made subject to the order entered pursuant to subsection (a).

(3) The authorization to place the child in a secure facility or juvenile detention facility pursuant to this subsection shall expire 60 days, inclusive of weekend and legal holidays, after its issue. The court may grant extensions of such authorization for two additional periods, each not to exceed 60 days, upon rehearing pursuant to K.S.A. 2009 Supp. 38-2256, and amendments thereto.

(g) *Payment.* The secretary shall only pay for placement and services for a child placed in a secure facility or juvenile detention facility pursuant to subsection (f) upon receipt of a valid court order authorizing secure care placement.

(h) *Limitations on facilities used.* Nothing in this section shall authorize placement of a child in an adult jail or lockup.

(i) *Time limits, computation.* Except as otherwise specifically provided by subsection (f), Saturdays, Sundays ~~and~~ legal holidays, *and days on which the office of the clerk of the court is not accessible* shall not be

counted in computing any time limit imposed by this section.

Sec. 8. K.S.A. 2009 Supp. 38-2343 is hereby amended to read as follows: 38-2343. (a) *Length of detention.* Whenever a juvenile is taken into custody, the juvenile shall not remain in detention for more than 48 hours, excluding Saturdays, Sundays ~~and~~, legal holidays, *and days on which the office of the clerk of the court is not accessible*, from the time the initial detention was imposed, unless the court determines after hearing, within the 48-hour period, that further detention is necessary.

(b) *Waiver of detention hearing.* The detention hearing may be waived in writing by the juvenile and the juvenile's attorney with approval of the court. The right to a detention hearing may be reasserted in writing by the juvenile or the juvenile's attorney or parent at anytime not less than 48 hours prior to trial.

(c) *Notice of hearing.* Whenever it is determined that a detention hearing is required the court shall immediately set the time and place for the hearing. Except as otherwise provided by subsection (c)(1) of K.S.A. 2009 Supp. 38-2332, and amendments thereto, notice of the detention hearing shall be given at least 24 hours prior to the hearing, unless waived.

(d) *Oral notice.* When there is insufficient time to give written notice, oral notice may be given and is completed upon filing a certificate of oral notice with the clerk.

(e) *Hearing, finding, bond.* At the time set for the detention hearing if no retained attorney is present to represent the juvenile, the court shall appoint an attorney, and may recess the hearing for 24 hours to obtain attendance of the attorney appointed. At the detention hearing, if the court finds the juvenile is dangerous to self or others, the juvenile may be detained in a juvenile detention facility or youth residential facility which the court shall designate. If the court finds the juvenile is not likely to appear for further proceedings, the juvenile may be detained in a juvenile detention facility or youth residential facility which the court shall designate or may be released upon the giving of an appearance bond in an amount specified by the court and on the conditions the court may impose, in accordance with the applicable provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto. In the absence of either finding, the court shall order the juvenile released or placed in temporary custody as provided in subsection (f).

In determining whether to place a juvenile in a juvenile detention facility pursuant to this subsection, the court shall consider all relevant factors, including, but not limited to, the criteria listed in K.S.A. 2009 Supp. 38-2331, and amendments thereto. If the court orders the juvenile to be detained in a juvenile detention facility, the court shall record the specific findings of fact upon which the order is based.

If detention is ordered and the parent was not notified of the hearing and did not appear and later requests a rehearing, the court shall rehear the matter without unnecessary delay.

(f) *Temporary custody.* If the court determines that detention is not necessary but finds that release to the custody of a parent is not in the best interests of the juvenile, the court may place the juvenile in the temporary custody of a youth residential facility, some other suitable person willing to accept temporary custody or the commissioner. Such finding shall be made in accordance with K.S.A. 2009 Supp. 38-2334 and 38-2335, and amendments thereto.

(g) *Audio-video communications.* Detention hearings may be conducted by two-way electronic audio-video communication between the juvenile and the judge in lieu of personal presence of the juvenile or the juvenile's attorney in the courtroom from any location within Kansas in the discretion of the court. The juvenile may be accompanied by the juvenile's attorney during such proceedings or the juvenile's attorney may be personally present in court as long as a means of confidential communication between the juvenile and the juvenile's attorney is available.

Sec. 9. K.S.A. 2009 Supp. 38-2361 is hereby amended to read as follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 2009 Supp. 38-2356, and amendments thereto, modification of sentence pursuant to K.S.A. 2009 Supp. 38-2367, and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. 2009 Supp. 38-2368, and amendments thereto, and subject to subsection (a) of K.S.A. 2009 Supp. 38-2365, and amendments thereto, the court may impose one or more of the following sentencing alternatives. In the event that any sentencing alternative chosen constitutes an order authorizing or

requiring removal of the juvenile from the juvenile's home and such findings either have not previously been made or the findings are not or may no longer be current, the court shall make determinations as required by K.S.A. 2009 Supp. 38-2334 and 38-2335, and amendments thereto.

(1) Place the juvenile on probation through court services or community corrections for a fixed period, subject to terms and conditions the court deems appropriate consistent with juvenile justice programs in the community.

(2) Order the juvenile to participate in a community based program available in such judicial district subject to the terms and conditions the court deems appropriate. This alternative shall not be ordered with the alternative in paragraph (12) and when ordered with the alternative in paragraph (10) shall constitute a recommendation. Requirements pertaining to child support may apply if custody is vested with other than a parent.

(3) Place the juvenile in the custody of a parent or other suitable person, subject to terms and conditions consistent with juvenile justice programs in the community. This alternative shall not be ordered with the alternative in paragraph (10) or (12). Requirements pertaining to child support may apply if custody is vested with other than a parent.

(4) Order the juvenile to attend counseling, educational, mediation or other sessions, or to undergo a drug evaluation pursuant to subsection (b).

(5) Suspend or restrict the juvenile's driver's license or privilege to operate a motor vehicle on the streets and highways of this state pursuant to subsection (c).

(6) Order the juvenile to perform charitable or community service work.

(7) Order the juvenile to make appropriate reparation or restitution pursuant to subsection (d).

(8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to subsection (e).

(9) Place the juvenile under a house arrest program administered by the court pursuant to K.S.A. 21-4603b, and amendments thereto.

(10) Place the juvenile in the custody of the commissioner as provided in K.S.A. 2009 Supp. 38-2365, and amendments thereto. This alternative shall not be ordered with the alternative in paragraph (3) or (12). Except for a mandatory drug and alcohol evaluation, when this alternative is ordered with alternatives in paragraphs (2), (4) and (9), such orders shall constitute a recommendation by the court. Requirements pertaining to child support shall apply under this alternative.

(11) Commit the juvenile to a sanctions house for a period no longer than 28 days subject to the provisions of subsection (f).

(12) Commit the juvenile directly to the custody of the commissioner for a period of confinement in a juvenile correctional facility and a period of aftercare pursuant to K.S.A. 2009 Supp. 38-2369, and amendments thereto. The provisions of K.S.A. 2009 Supp. 38-2365, and amendments thereto, shall not apply to juveniles committed pursuant to this provision. This alternative may be ordered with the alternative in paragraph (7). Requirements pertaining to child support shall apply under this alternative.

(b) If the court orders the juvenile to attend counseling, educational, mediation or other sessions, or to undergo a drug and alcohol evaluation pursuant to subsection (a)(4), the following provisions apply:

(1) The court may order the juvenile offender to participate in counseling or mediation sessions or a program of education, including placement in an alternative educational program approved by a local school board. The costs of any counseling or mediation may be assessed as expenses in the case. No mental health center shall charge a fee for court-ordered counseling greater than what the center would have charged the person receiving the counseling if the person had requested counseling on the person's own initiative. No mediator shall charge a fee for court-ordered mediation greater than what the mediator would have charged the person participating in the mediation if the person had requested mediation on the person's own initiative. Mediation may include the victim but shall not be mandatory for the victim; and

(2) if the juvenile has been adjudicated to be a juvenile by reason of a violation of a statute that makes such a requirement, the court shall order and, if adjudicated for any other offense, the court may order the

juvenile to submit to and complete a drug and alcohol evaluation by a community-based drug and alcohol safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. The court may waive the mandatory evaluation if the court finds that the juvenile completed a drug and alcohol evaluation, approved by the community-based alcohol and drug safety action program, within 12 months before sentencing. If the evaluation occurred more than 12 months before sentencing, the court shall order the juvenile to resubmit to and complete the evaluation and program as provided herein. If the court finds that the juvenile and those legally liable for the juvenile's support are indigent, the court may waive the fee. In no event shall the fee be assessed against the commissioner or the juvenile justice authority nor shall the fee be assessed against the secretary of social and rehabilitation services or the department of social and rehabilitation services if the juvenile is in the secretary's care, custody and control.

(c) If the court orders suspension or restriction of a juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state pursuant to subsection (a)(5), the following provisions apply:

(1) The duration of the suspension ordered by the court shall be for a definite time period to be determined by the court. Upon suspension of a license pursuant to this subsection, the court shall require the juvenile offender to surrender the license to the court. The court shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the juvenile offender may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the juvenile offender's privilege to operate a motor vehicle is in effect. As used in this subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto. Any juvenile offender who does not have a driver's license may have driving privileges revoked. No Kansas driver's license shall be issued to a juvenile offender whose driving privileges have been revoked pursuant to this section for a definite time period to be determined by the court; and

(2) in lieu of suspending a juvenile offender's driver's license or privilege to operate a motor vehicle on the highways of this state, the court may enter an order which places conditions on the juvenile offender's privilege of operating a motor vehicle on the streets and highways of this state, a certified copy of which the juvenile offender shall be required to carry any time the juvenile offender is operating a motor vehicle on the streets and highways of this state. The order shall prescribe a definite time period for the conditions imposed. Upon entering an order restricting a juvenile offender's license, the court shall require the juvenile offender to surrender such juvenile offender's license to the court. The court shall transmit the license to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on the juvenile offender's privilege of operating a motor vehicle and that a certified copy of the order imposing the conditions is required to be carried by the juvenile offender when operating a motor vehicle on the streets and highways of this state. If the juvenile offender is a nonresident, the court shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator of the juvenile offender's state of issuance. The court shall furnish to any juvenile offender whose driver's license has had conditions imposed on it under this section a copy of the order, which shall be recognized as a valid Kansas driver's license until the division issues the restricted license provided for in this subsection. Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the juvenile offender may apply to the division for the return of the license previously surrendered by the juvenile offender. In the event the license has expired, the juvenile offender may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law unless such juvenile offender's

privilege to operate a motor vehicle on the streets and highways of this state has been suspended or revoked prior thereto. If any juvenile offender violates any of the conditions imposed under this subsection, the juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be revoked for a period as determined by the court in which the juvenile offender is convicted of violating such conditions.

(d) The following provisions apply to the court's determination of whether to order reparation or restitution pursuant to subsection (a)(7):

(1) The court shall order the juvenile to make reparation or restitution to the aggrieved party for the damage or loss caused by the juvenile offender's offense unless it finds compelling circumstances that would render a plan of reparation or restitution unworkable. If the court finds compelling circumstances that would render a plan of reparation or restitution unworkable, the court shall enter such findings with particularity on the record. In lieu of reparation or restitution, the court may order the juvenile to perform charitable or social service for organizations performing services for the community; and

(2) restitution may include, but shall not be limited to, the amount of damage or loss caused by the juvenile's offense. Restitution may be made by payment of an amount fixed by the court or by working for the parties sustaining loss in the manner ordered by the court. An order of monetary restitution shall be a judgment against the juvenile that may be collected by the court by garnishment or other execution as on judgments in civil cases. Such judgment shall not be affected by the termination of the court's jurisdiction over the juvenile offender.

(e) If the court imposes a fine pursuant to subsection (a)(8), the following provisions apply:

(1) The amount of the fine may not exceed \$1,000 for each offense. The amount of the fine should be related to the seriousness of the offense and the juvenile's ability to pay. Payment of a fine may be required in a lump sum or installments;

(2) in determining whether to impose a fine and the amount to be imposed, the court shall consider that imposition of a fine is most appropriate in cases where the juvenile has derived pecuniary gain from the offense and that imposition of a restitution order is preferable to imposition of a fine; and

(3) any fine imposed by court shall be a judgment against the juvenile that may be collected by the court by garnishment or other execution as on judgments in civil cases. Such judgment shall not be affected by the termination of the court's jurisdiction over the juvenile.

(f) If the court commits the juvenile to a sanctions house pursuant to subsection (a)(11), the following provisions shall apply:

(1) The court may order commitment for up to 28 days for the same offense or violation of sentencing condition. The court shall review the commitment every seven days and, may shorten the initial commitment or, if the initial term is less than 28 days, may extend the commitment;

(2) if, in the sentencing order, the court orders a sanctions house placement for a verifiable probation violation and such probation violation occurs, the juvenile may immediately be taken to a sanctions house and detained for no more than 48 hours, excluding Saturdays, Sundays ~~and~~ holidays, *and days on which the office of the clerk of the court is not accessible*, prior to court review of the placement. The court and all parties shall be notified of the sanctions house placement; and

(3) a juvenile over 18 years of age and less than 23 years of age at sentencing shall be committed to a county jail, in lieu of a sanctions house, under the same time restrictions imposed by paragraph (1), but shall not be committed to or confined in a juvenile detention facility.

(g) Any order issued by the judge pursuant to this section shall be in effect immediately upon entry into the court's minutes.

(h) In addition to the requirements of K.S.A. 2009 Supp. 38-2373, and amendments thereto, if a person is under 18 years of age and convicted of a felony or adjudicated as a juvenile offender for an offense if committed by an adult would constitute the commission of a felony, the court shall forward a signed copy of the journal entry to the commissioner within 30 days of final disposition.

(i) Except as further provided, if a juvenile has been adjudged to be a juvenile offender for an offense that if committed by an adult would constitute the commission of: (1) Aggravated trafficking, as defined in

K.S.A. 2009 Supp. 21-3447, and amendments thereto, if the victim is less than 14 years of age; (2) rape, as defined in subsection (a)(2) of K.S.A. 21-3502, and amendments thereto; (3) aggravated indecent liberties with a child, as defined in subsection (a)(3) of K.S.A. 21-3504, and amendments thereto; (4) aggravated criminal sodomy, as defined in subsection (a)(1) or (a)(2) of K.S.A. 21-3506, and amendments thereto; (5) promoting prostitution, as defined in K.S.A. 21-3513, and amendments thereto, if the prostitute is less than 14 years of age; (6) sexual exploitation of a child, as defined in subsection (a)(5) or (a)(6) of K.S.A. 21-3516, and amendments thereto; or (7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of an offense defined in parts (1) through (6); the court shall issue an order prohibiting the juvenile from attending the attendance center that the victim of the offense attends. If only one attendance center exists, for which the victim and juvenile are eligible to attend, in the school district where the victim and the juvenile reside, the court shall hear testimony and take evidence from the victim, the juvenile, their families and a representative of the school district as to why the juvenile should or should not be allowed to remain at the attendance center attended by the victim. After such hearing, the court may issue an order prohibiting the juvenile from attending the attendance center that the victim of the offense attends.

(j) The sentencing hearing shall be open to the public as provided in K.S.A. 2009 Supp. 38-2353, and amendments thereto.

Sec. 10. K.S.A. 2009 Supp. 38-2366 is hereby amended to read as follows: 38-2366. (a) When a juvenile offender who is under 16 years of age at the time of the sentencing, has been prosecuted and convicted as an adult or under the extended jurisdiction juvenile prosecution, and has been placed in the custody of the secretary of the department of corrections, the secretary shall notify the sheriff having the offender in custody to convey such juvenile offender at a time designated by the juvenile justice authority to a juvenile correctional facility. The commissioner shall notify the court, in writing, of the initial placement of the offender in the specific juvenile correctional facility as soon as the placement has been accomplished. The commissioner shall not permit the juvenile offender to remain detained in any jail for more than 72 hours, excluding Saturdays, Sundays ~~and~~, legal holidays, *and days on which the office of the clerk of the court is not accessible*, after the commissioner has received the written order of the court placing the offender in the custody of the commissioner. If such placement cannot be accomplished, the offender may remain in jail for an additional period of time, not exceeding 10 days, which is specified by the commissioner and approved by the court.

(b) A juvenile who has been prosecuted and convicted as an adult shall not be eligible for admission to a juvenile correctional facility. All other conditions of the offender's sentence imposed under this code, including restitution orders, may remain intact. The provisions of this subsection shall not apply to an offender who: (1) Is under 16 years of age at the time of the sentencing; (2) has been prosecuted as an adult or under extended juvenile jurisdiction; and (3) has been placed in the custody of the secretary of corrections, requiring admission to a juvenile correctional facility pursuant to subsection (a).

Sec. 11. K.S.A. 59-2947 is hereby amended to read as follows: 59-2947. In computing the date upon or by which any act must be done or hearing held by under provisions of this article, the day on which an act or event occurred and from which a designated period of time is to be calculated shall not be included, but the last day in a designated period of time shall be included unless that day falls on a Saturday, Sunday ~~or~~, legal holiday, *or days on which the office of the clerk of the court is not accessible*, in which case the next day which is not a Saturday, Sunday ~~or~~, legal holiday, *or days on which the office of the clerk of the court is not accessible* shall be considered to be the last day.

Sec. 12. K.S.A. 59-3052 is hereby amended to read as follows: 59-3052. In computing the date upon or by which any act must be done or hearing held under provisions of this article, the day on which an act or event occurred and from which a designated period of time is to be calculated shall not be included, but the last day in a designated period of time shall be included unless that day falls on a Saturday, Sunday ~~or~~, legal holiday, *or days on which the office of the clerk of the court is not accessible*, in which case the next day which is not a Saturday, Sunday ~~or~~, legal

holiday, or days on which the office of the clerk of the court is not accessible shall be considered to be the last day.

Sec. 13. K.S.A. 59-3073 is hereby amended to read as follows: 59-3073. (a) At any time after the filing of the petition provided for in K.S.A. 59-3058, 59-3059, 59-3060, 59-3061 or 59-3062, and amendments thereto, but prior to the trial provided for in K.S.A. 59-3067, and amendments thereto, if it appears that there may be an imminent danger to the physical health or safety of the proposed ward requiring immediate action to be taken to protect the proposed ward, or that there may be an imminent danger that the estate of the proposed conservatee will be significantly depleted unless immediate action is taken to protect the estate, or both, any person may file in addition to that original petition, or as a part thereof, a verified petition requesting the appointment of a temporary guardian or a temporary conservator, or both, except if the petition alleges that the proposed conservatee is a person in need of an ancillary conservator, and requests the appointment of an ancillary conservator in Kansas, in which case the petition may request the appointment of a temporary ancillary conservator. The petition shall include:

- (1) The petitioner's name and address;
- (2) the proposed ward's or proposed conservatee's name, age, date of birth, address of permanent residence, and present address or whereabouts, if different from the proposed ward's or proposed conservatee's permanent residence;
- (3) a statement that it is the petitioner's belief that there is an imminent danger to the physical health or safety of the proposed ward requiring immediate action to be taken to protect the proposed ward, or that there is an imminent danger that the estate of the proposed conservatee will be significantly depleted unless immediate action is taken to protect the estate, or both;
- (4) the factual basis upon which the petitioner alleges this imminent danger;
- (5) the names and addresses of witnesses by whom the truth of this petition may be proved;
- (6) the name, address and relationship to the proposed ward or proposed conservatee, if any, of the individual or corporation whom the petitioner suggests that the court appoint as the temporary guardian or temporary conservator, or both, and if the proposed temporary guardian or temporary conservator is under contract with the Kansas guardianship program, that fact; and
- (7) a request that the court make an ex parte determination that there exists such imminent danger, and that the court appoint a temporary guardian or a temporary conservator, or both, with such powers as the court deems necessary to protect the proposed ward or the estate of the proposed conservatee.

(b) (1) If the court determines that there is good cause to believe that the proposed ward or proposed conservatee is an adult with an impairment in need of a guardian or a conservator, or both, or is a minor in need of a guardian or a conservator, or both, or is a minor with an impairment in need of a guardian or a conservator, or both, or is a person who has been previously adjudged as impaired in another state, or is a person in need of an ancillary conservator, as alleged in the original petition, and that there exists an imminent danger to the physical health or safety of the proposed ward, or that there exists an imminent danger that the estate of the proposed conservatee will be significantly depleted, the court may enter an ex parte emergency order appointing a temporary guardian or a temporary conservator, or both.

(2) The court shall specify what powers and duties as provided for in K.S.A. 59-3075, 59-3076, 59-3077, 59-3078, 59-3079 or 59-3080, and amendments thereto, the temporary guardian or temporary conservator shall have. The court may further authorize the temporary guardian or temporary conservator to seek appropriate injunctive or other immediate relief from any appropriate court or other authority.

(3) Subject to the provisions of subsection (g), the court shall specify within its order when the authority of the temporary guardian or temporary conservator, or both, shall expire, but in no case shall the court specify a date beyond 30 days following the issuance of the order. The court may issue successive orders extending the authority of a temporary guardian or temporary conservator, or both, only upon the filing of a written request for such, and following a hearing held similarly as pro-

vided for in subsection (e) to determine the need for and appropriateness of any such extension.

(4) The court shall order that a copy of any order issued pursuant to this subsection be promptly served upon the proposed ward or proposed conservatee, the attorney for the proposed ward or proposed conservatee, the spouse of the proposed ward or proposed conservatee, and in the case of a minor, the natural guardian of the minor, along with notice. Such notice shall specify the rights of the proposed ward or proposed conservatee, and of others, consistent with the provisions of subsection (c).

(c) If the court enters an ex parte order appointing a temporary guardian or a temporary conservator, or both, the proposed ward or proposed conservatee, the attorney for the proposed ward or proposed conservatee, the spouse of the proposed ward or proposed conservatee, or in the case of a minor, the natural guardian of the minor, may request a hearing on the matter if a written request for such is filed with the court not later than the third day following the entry of the ex parte order, or of service of the ex parte order upon the proposed ward or proposed conservatee, if later. Upon receipt of such a request, the court shall fix the time and place for a hearing upon the request, which hearing shall be held not later than the second day following the filing of the request, excluding any Saturday, Sunday ~~or~~, legal holiday, *or day on which the office of the clerk of the court is not accessible*, and shall direct how and to whom notice of such hearing shall be given.

(d) In lieu of entering an ex parte emergency order of appointment of a temporary guardian or a temporary conservator, or both, the court may deny the relief requested or set the time and place for a hearing to be held on the request for the appointment of a temporary guardian or a temporary conservator, or both, which hearing shall be held not later than the second day following the filing of the petition, excluding any Saturday, Sunday ~~or~~, legal holiday, *or day on which the office of the clerk of the court is not accessible*. The court may direct that notice thereof be given to the petitioner, the original petitioner, if different, the proposed ward or proposed conservatee, the spouse of the proposed ward or proposed conservatee, in the case of a minor, the natural guardian of the minor, and such other persons as the court determines appropriate. The court shall determine by whom and in what manner such notice shall be given. The court may enter an order requiring that the proposed ward or proposed conservatee appear at the time and place of the hearing unless the court makes a finding prior to the hearing that the presence of the proposed ward or proposed conservatee will be injurious to the person's health or welfare, or that the proposed ward's or proposed conservatee's impairment is such that the person could not participate in the proceedings, or that the proposed ward or proposed conservatee has filed with the court a written waiver of such person's right to appear in person. In any such case, the court shall enter in the record of the proceedings the facts upon which the court has found that the presence of the proposed ward or proposed conservatee at the hearing should be excused.

(e) Any hearing held pursuant to subsection (b)(3), (c) or (d) shall be conducted in as informal a manner as may be consistent with orderly procedure. The rules governing evidentiary and procedural matters shall be applied in a manner so as to facilitate informal, efficient presentation of all relevant, probative evidence and resolution of the issues with due regard for the interests of all parties.

(f) If after any hearing held pursuant to subsection (c) or (d) the court determines that there is good cause to believe that the proposed ward or proposed conservatee is an adult with an impairment in need of a guardian or a conservator, or both, or a minor in need of a guardian or a conservator, or both, or a minor with an impairment in need of a guardian or a conservator, or both, or a person who has been previously adjudged as impaired in another state, or a person in need of an ancillary conservator, as alleged in the original petition, and that there exists an imminent danger to the physical health or safety of the proposed ward, or that there exists an imminent danger that the estate of the proposed conservatee will be significantly depleted, the court may appoint, or continue the appointment of, a temporary guardian or a temporary conservator, or both, and the court shall specify what duties, responsibilities, powers and authorities as provided for in K.S.A. 59-3075, 59-3076, 59-3077, 59-3078 or 59-3079, and amendments thereto, the temporary guardian or temporary conservator shall have. The court may further authorize the tem-

porary guardian or temporary conservator to seek appropriate injunctive or other immediate relief from any appropriate court or other authority. Otherwise, if the court determines that there is good cause to believe that the proposed ward or proposed conservatee is an adult with an impairment in need of a guardian or a conservator, or both, or a minor in need of a guardian or a conservator, or both, or a minor with an impairment in need of a guardian or a conservator, or both, or a person who has been previously adjudged as impaired in another state, or a person in need of an ancillary conservator, as alleged in the original petition, but that there is not good cause to believe that there exists an imminent danger to the physical health or safety of the proposed ward, or that there exists an imminent danger that the estate of the proposed conservatee will be significantly depleted, the court shall deny the request for the appointment of a temporary guardian or a temporary conservator, or both, or shall terminate the earlier appointment of the temporary guardian or temporary conservator, or both, but shall continue the matter to trial on the original petition provided for in K.S.A. 59-3067, and amendments thereto.

(g) The appointment and authority of any temporary guardian or temporary conservator shall expire at the conclusion of the trial provided for in K.S.A. 59-3067, and amendments thereto, if the petition is denied, or upon the issuance of appropriate letters to any guardian or conservator appointed by the court at the conclusion of the trial, or as otherwise ordered by the court, but such expiration shall not affect the validity of any action taken pursuant to the authority of the temporary guardian or temporary conservator during the time of such person's appointment. The temporary guardian or temporary conservator shall be required to provide an accounting as directed by the court.

(h) If, after any hearing held pursuant to subsection (c) or (d), the court finds that there has not been shown sufficient evidence to cause the court to believe that the proposed ward or proposed conservatee is an adult with an impairment in need of a guardian or a conservator, or both, or a minor in need of a guardian or a conservator, or both, or a minor with an impairment in need of a guardian or a conservator, or both, or a person who has been previously adjudged as impaired in another state, or a person in need of an ancillary conservator, as alleged in the original petition, the court shall dismiss the petition requesting the appointment of a temporary guardian or a temporary conservator, or both, and may dismiss the original petition.

Sec. 14. K.S.A. 2009 Supp. 60-206 is hereby amended to read as follows: 60-206. The following provisions shall govern the computation and extension of time:

(a) *Computation; legal holiday defined.* In computing any period of time prescribed or allowed by this chapter, by the local rules of any district court, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday ~~or~~, a legal holiday, *or a day on which the office of the clerk of the court is not accessible*, in which event the period runs until the end of the next day which is not a Saturday, a Sunday ~~or~~, a legal holiday, *or a day on which the office of the clerk of the court is not accessible*. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays ~~and~~, legal holidays, *and days on which the office of the clerk of the court is not accessible* shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday. "Legal holiday" includes any day designated as a holiday by the congress of the United States, or by the legislature of this state, or observed as a holiday by order of the supreme court. When an act is to be performed within any prescribed time under any law of this state, or any rule or regulation lawfully promulgated thereunder, and the method for computing such time is not otherwise specifically provided, the method prescribed herein shall apply.

(b) *Enlargement.* When by this chapter or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the judge for cause shown may at any time in the judge's discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) upon motion made after the expiration of the specified period permit the act to

be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under subsection (b) of K.S.A. 60-250, subsection (b) of K.S.A. 60-252, subsections (b), (e) and (f) of K.S.A. 60-259 and subsection (b) of K.S.A. 60-260, and amendments thereto, except to the extent and under the conditions stated in them.

(c) *For motions—affidavits.* A written motion, other than one which may be heard *ex parte*, and notice of the hearing thereof shall be served not later than five days before the time specified for the hearing, unless a different period is fixed by these rules or by order of the judge. Such an order may for cause shown be made on *ex parte* application. When a motion is supported by affidavit, the affidavit shall be served with the motion; and except as otherwise provided in subsection (d) of K.S.A. 60-259, and amendments thereto, opposing affidavits may be served not later than one day before the hearing, unless the court permits them to be served at the time of hearing.

(d) *Additional time after service by mail.* Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon such party and the notice or paper is served upon such party by mail, three days shall be added to the prescribed period.

Sec. 15. K.S.A. 60-703 is hereby amended to read as follows: 60-703. The order of attachment shall be issued by a judge of the district court upon the filing of a petition stating the claim and the filing of an affidavit, or an affidavit and bond as required in this article, except that no order of attachment shall be issued before judgment on plaintiff's claim where the property of the defendant to be attached is in the possession of a third party and is in the form of earnings due and owing to the defendant. The filing of an affidavit stating one or more grounds of attachment is required in every case. A bond is required in every case except in actions instituted on behalf of the state of Kansas or a county of the state. The order of attachment may be issued and executed on Sunday ~~or on~~, a legal holiday, *or a day on which the office of the clerk of the court is not accessible* if the affidavit states that the party seeking the attachment will lose the benefit thereof unless the writ be issued or served on such day. The provisions of this section shall not be applicable to garnishments authorized pursuant to K.S.A. 60-1607, *and amendments thereto*.

Sec. 16. K.S.A. 60-906 is hereby amended to read as follows: 60-906. Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the petition or other document, the act or acts sought to be restrained; and shall be binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in concert or participation with them who receive actual notice of the order by personal service or otherwise. The order may be issued and served on Sunday ~~or on~~, a legal holiday, *or a day on which the office of the clerk of the court is not accessible*.

Sec. 17. K.S.A. 60-1503 is hereby amended to read as follows: 60-1503. (a) *Issuance.* The petition shall be presented promptly to a judge in the district court in accordance with the procedure of the court for the assignment of court business. The petition shall be examined promptly by the judge to whom it is assigned. If it plainly appears from the face of the petition and any exhibits attached thereto that the plaintiff is not entitled to relief in the district court, the petition shall be dissolved at the cost of the plaintiff. If the judge finds that the plaintiff may be entitled to relief, the judge shall issue the writ and order the person to whom the writ is directed to file an answer within the period of time fixed by the court or to take such other action as the judge deems appropriate.

(b) *Form.* The writ shall be directed to the party having the person under restraint and shall command such person to have the restrained person before the judge at the time and place specified in the writ.

(c) *Service.* The writ shall be served without delay. If directed to the sheriff it shall be served by the clerk. If directed to any other person it shall be served by the sheriff or some other person designated by the judge. If the person to whom it is directed cannot be found or shall refuse admittance, the writ may be served by leaving it at such person's residence or affixing it at some conspicuous place where the party is confined or restrained.

(d) *Sundays ~~and~~, holidays and accessibility.* The writ may be issued

and served at any time, including Sundays ~~and~~, holidays, *and days on which the office of the clerk of the court is not accessible*.

Sec. 18. K.S.A. 61-3803 is hereby amended to read as follows: 61-3803. Before a lawsuit to evict a person pursuant to K.S.A. 61-3801 through 61-3808, and amendments thereto, is filed, the party desiring to file such lawsuit shall deliver to the other party a notice to leave the premises for which possession is sought. The notice shall be delivered at least three days before commencing the lawsuit, by leaving a written copy with the other party or by leaving a copy thereof with any person over the age of 12 years residing on the premises described in such notice, or if no such person is found upon the premises, by posting a copy of such notice in a conspicuous place thereon, or by mailing a copy of the notice to the other party at the address of the premises described in the notice. The three day notice period provided for in this section shall be computed as three consecutive 24-hour periods to commence at the time the notice is delivered, posted or mailed. If the notice is mailed, an additional two days from the date of mailing shall be allowed for the person to leave the premises before the lawsuit is filed. Intermediate Saturdays, Sundays ~~and~~, legal holidays, *and days on which the office of the clerk of the court is not accessible* shall be included in the computation of the notice period. The notice may be combined with any notice provided for in K.S.A. 58-2540, et seq., and amendments thereto.

Sec. 19. K.S.A. 23-106, 23-9,307, 59-2947, 59-3052, 59-3073, 60-703, 60-906, 60-1503 and 61-3803 and K.S.A. 2009 Supp. 38-2229, 38-2232, 38-2242, 38-2243, 38-2260, 38-2343, 38-2361, 38-2366 and 60-206 are hereby repealed.

Sec. 20. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved March 22, 2010.

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