

SENATE BILL No. 9

By Committee on Judiciary

1-13

1 AN ACT concerning the code of civil procedure; amending K.S.A. 20-
2 3017 and 60-2003 and K.S.A. 2010 Supp. 38-2305, 60-203, 60-206,
3 60-209, 60-211, 60-214, 60-226, 60-235, 60-249, 60-260, 60-270, 60-
4 310, 60-460 and 65-4902 and repealing the existing sections; also
5 repealing K.S.A. 2010 Supp. 38-2305a. 60-228a,
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7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 20-3017 is hereby amended to read as follows: 20-
9 3017. Within ~~twenty~~ (20) 30 days after the date the notice of appeal has
10 been served on the appellee in any case appealed to the court of appeals,
11 any party to such case may file a motion with the clerk of the court of
12 appeals, requesting that such case be transferred to the supreme court for
13 review and final determination by such court. Such motion shall be made
14 in the manner and form prescribed by rules of the supreme court, and it
15 shall allege the existence of one (1) or more of the conditions described in
16 subsection (a) of K.S.A. 20-3016, *and amendments thereto*. The clerk of
17 the court of appeals promptly shall submit any motion made pursuant to
18 this section to the supreme court. The supreme court shall consider such
19 motion and may accept the case for review and final determination or
20 may decline jurisdiction and order that the case be determined by the
21 court of appeals. A party's failure to file a motion in accordance with this
22 section shall be deemed a waiver of any objection by such party to the
23 jurisdiction of the court of appeals.

24 Sec. 2. K.S.A. 2010 Supp. 38-2305 is hereby amended to read as
25 follows: 38-2305. (a) Venue for proceedings in any case involving a
26 juvenile shall be in any county where any act of the alleged offense was
27 committed.

28 (b) Except as provided in subsection (c), venue for sentencing
29 proceedings shall be in the county of the juvenile offender's residence or,
30 if the juvenile offender is not a resident of this state, in the county where
31 the adjudication occurred. When the sentencing hearing is to be held in a
32 county other than where the adjudication occurred, upon adjudication,
33 the judge shall contact the sentencing court and advise the judge of the
34 transfer. The adjudicating court shall send immediately to the sentencing
35 court a facsimile or electronic copy of the complaint, the adjudication
36 journal entry or judge's minutes, if available, and any recommendations

(iii) neither unreasonable nor unduly burdensome or expensive considering the needs of the case, prior discovery in the case, the amount in controversy and the importance of the issues at stake in the action.

(2) *Failure to sign.* Other parties have no duty to act on an unsigned disclosure, request, response or objection until it is signed, and the court must strike it unless a signature is promptly supplied after the omission is called to the attorney's or party's attention.

(3) *Sanction for improper certification.* If a certification violates this section without substantial justification, the court, on motion, or on its own, must impose an appropriate sanction on the signer, the party on whose behalf the signer was acting, or both. The sanction may include an order to pay the reasonable expenses, including attorney's fees, caused by the violation.

Sec. 9. K.S.A. 2010 Supp. 60-235 is hereby amended to read as follows: 60-235. (a) Order for an examination. (1) In general. The court where the action is pending may order a party whose mental or physical condition, including blood group, is in controversy to submit to a physical or mental examination by a suitably licensed or certified examiner. The court has the same authority to order a party to produce for examination a person who is in its custody or under its legal control.

(2) *Motion and notice; contents of the order.* The order:

(A) May be made only on motion for good cause and on notice to all parties and the person to be examined;

(B) must specify the time, place, manner, conditions and scope of the examination, as well as the person or persons who will perform it; and

(C) must direct the moving party to advance the expenses that will necessarily be incurred by the party or person to be examined.

(b) *Examiner's report. (1) Request by the party or person examined.* The party who moved for the examination must, on request, deliver to the requester a copy of the examiner's report, together with like reports of all earlier examinations of the same condition. The request may be made by the party against whom the examination order was issued or by the person examined.

(2) *Contents.* The examiner's report must be in writing and must set out in detail the examiner's findings, including diagnoses, conclusions and the results of any tests.

(3) *Scope.* This subsection applies also to an examination made by the parties' agreement, unless the agreement states otherwise. This subsection does not preclude obtaining an examiner's report or depositing an examiner under other law.

(c) *Report Reports of other examinations.* Any party may request, and is entitled to receive, from another party like reports of all earlier or later examinations of the same condition. But those reports need not be

Sec. 9. K.S.A. 2010 Supp. 60-228a is hereby amended to read as follows: 60-228a. (a) *Citation of section.* This section may be cited as the uniform interstate depositions and discovery act.

(b) *Definitions.* In this section:

(1) "Foreign jurisdiction" means a state other than this state or a foreign country.

(2) "Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.

(3) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or political subdivision, agency or instrumentality or any other legal or commercial entity.

(4) "State" means a state of the United States, the district of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe or any territory or insular possession subject to the jurisdiction of the United States.

(5) "Subpoena" means a document, however denominated, issued under authority of a court of record requiring a person to:

(A) Attend and give testimony at a deposition;

(B) produce and permit inspection and copying of designated books, documents, records, electronically stored information or tangible things in the possession, custody or control of the person; or

(C) permit inspection of premises under the control of the person.

(c) *Issuance of subpoena (1)* To request issuance of a subpoena under this section, a party must submit a foreign subpoena to a clerk of court in the county in which discovery is sought to be conducted in this state and pay the docket fee as required by K.S.A. 60-2001, and amendments thereto. A request for the issuance of a subpoena in this state under this section does not constitute an appearance in the courts of this state.

(2) When a party submits a foreign subpoena to a clerk of court in this state, the clerk, in accordance with that court's procedure, must:

(A) Promptly issue a subpoena for service on the person to which the foreign subpoena is directed; and

(B) assign the subpoena a case file number and enter it on the docket as a civil action pursuant to K.S.A. 60-2601, and amendments thereto.

(3) A subpoena under subsection (c)(2) must:

(A) Incorporate the terms used in the foreign subpoena; and

(B) contain or be accompanied by the names, addresses and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

(d) *Service of subpoena.* A subpoena issued by a clerk of court under subsection (c) must be served in compliance with K.S.A. 60-303, and amendments thereto.

(e) *Deposition, production and inspection.* K.S.A. 60-245 and 60-245a, and amendments thereto, apply applies to subpoenas issued under subsection (c).

(f) *Application to court.* An application to the court for a protective order or to enforce, quash or modify a subpoena issued by a clerk of court under subsection (c) must comply with the statutes of this state and be submitted to the court in the county in which discovery is to be conducted.

(g) *Uniformity of application and construction.* In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(h) *Application to pending action.* This section applies to requests for discovery in cases pending on the effective date of this section.

1 and the defendant or respondent shall each designate a health care
 2 provider licensed in the same profession as the defendant or respondent
 3 within ~~20~~ 21 days of such party's receipt of notice of the convening of the
 4 screening panel. The parties shall jointly designate a health care provider
 5 licensed in the same profession as the defendant or respondent within ~~10~~
 6 14 days after the individual designations have been made. If the parties
 7 are unable to jointly select a health care provider within such ~~10~~ 14 days,
 8 the judge of the district court or, if the district court has more than one
 9 division, the chief judge of such court shall select such health care
 10 provider.

11 ~~Sec. 17.~~ K.S.A. 20-3017 and 60-2003 and K.S.A. 2010 Supp. 38-
 12 2305, 38-2305a, 60-203, 60-206, 60-209, 60-211, 60-214, 60-226, 60-
 13 235, 60-249, 60-260, 60-270, 60-310, 60-460 and 65-4902 are hereby
 14 repealed.

15 ~~Sec. 18.~~ This act shall take effect and be in force from and after its
 16 publication in the statute book.

18.
60-228a

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