

*As Amended by Senate Committee*

*Session of 2011*

**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, **60-228a**, 60-235, 60-249, 60-260,  
4 60-270, 60-310, 60-460 and 65-4902 and repealing the existing  
5 sections; also repealing K.S.A. 2010 Supp. 38-2305a.  
6

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

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

29 (b) Except as provided in subsection (c), venue for sentencing  
30 proceedings shall be in the county of the juvenile offender's residence  
31 or, if the juvenile offender is not a resident of this state, in the county  
32 where the adjudication occurred. When the sentencing hearing is to be  
33 held in a county other than where the adjudication occurred, upon

1 adjudication, the judge shall contact the sentencing court and advise the  
2 judge of the transfer. The adjudicating court shall send immediately to  
3 the sentencing court a facsimile or electronic copy of the complaint, the  
4 adjudication journal entry or judge's minutes, if available, and any  
5 recommendations in regard to sentencing. The adjudicating court shall  
6 also send to the sentencing court a complete copy of the official and  
7 social files in the case by mail or electronic means within ~~five working~~  
8 *seven* days of the adjudication.

9 (c) If the juvenile offender is adjudicated in a county other than the  
10 county of the juvenile offender's residence, the sentencing hearing may  
11 be held in the county in which the adjudication was made or, if there  
12 are not any ongoing proceedings under the Kansas code for care of  
13 children, in the county of the residence of the custodial parent, parents,  
14 guardian or conservator if the adjudicating judge, upon motion, finds  
15 that it is in the interest of justice. If there are ongoing proceedings  
16 under the revised Kansas code for care of children, then the sentencing  
17 hearing shall be held in the county in which the proceedings under the  
18 revised Kansas code for care of children are being held.

19 Sec. 3. K.S.A. 2010 Supp. 60-203 is hereby amended to read as  
20 follows: 60-203. (a) *Time of commencement.* A civil action is  
21 commenced at the time of: (1) Filing a petition with the court, if service  
22 of process is obtained or the first publication is made for service by  
23 publication within 90 days after the petition is filed, except that the  
24 court may extend that time an additional 30 days upon a showing of  
25 good cause by the plaintiff; or (2) service of process or first publication,  
26 if service of process or first publication is not made within the time  
27 specified by paragraph (1).

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

36 (c) *Entry of appearance.* The filing of an entry of appearance has  
37 the same effect as service. Written contact with the court by a  
38 defendant, or an attorney for the defendant invoking protection for the  
39 defendant under the servicemembers civil relief act (50 U.S.C. § 501 et

- 1 seq.), and amendments thereto, is not an entry of appearance.
- 2 (d) *Electronic filing.* As used in this section, filing a petition with  
3 the court includes receipt by the court of a petition by electronic means  
4 complying with supreme court rules.
- 5 Sec. 4. K.S.A. 2010 Supp. 60-206 is hereby amended to read as  
6 follows: 60-206. (a) *Computing time.* The following provisions apply in  
7 computing any time period specified in this chapter, in any local rule or  
8 court order or in any statute or administrative rule or regulation that  
9 does not specify a method of computing time.
- 10 (1) *Period stated in days or a longer unit.* When the period is  
11 stated in days or a longer unit of time:
- 12 (A) Exclude the day of the event that triggers the period;
- 13 (B) count every day, including intermediate Saturdays, Sundays  
14 and legal holidays; and
- 15 (C) include the last day of the period, but if the last day is a  
16 Saturday, Sunday or legal holiday, the period continues to run until the  
17 end of the next day that is not a Saturday, Sunday or legal holiday.
- 18 (2) *Period stated in hours.* When the period is stated in hours:
- 19 (A) Begin counting immediately on the occurrence of the event  
20 that triggers the period;
- 21 (B) count every hour, including hours during intermediate  
22 Saturdays, Sundays and legal holidays; and
- 23 (C) if the period would end on a Saturday, Sunday or legal holiday,  
24 the period continues to run until the same time on the next day that is  
25 not a Saturday, Sunday or legal holiday.
- 26 (3) *Inaccessibility of the clerk's office.* Unless the court orders  
27 otherwise, if the clerk's office is inaccessible:
- 28 (A) On the last day for filing under subsection (a)(1), then the time  
29 for filing is extended to the first accessible day that is not a Saturday,  
30 Sunday or legal holiday; or
- 31 (B) during the last hour for filing under subsection (a)(2), then the  
32 time for filing is extended to the same time on the first accessible day  
33 that is not a Saturday, Sunday or legal holiday.
- 34 (4) *"Last day" defined.* Unless a different time is set by a statute,  
35 local rule or court order, the last day ends:
- 36 (A) For electronic or telefacsimile filing, at midnight in the court's  
37 time zone; and
- 38 (B) for filing by other means, when the clerk's office is scheduled  
39 to close.

1 (5) *"Next day" defined.* The "next day" is determined by  
2 continuing to count forward when the period is measured after an event  
3 and backward when measured before an event.

4 (6) *"Legal holiday" defined.* "Legal holiday" means any day  
5 declared a holiday by the president of the United States, the congress of  
6 the United States or the legislature of this state, or any day observed as  
7 a holiday by order of the Kansas supreme court. A half holiday is  
8 considered as other days and not as a holiday.

9 (b) *Extending time.* (1) *In general.* When an act may or must be  
10 done within a specified time, the court may, for good cause, extend the  
11 time:

12 (A) With or without motion or notice if the court acts, or if a  
13 request is made, before the original time or its extension expires; or

14 (B) on motion made after the time has expired if the party failed to  
15 act because of excusable neglect.

16 (2) *Exceptions.* A court must not extend the time to act under  
17 subsection (b) of K.S.A. 60-250, subsection (b) of K.S.A. 60-252,  
18 subsections (b), (e) and (f) of K.S.A. 60-259 and subsection (b) of  
19 K.S.A. 60-260, and amendments thereto.

20 (c) *Motions, notices of hearing and affidavits or declarations.*

21 (1) *In general.* A written motion and notice of the hearing must be  
22 served at least seven days before that time specified for the hearing  
23 with the following exceptions:

24 (A) When the motion may be heard *ex parte*;

25 (B) when these rules set a different time; or

26 (C) when a court order, which a party may, for good cause, apply  
27 for *ex parte*, sets a different time.

28 (2) *Supporting affidavit or declaration.* Any affidavit or  
29 declaration pursuant to K.S.A. 53-601, and amendments thereto,  
30 supporting a motion must be served with the motion. Except as  
31 otherwise provided in subsection (d) of K.S.A. 60-259, and  
32 amendments thereto, any opposing affidavit or declaration must be  
33 served at least one day before the hearing, unless the court permits  
34 service at another time.

35 (d) *Additional time after certain kinds of service ~~by mail.~~* When a  
36 party may or must act within a specified time after service and service  
37 is ~~by mail~~ made under subsections (b)(2)(C), (D), (E) or (F) of K.S.A.  
38 60-205, and amendments thereto, three days are added after the period  
39 would otherwise expire under subsection (a).

- 1       Sec. 5. K.S.A. 2010 Supp. 60-209 is hereby amended to read as  
2 follows: 60-209. (a) *Capacity or authority to sue; legal existence.* (1)  
3 *In general.* A pleading need not allege:  
4       (A) A party's capacity to sue or be sued;  
5       (B) a party's authority to sue or be sued in a representative  
6 capacity; or  
7       (C) the legal existence of an organized association of persons that  
8 is made a party.  
9       (2) *Raising those issues.* To raise any of those issues, a party must  
10 do so by a specific denial, which must state any supporting facts that  
11 are peculiarly within the party's knowledge.  
12       (b) *Fraud or mistake; conditions of the mind.* In alleging fraud or  
13 mistake, a party must state with particularity the circumstances  
14 constituting fraud or mistake. Malice, intent, knowledge and other  
15 conditions of a person's mind may be alleged generally.  
16       (c) *Conditions precedent.* In pleading conditions precedent, it  
17 suffices to allege generally that all conditions precedent have occurred  
18 or have been performed. But when denying that a condition precedent  
19 has occurred or been performed, a party must do so with particularity.  
20       (d) *Official document or act.* In pleading an official document or  
21 official act, it suffices to allege that the document was legally issued or  
22 the act legally done.  
23       (e) *Judgment.* In pleading a judgment or decision of a domestic or  
24 foreign court, a judicial or quasi-judicial tribunal, or a board or officer,  
25 it suffices to plead the judgment or decision without showing  
26 jurisdiction to render it.  
27       (f) *Time and place.* An allegation of time or place is material when  
28 testing the sufficiency of a pleading.  
29       (g) *Special damages.* If an item of special damage is claimed, it  
30 must be specifically stated. If the court allows an amended petition  
31 pursuant to K.S.A. 60-3703, and amendments thereto, to include a  
32 claim for exemplary or punitive damages the amended petition must  
33 state only whether the amount sought as damages is or is not in excess  
34 of \$75,000.  
35       (h) *Pleading a written instrument.* A claim, defense or  
36 counterclaim founded on a written instrument may be pleaded by:  
37       (1) Reasonably identifying the written instrument and stating its  
38 substance;  
39       (2) reciting the contents of the written instrument in the pleading;

1 or

2 (3) attaching a copy to the pleading as an exhibit.

3 (i) *Tender of money*. When a tender of money is made in a  
4 pleading, the money need not be deposited in court prior to trial, unless  
5 the court orders otherwise.

6 (j) *Libel and slander*. In an action for libel or slander, it suffices to  
7 allege generally that defamatory matter was published or spoken  
8 concerning the plaintiff, and if that allegation is not denied in the  
9 answer, it need not be proved at trial. The defendant's answer may  
10 allege both the truth of the matter charged as defamatory and any  
11 mitigating circumstances that reduce the amount of damages. Whether  
12 the defendant proves justification, the defendant may introduce  
13 evidence of any mitigating circumstances.

14 Sec. 6. K.S.A. 2010 Supp. 60-211 is hereby amended to read as  
15 follows: 60-211. (a) *Signature*. Every pleading, written motion and  
16 other paper must be signed by at least one attorney of record in the  
17 attorney's name, or by a party personally if the party is unrepresented.  
18 The paper must state the signer's address, e-mail address, and telephone  
19 number and fax number. Unless a rule or statute specifically states  
20 otherwise, a pleading need not be verified or accompanied by an  
21 affidavit or a declaration pursuant to K.S.A. 53-601, and amendments  
22 thereto. The court must strike an unsigned paper unless the omission is  
23 promptly corrected after being called to the attorney's or party's  
24 attention.

25 (b) *Representations to the court*. By presenting to the court a  
26 pleading, written motion or other paper, whether by signing, filing,  
27 submitting or later advocating it, an attorney or unrepresented party  
28 certifies that to the best of the person's knowledge, information and  
29 belief formed after an inquiry reasonable under the circumstances:

30 (1) It is not being presented for any improper purpose, such as to  
31 harass, cause unnecessary delay or needlessly increase the cost of  
32 litigation;

33 (2) the claims, defenses and other legal contentions are warranted  
34 by existing law or by a nonfrivolous argument for extending, modifying  
35 or reversing existing law or for establishing new law;

36 (3) the factual contentions have evidentiary support or, if  
37 specifically so identified, will likely have evidentiary support after a  
38 reasonable opportunity for further investigation or discovery; and

39 (4) the denials of factual contentions are warranted on the

1 evidence or, if specifically so identified, are reasonably based on belief  
2 or a lack of information.

3 (c) *Sanctions*. If, after notice and a reasonable opportunity to  
4 respond, the court determines that subsection (b) has been violated, the  
5 court may impose an appropriate sanction on any attorney, law firm or  
6 party that violated the statute or is responsible for a violation  
7 committed by its partner, associate or employee. The sanction may  
8 include an order to pay to the other party or parties that reasonable  
9 expenses, including attorney's fees, incurred because of the filing of the  
10 pleading, motion or other paper. A motion for sanctions under this  
11 section may be served and filed at any time during pendency of the  
12 action, but must be filed not later than 14 days after the entry of  
13 judgment.

14 (d) *Inapplicability to discovery*. Subsections (a) through (c) do not  
15 apply to disclosures and discovery requests, responses, objections and  
16 motions that are subject to the provisions of K.S.A. 60-226 through 60-  
17 237, and amendments thereto.

18 (e) *Applicability to the state*. The state of Kansas, including an  
19 agency or political subdivision thereof, is subject to this section.

20 (f) *Monetary sanctions against inmate*. If the court imposes  
21 monetary sanctions on an inmate in the custody of the secretary of  
22 corrections, the secretary is authorized to disburse any money in the  
23 inmate's account to pay the sanctions.

24 Sec. 7. K.S.A. 2010 Supp. 60-214 is hereby amended to read as  
25 follows: 60-214. (a) *When defending party may bring in a ~~third-party-~~*  
26 *third party*. (1) *Timing of the summons and complaint*. A defending  
27 party may, as a third-party plaintiff, serve a summons and petition on a  
28 nonparty who is or may be liable to it for all or part of the claim against  
29 it. But the third-party plaintiff must, by motion, obtain the court's leave  
30 if it files the third-party complaint more than 14 days after serving its  
31 original answer.

32 (2) *Third-party defendant's claims and defenses*. The person  
33 served with the summons and third-party petition, the "third-party  
34 defendant":

35 (A) Must assert any defenses against the third-party plaintiff's  
36 claim under K.S.A. 60-212, and amendments thereto;

37 (B) must assert any counterclaim against the third-party plaintiff  
38 under subsection (a) of K.S.A. 60-213, and amendments thereto, or any  
39 crossclaim against another third-party defendant under subsection (f) of

1 K.S.A. 60-213, and amendments thereto, and may assert any  
2 counterclaim against the third-party plaintiff under subsection (b) of  
3 K.S.A. 60-213, and amendments thereto, or any crossclaims against  
4 another third-party defendant under subsection (g) of K.S.A. 60-213,  
5 and amendments thereto;

6 (C) may assert against the plaintiff any defense that the third-party  
7 plaintiff has to the plaintiff's claim; and

8 (D) may also assert against the plaintiff any claim arising out of  
9 the transaction or occurrence that is the subject matter of the plaintiff's  
10 claim against the third-party plaintiff.

11 (3) *Plaintiff's claims against a third-party defendant.* The plaintiff  
12 may assert against the third-party defendant any claim arising out of the  
13 transaction or occurrence that is the subject matter of the plaintiff's  
14 claim against the third-party plaintiff. The third-party defendant must  
15 then assert any defense under K.S.A. 60-212, and amendments thereto,  
16 and any counterclaim under subsection (a) of K.S.A. 60-213, and  
17 amendments thereto, or crossclaim under subsection (f) of K.S.A. 60-  
18 213, and amendments thereto, and may assert any counterclaim under  
19 subsection (b) of K.S.A. 60-213, and amendments thereto, or any  
20 crossclaim under subsection (g) of K.S.A. 60-213, and amendments  
21 thereto.

22 (4) *Motion to strike, sever or try separately.* Any party may move  
23 to strike the third-party claim, to sever it or to try it separately.

24 (5) *Third-party defendant's claim against a nonparty.* A third-party  
25 defendant may proceed under this section against a nonparty who is or  
26 may be liable to the third-party defendant for all or part of any claim  
27 against it.

28 (b) *When a plaintiff may bring in a third-party.* When a claim is  
29 asserted against a plaintiff, the plaintiff may bring in a third-party if this  
30 section would allow a defendant to do so.

31 (c) *Execution by third-party plaintiff; limitation.* Where a third-  
32 party defendant is liable to the plaintiff, or to anyone holding a similar  
33 position under subsections (a) and (b), on the claim on which a third-  
34 party plaintiff has been sued, execution by the third-party plaintiff on a  
35 judgment against such third-party defendant shall be permitted only to  
36 the extent that the third-party plaintiff has paid any judgment obtained  
37 against the third-party plaintiff by the obligee.

38 Sec. 8. K.S.A. 2010 Supp. 60-226 is hereby amended to read as  
39 follows: 60-226. (a) *Discovery methods.* Parties may obtain discovery

1 by one or more of the following methods: Depositions on oral  
2 examination or written questions; written interrogatories; production of  
3 documents or things or permission to enter onto land or other property  
4 under K.S.A. 60-234, subsection (a)(1)(A)(iii) of K.S.A. 60-245 or  
5 K.S.A. 60-245a, and amendments thereto; physical and mental  
6 examinations; and requests for admission.

7 (b) *Discovery scope and limits.* (1) *Scope in general.* Unless  
8 otherwise limited by court order, the scope of discovery is as follows:  
9 Parties may obtain discovery regarding any nonprivileged matter that is  
10 relevant to the subject matter involved in the action, whether it relates  
11 to any party's claim or defense, including the existence, description,  
12 nature, custody, condition and location of any documents or other  
13 tangible things and the identity and location of persons who know of  
14 any discoverable matter. Relevant information need not be admissible  
15 at the trial if the discovery appears reasonably calculated to lead to the  
16 discovery of admissible evidence.

17 (2) *Limitations on frequency and extent.* (A) On motion, or on its  
18 own, the court may limit the frequency or extent of discovery methods  
19 otherwise allowed by the rules of civil procedure and must do so if it  
20 determines that:

21 (i) The discovery sought is unreasonably cumulative or  
22 duplicative, or can be obtained from some other source that is more  
23 convenient, less burdensome or less expensive;

24 (ii) the party seeking discovery has had ample opportunity to  
25 obtain the information by discovery in the action; or

26 (iii) the burden or expense of the proposed discovery outweighs its  
27 likely benefit, considering the needs of the case, the amount in  
28 controversy, the parties' resources, the importance of the issues at stake  
29 in the action and the importance of the proposed discovery in resolving  
30 the issues.

31 (B) A party need not provide discovery of electronically stored  
32 information from sources that the party identifies as not reasonably  
33 accessible because of undue burden or cost. On motion to compel  
34 discovery or for a protective order, the party from whom discovery is  
35 sought must show that the information is not reasonably accessible  
36 because of undue burden or cost. If that showing is made, the court  
37 may nonetheless order discovery from such sources if the requesting  
38 party shows good cause, considering the limitations of subsection (b)  
39 (2)(A). The court may specify conditions for the discovery.

1       (3) *Insurance agreements.* A party may obtain discovery of the  
2 existence and contents of any insurance agreement under which an  
3 insurance business may be liable to satisfy part or all of a possible  
4 judgment in the action or to indemnify or reimburse for payments made  
5 to satisfy the judgment. Information concerning the insurance  
6 agreement is not by reason of disclosure admissible in evidence at trial.  
7 For purposes of this paragraph, an application for insurance is not a  
8 part of an insurance agreement.

9       (4) *Trial preparation; materials.* (A) *Documents and tangible*  
10 *things.* Ordinarily, a party may not discover documents and tangible  
11 things that are prepared in anticipation of litigation or for trial by or for  
12 another party or its representative, including the other party's attorney,  
13 consultant, surety, indemnitor, insurer or agent. But, subject to  
14 subsection (b)(5), those materials may be discovered if:

15       (i) They are otherwise discoverable under paragraph (1); and  
16       (ii) the party shows that it has substantial need for the materials to  
17 prepare its case and cannot, without undue hardship, obtain their  
18 substantial equivalent by other means.

19       (B) *Protection against disclosure.* If the court orders discovery of  
20 those materials, it must protect against disclosure of the mental  
21 impressions, conclusions, opinions or legal theories of a party's  
22 attorney or other representative concerning the litigation.

23       (C) *Previous statement.* Any party or other person may, on request  
24 and without the required showing, obtain the person's own previous  
25 statement about the action or its subject matter. If the request is refused,  
26 the person may move for a court order, and K.S.A. 60-237, and  
27 amendments thereto, applies to the award of expenses. A previous  
28 statement is either:

29       (i) A written statement that the person has signed or otherwise  
30 adopted or approved; or

31       (ii) a contemporaneous stenographic, mechanical, electrical or  
32 other recording, or a transcription of it, that recites substantially  
33 verbatim the person's oral statement.

34       (5) *Trial preparation; experts.*

35       (A) *Expert who may testify.* A party may depose any person who  
36 has been identified as an expert whose opinions may be presented at  
37 trial. If a disclosure is required under subsection (b)(6), the deposition  
38 may be conducted only after the disclosure is provided.

39       (B) *Expert employed only for trial preparation.* Ordinarily, a party

1 may not, by interrogatories or deposition, discover facts known or  
2 opinions held by an expert who has been retained or specially  
3 employed by another party in anticipation of litigation or to prepare for  
4 trial and who is not expected to be called as a witness at trial. But a  
5 party may do so only:

6 (i) As provided in subsection (b) of K.S.A. 60-235, and  
7 amendments thereto; or  
8 (ii) on showing exceptional circumstances under which it is  
9 impracticable for the party to obtain facts or opinions on the same  
10 subject by other means.

11 (C) *Payment.* Unless manifest injustice would result, the court  
12 must require that the party seeking discovery:

13 (i) Pay the expert a reasonable fee for time spent in responding to  
14 discovery under subsection (b)(5)(A) or (b)(5)(B); and  
15 (ii) for discovery under subsection (b)(5)(B), also pay the other  
16 party a fair portion of the fees and expenses it reasonably incurred in  
17 obtaining the expert's facts and opinions.

18 (6) *Disclosure of expert testimony.* (A) *In general.* A party must  
19 disclose to other parties the identity of any witness it may use at trial to  
20 present expert testimony.

21 (B) *Required disclosures.* Unless otherwise stipulated or ordered  
22 by the court, if the witness is retained or specially employed to provide  
23 expert testimony in the case, or is one whose duties as the party's  
24 employee regularly involve giving expert testimony, the disclosure  
25 must state:

26 (i) The subject matter on which the expert is expected to testify;  
27 (ii) the substance of the facts and opinions to which the expert is  
28 expected to testify; and  
29 (iii) a summary of the grounds for each opinion.

30 (C) *Time to disclose expert testimony.* A party must make these  
31 disclosures at the times and in the sequence that the court orders.  
32 Absent a stipulation or court order, the disclosures must be made:

33 (i) At least 90 days before the date set for trial or for the case to be  
34 ready for trial; or  
35 (ii) if the evidence is intended solely to contradict or rebut  
36 evidence on the same subject matter identified by another party under  
37 subsection (b)(6)(B), within 30 days after the other party's disclosure.

38 (D) *Supplementing the disclosure.* The parties must supplement  
39 these disclosures when required under subsection (e).

- 1 (E) *Form of disclosures.* Unless otherwise ordered by the court, all  
2 disclosures under this subsection must be:
- 3 (i) In writing, signed and served; and
  - 4 (ii) filed with the court in accordance with subsection (d) of  
5 K.S.A. 60-205, and amendments thereto.
- 6 (7) *Claiming privilege or protecting trial preparation materials.*
- 7 (A) *Information withheld.* When a party withholds information  
8 otherwise discoverable by claiming that the information is privileged or  
9 subject to protection as trial preparation material, the party must:
- 10 (i) Expressly make the claim; and
  - 11 (ii) describe the nature of the documents, communications or  
12 things not produced or disclosed, and do so in a manner that, without  
13 revealing information itself privileged or protected, will enable other  
14 parties to assess the claim.
- 15 (B) *Information produced.* If information produced in discovery is  
16 subject to a claim of privilege or of protection as trial preparation  
17 material, the party making the claim may notify any party that received  
18 the information of the claim and the basis for it. After being notified, a  
19 party must promptly return, sequester or destroy the specified  
20 information and any copies it has; must not use or disclose the  
21 information until the claim is resolved; must take reasonable steps to  
22 retrieve the information if the party disclosed it before being notified;  
23 and may promptly present the information to the court under seal for a  
24 determination of the claim. The producing party must preserve the  
25 information until the claim is resolved.
- 26 (c) *Protective orders.* (1) *In general.* A party or any person from  
27 whom discovery is sought may move for a protective order in the court  
28 where the action is pending, as an alternative on matters relating to a  
29 deposition, in the district court where the deposition will be taken. The  
30 motion must include a certification that the movant has in good faith  
31 conferred or attempted to confer with other affected parties in an effort  
32 to resolve the dispute without court action and must describe the steps  
33 taken by all attorneys or unrepresented parties to resolve the issues in  
34 dispute. The court may, for good cause, issue an order to protect a party  
35 or person from annoyance, embarrassment, oppression or undue burden  
36 or expense, including one or more of the following:
- 37 (A) Forbidding the disclosure or discovery;
  - 38 (B) specifying terms, including time and place, for the disclosure  
39 or discovery;

- 1 (C) prescribing a discovery method other than the one selected by  
2 the party seeking discovery;
- 3 (D) forbidding inquiry into certain matters, or limiting the scope of  
4 disclosure or discovery to certain matters;
- 5 (E) designating the persons who may be present while the  
6 discovery is conducted;
- 7 (F) requiring that a deposition be sealed and opened only on court  
8 order;
- 9 (G) requiring that a trade secret or other confidential research,  
10 development or commercial information not be revealed or be revealed  
11 only in a specified way; and
- 12 (H) requiring that the parties simultaneously file specified  
13 documents or information in sealed envelopes, to be opened as the  
14 court orders.
- 15 (2) *Ordering discovery.* If a motion for a protective order is wholly  
16 or partly denied the court may, on just terms, order that any party or  
17 person provide or permit discovery.
- 18 (3) *Awarding expenses.* The provisions of K.S.A. 60-237, and  
19 amendments thereto, apply to the award of expenses.
- 20 (d) *Sequence of discovery.* Unless, on motion, the court orders  
21 otherwise for the parties' and witnesses' convenience and in the  
22 interests of justice:
- 23 (1) Methods of discovery may be used in any sequence; and  
24 (2) discovery by one party does not require any other party to  
25 delay its discovery.
- 26 (e) *Supplementing disclosures and responses.* (1) *In general.* A  
27 party who has made a disclosure under subsection (b)(6), or who has  
28 responded to an interrogatory, request for production or request for  
29 admission, must supplement or correct its disclosure or response:
- 30 (A) In a timely manner if the party learns that in some material  
31 respect the disclosure or response is incomplete or incorrect, and if the  
32 additional or corrective information has not otherwise been made  
33 known to the other parties during the discovery process or in writing; or  
34 (B) as ordered by the court.
- 35 (2) *Expert witness.* For an expert to whom the disclosure  
36 requirement in subsection (b)(6) applies, the party's duty to supplement  
37 extends both to information included in the disclosure and to  
38 information given during the expert's deposition. Any additions or  
39 changes to this information must be disclosed at least 30 days before

- 1 trial, unless the court orders otherwise.
- 2 (f) *Signing of disclosures and discovery requests, responses and*  
3 *objections. (1) Signature required; effect of signature.* Every disclosure  
4 under subsection (b)(6) and every discovery request, response or  
5 objection must be signed by at least one attorney of record in the  
6 attorney's own name, or by the party personally, if unrepresented, and  
7 must state the signor's address, e-mail address and telephone number.  
8 By signing, an attorney or party certifies that to the best of the person's  
9 knowledge, information and belief formed after a reasonable inquiry:
- 10 (A) With respect to a disclosure, it is complete and correct as of  
11 the time it is made;
- 12 (B) with respect to a discovery request, response or objection, it is:
- 13 (i) Consistent with the rules of civil procedure and warranted by  
14 existing law or by a nonfrivolous argument for extending, modifying or  
15 reversing existing law or for establishing new law;
- 16 (ii) not interposed for any improper purpose, such as to harass,  
17 cause unnecessary delay or needlessly increase the cost of litigation;  
18 and
- 19 (iii) neither unreasonable nor unduly burdensome or expensive  
20 considering the needs of the case, prior discovery in the case, the  
21 amount in controversy and the importance of the issues at stake in the  
22 action.
- 23 (2) *Failure to sign.* Other parties have no duty to act on an  
24 unsigned disclosure, request, response or objection until it is signed,  
25 and the court must strike it unless a signature is promptly supplied after  
26 the omission is called to the attorney's or party's attention.
- 27 (3) *Sanction for improper certification.* If a certification violates  
28 this section without substantial justification, the court, on motion, or on  
29 its own, must impose an appropriate sanction on the signer, the party on  
30 whose behalf the signer was acting, or both. The sanction may include  
31 an order to pay the reasonable expenses, including attorney's fees,  
32 caused by the violation.
- 33 ***Sec. 9. K.S.A. 2010 Supp. 60-228a is hereby amended to read as***  
34 ***follows: 60-228a. (a) Citation of section. This section may be cited as***  
35 ***the uniform interstate depositions and discovery act.***
- 36 (b) ***Definitions. In this section:***
- 37 (1) ***"Foreign jurisdiction" means a state other than this state or***  
38 ***a foreign country.***
- 39 (2) ***"Foreign subpoena" means a subpoena issued under***

- 1 *authority of a court of record of a foreign jurisdiction.*
- 2 (3) *"Person" means an individual, corporation, business trust,*  
3 *estate, trust, partnership, limited liability company, association, joint*  
4 *venture, public corporation, government or political subdivision,*  
5 *agency or instrumentality or any other legal or commercial entity.*
- 6 (4) *"State" means a state of the United States, the district of*  
7 *Columbia, Puerto Rico, the United States Virgin islands, a federally*  
8 *recognized Indian tribe or any territory or insular possession subject*  
9 *to the jurisdiction of the United States.*
- 10 (5) *"Subpoena" means a document, however denominated,*  
11 *issued under authority of a court of record requiring a person to:*
- 12 (A) *Attend and give testimony at a deposition;*
- 13 (B) *produce and permit inspection and copying of designated*  
14 *books, documents, records, electronically stored information or*  
15 *tangible things in the possession, custody or control of the person; or*
- 16 (C) *permit inspection of premises under the control of the*  
17 *person. (c) Issuance of subpoena. (1) To request issuance of a*  
18 *subpoena under this section, a party must submit a foreign subpoena*  
19 *to a clerk of court in the county in which discovery is sought to be*  
20 *conducted in this state and pay the docket fee as required by K.S.A. 60-*  
21 *2001, and amendments thereto. A request for the issuance of a*  
22 *subpoena in this state under this section act does not constitute an*  
23 *appearance in the courts of this state.*
- 24 (2) *When a party submits a foreign subpoena to a clerk of court*  
25 *in this state, the clerk, in accordance with that court's procedure,*  
26 *must:*
- 27 (A) *Promptly issue a subpoena for service on the person to*  
28 *which the foreign subpoena is directed; and*
- 29 (B) *assign the subpoena a case file number and enter it on the*  
30 *docket as a civil action pursuant to K.S.A. 60-2601, and amendments*  
31 *thereto.*
- 32 (3) *A subpoena under subsection (c)(2) must:*
- 33 (A) *Incorporate the terms used in the foreign subpoena; and*
- 34 (B) *contain or be accompanied by the names, addresses and*  
35 *telephone numbers of all counsel of record in the proceeding to*  
36 *which the subpoena relates and of any party not represented by*  
37 *counsel.*
- 38 (d) *Service of subpoena. A subpoena issued by a clerk of court*  
39 *under subsection (c) must be served in compliance with K.S.A. 60-*

- 1 **303, and amendments thereto.**
- 2 **(e) Deposition, production and inspection. K.S.A. 60-245 and**  
3 **~~60-245a, and amendments thereto, apply applies to subpoenas issued~~**  
4 **under subsection (c).**
- 5 **(f) Application to court. An application to the court for a**  
6 **protective order or to enforce, quash or modify a subpoena issued by**  
7 **a clerk of court under subsection (c) must comply with the statutes of**  
8 **this state and be submitted to the court in the county in which**  
9 **discovery is to be conducted.**
- 10 **(g) Uniformity of application and construction. In applying and**  
11 **construing this uniform act, consideration must be given to the need**  
12 **to promote uniformity of the law with respect to its subject matter**  
13 **among states that enact it.**
- 14 **(h) Application to pending action. This section applies to**  
15 **requests for discovery in cases pending on the effective date of this**  
16 **section.**
- 17 ~~Sec. 9: 10.~~ K.S.A. 2010 Supp. 60-235 is hereby amended to read  
18 as follows: 60-235. (a) *Order for an examination.* (1) *In general.* The  
19 court where the action is pending may order a party whose mental or  
20 physical condition, including blood group, is in controversy to submit  
21 to a physical or mental examination by a suitably licensed or certified  
22 examiner. The court has the same authority to order a party to produce  
23 for examination a person who is in its custody or under its legal control.
- 24 (2) *Motion and notice; contents of the order.* The order:
- 25 (A) May be made only on motion for good cause and on notice to  
26 all parties and the person to be examined;
- 27 (B) must specify the time, place, manner, conditions and scope of  
28 the examination, as well as the person or persons who will perform it;  
29 and
- 30 (C) must direct the moving party to advance the expenses that will  
31 necessarily be incurred by the party or person to be examined.
- 32 (b) *Examiner's report.* (1) *Request by the party or person*  
33 *examined.* The party who moved for the examination must, on request,  
34 deliver to the requester a copy of the examiner's report, together with  
35 like reports of all earlier examinations of the same condition. The  
36 request may be made by the party against whom the examination order  
37 was issued or by the person examined.
- 38 (2) *Contents.* The examiner's report must be in writing and must  
39 set out in detail the examiner's findings, including diagnoses,

1 conclusions and the results of any tests.

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

6 (c) ~~Report~~ *Reports of other examinations*. Any party may request,  
7 and is entitled to receive, from another party like reports of all earlier or  
8 later examinations of the same condition. But those reports need not be  
9 delivered by the party with custody or control of the person examined if  
10 the party shows that it could not obtain them. Reports provided under  
11 this subsection must contain the information specified in subsection (b)  
12 (2).

13 (d) *Failure to deliver a report*. The court on motion may order, on  
14 just terms, that a party deliver a report of an examination under  
15 subsection (b) or (c). If the report is not provided, the court may  
16 exclude the examiner's testimony at trial.

17 ~~Sec. 10. II.~~ K.S.A. 2010 Supp. 60-249 is hereby amended to read  
18 as follows: 60-249. (a) *Special verdict*. (1) *In general*. The court may  
19 require a jury to return only a special verdict in the form of a special  
20 written finding on each issue of fact. The court may do so by:

21 (A) Submitting written questions susceptible of a categorical or  
22 other brief answer;

23 (B) submitting written forms of the special findings that might  
24 properly be made under the pleadings and evidence; or

25 (C) using any other method that the court considers appropriate.

26 (2) *Instructions*. The court must give the instructions and  
27 explanations necessary to enable the jury to make its findings on each  
28 submitted issue.

29 (3) *Issues not submitted*. A party waives the right to a jury trial on  
30 any issue of fact raised by the pleadings or evidence but not submitted  
31 to the jury unless, before the jury retires, the party demands its  
32 submission to the jury. If the party does not demand submission, the  
33 court may make a finding on the issue. If the court makes no finding, it  
34 is considered to have made a finding consistent with its judgment on  
35 the special verdict.

36 (b) *General verdict with answers to written questions*. (1) *In*  
37 *general*. The court may on written request, submit to the jury forms for  
38 a general verdict, together with written questions on one or more issues  
39 of fact that the jury must decide. The court must give the instructions

1 and explanations necessary to enable the jury to render a general  
2 verdict and answer the questions in writing, and must direct the jury to  
3 do both.

4 (2) *Verdict and answers consistent.* When the general verdict and  
5 the answers are consistent, the court must approve an appropriate  
6 judgment on the verdict and answers.

7 (3) ~~Answer~~ *Answers inconsistent with the verdict.* When the  
8 answers are consistent with each other, but one or more is inconsistent  
9 with the general verdict, the court may:

10 (A) Approve an appropriate judgment according to the answers,  
11 notwithstanding the general verdict;

12 (B) direct the jury to further consider its answers and verdict; or

13 (C) order a new trial.

14 (4) *Answers inconsistent with each other and the verdict.* When  
15 the answers are inconsistent with each other and one or more is also  
16 inconsistent with the general verdict, judgment must not be entered;  
17 instead, the court must direct the jury to further consider its answers  
18 and verdict, or must order a new trial.

19 Sec. ~~H~~ **12.** K.S.A. 2010 Supp. 60-260 is hereby amended to read  
20 as follows: 60-260. (a) *Corrections based on clerical mistakes;*  
21 ~~oversight~~ *oversights and omissions.* The court may correct a clerical  
22 mistake or a mistake arising from oversight or omission whenever one  
23 is found in a judgment, order or other part of the record. The court may  
24 do so on motion, or on its own, with or without notice. But after an  
25 appeal has been docketed in the appellate court and while it is pending,  
26 such a mistake may be corrected only with the appellate court's leave.

27 (b) *Grounds for relief from a final judgment, order or proceeding.*  
28 On motion and just terms, the court may relieve a party or its legal  
29 representative from a final judgment, order or proceeding for the  
30 following reasons:

31 (1) Mistake, inadvertence, surprise or excusable neglect;

32 (2) newly discovered evidence that, with reasonable diligence,  
33 could not have been discovered in time to move for a new trial under  
34 subsection (b) of K.S.A. 60-259, and amendments thereto;

35 (3) fraud, whether previously called intrinsic or extrinsic,  
36 misrepresentation or misconduct by an opposing party;

37 (4) the judgment is void;

38 (5) the judgment has been satisfied, released or discharged; it is  
39 based on an earlier judgment that has been reversed or vacated; or

- 1 applying it prospectively is no longer equitable; or  
2 (6) any other reason that justifies relief.
- 3 (c) *Timing and effect of the motion.* (1) *Timing.* A motion under  
4 subsection (b) must be made within a reasonable time, and for reasons  
5 under paragraphs (b)(1), (2) and (3) no more than one year after the  
6 entry of the judgment or order, or the date of the proceeding.
- 7 (2) *Effect on finality.* The motion does not affect the judgment's  
8 finality or suspend its operation.
- 9 (d) *Other powers to grant relief.* This section does not limit a  
10 court's power to:
- 11 (1) Entertain an independent action to relieve a party from a  
12 judgment, order or proceeding;
- 13 (2) grant relief under K.S.A. 60-309, and amendments thereto, to a  
14 defendant who was not personally notified of the action; or
- 15 (3) set aside a judgment for fraud on the court.
- 16 (e) *Bills and writs abolished.* The following bills are abolished:  
17 Bills of review; bills in the nature of bills of review; and writs of coram  
18 nobis, coram vobis and audita querela.
- 19 ~~Sec. 12.~~ **13.** K.S.A. 2010 Supp. 60-270 is hereby amended to read  
20 as follows: 60-270. (a) *Retention of original discovery documents.* A  
21 party or attorney possessing original deposition transcripts, original  
22 responses to interrogatories, original requests for admissions, original  
23 requests for production or other original matters produced during  
24 discovery must retain those documents until the case is closed.
- 25 (b) *Destruction or disposition of original discovery documents.*  
26 Except as provided in subsection (c), when the case has been closed the  
27 party or attorney possessing the original documents specified in  
28 subsection (a) may destroy or dispose of them.
- 29 (c) *Original discovery documents subject to order, rule, statute or*  
30 *agreement.* Original discovery documents subject to or covered by a  
31 protective order, court rule, statute or written agreement of the parties  
32 must be retained, returned, destroyed or disposed of in accordance with  
33 the terms of the order, rule, statute or agreement.
- 34 (d) *Definition of "closed."* As used in this section, "closed" means  
35 when an order terminating the action or proceeding has been filed and  
36 all appeals have been terminated, the time for appeal has expired or  
37 when the judgment is either satisfied or barred under K.S.A. 60-2403,  
38 and amendments thereto.
- 39 ~~Sec. 13.~~ **14.** K.S.A. 2010 Supp. 60-310 is hereby amended to read

1 as follows: 60-310. (a) *Generally*. In an action against two or more  
2 defendants, when one or more, but not all have been served, the  
3 plaintiff may proceed as follows:

4 (1) If the action is against defendants jointly indebted on a  
5 contract, the plaintiff may proceed against the defendants served, unless  
6 the court orders otherwise; and if the plaintiff recovers judgment, it  
7 may be entered against all the defendants jointly indebted and may be  
8 enforced only against the joint property of all defendants, and the  
9 separate property of the defendants served;

10 (2) if the action is against defendants severally liable, the plaintiff  
11 may, without prejudice to the plaintiff's rights against those not served,  
12 proceed against the defendants served in the same manner as if they  
13 were the only defendants.

14 (b) ~~*Actions*~~ *Action against defendant not served*. Nothing in this  
15 section makes a judgment against one or more defendants jointly or  
16 severally liable a bar to another action against those not served.

17 ~~Sec. 14.~~ **15.** K.S.A. 2010 Supp. 60-460 is hereby amended to read  
18 as follows: 60-460. Evidence of a statement which is made other than  
19 by a witness while testifying at the hearing, offered to prove the truth of  
20 the matter stated, is hearsay evidence and inadmissible except:

21 (a) *Previous statements of persons present*. A statement previously  
22 made by a person who is present at the hearing and available for cross-  
23 examination with respect to the statement and its subject matter,  
24 provided the statement would be admissible if made by declarant while  
25 testifying as a witness.

26 (b) *Affidavits*. Affidavits, to the extent admissible by the statutes of  
27 this state.

28 (c) *Depositions and prior testimony*. Subject to the same  
29 limitations and objections as though the declarant were testifying in  
30 person, (1) testimony in the form of a deposition taken in compliance  
31 with the law of this state for use as testimony in the trial of the action in  
32 which offered or (2) if the judge finds that the declarant is unavailable  
33 as a witness at the hearing, testimony given as a witness in another  
34 action or in a preliminary hearing or former trial in the same action, or  
35 in a deposition taken in compliance with law for use as testimony in the  
36 trial of another action, when (A) the testimony is offered against a party  
37 who offered it in the party's own behalf on the former occasion or  
38 against the successor in interest of such party or (B) the issue is such  
39 that the adverse party on the former occasion had the right and

1 opportunity for cross-examination with an interest and motive similar  
2 to that which the adverse party has in the action in which the testimony  
3 is offered, but the provisions of this subsection (c) shall not apply in  
4 criminal actions if it denies to the accused the right to meet the witness  
5 face to face.

6 (d) *Contemporaneous statements and statements admissible on*  
7 *ground of necessity generally.* A statement which the judge finds was  
8 made (1) while the declarant was perceiving the event or condition  
9 which the statement narrates, describes or explains, (2) while the  
10 declarant was under the stress of a nervous excitement caused by such  
11 perception or (3) if the declarant is unavailable as a witness, by the  
12 declarant at a time when the matter had been recently perceived by the  
13 declarant and while the declarant's recollection was clear and was made  
14 in good faith prior to the commencement of the action and with no  
15 incentive to falsify or to distort.

16 (e) *Dying declarations.* A statement by a person unavailable as a  
17 witness because of the person's death if the judge finds that it was made  
18 (1) voluntarily and in good faith and (2) while the declarant was  
19 conscious of the declarant's impending death and believed that there  
20 was no hope of recovery.

21 (f) *Confessions.* In a criminal proceeding as against the accused, a  
22 previous statement by the accused relative to the offense charged, but  
23 only if the judge finds that the accused (1) when making the statement  
24 was conscious and was capable of understanding what the accused said  
25 and did and (2) was not induced to make the statement (A) under  
26 compulsion or by infliction or threats of infliction of suffering upon the  
27 accused or another, or by prolonged interrogation under such  
28 circumstances as to render the statement involuntary or (B) by threats  
29 or promises concerning action to be taken by a public official with  
30 reference to the crime, likely to cause the accused to make such a  
31 statement falsely, and made by a person whom the accused reasonably  
32 believed to have the power or authority to execute the same.

33 (g) *Admissions by parties.* As against a party, a statement by the  
34 person who is the party to the action in the person's individual or a  
35 representative capacity and, if the latter, who was acting in such  
36 representative capacity in making the statement.

37 (h) *Authorized and adoptive admissions.* As against a party, a  
38 statement (1) by a person authorized by the party to make a statement  
39 or statements for the party concerning the subject of the statement or

1 (2) of which the party with knowledge of the content thereof has, by  
2 words or other conduct, manifested the party's adoption or belief in its  
3 truth.

4 (i) *Vicarious admissions.* As against a party, a statement which  
5 would be admissible if made by the declarant at the hearing if (1) the  
6 statement concerned a matter within the scope of an agency or  
7 employment of the declarant for the party and was made before the  
8 termination of such relationship, (2) the party and the declarant were  
9 participating in a plan to commit a crime or a civil wrong and the  
10 statement was relevant to the plan or its subject matter and was made  
11 while the plan was in existence and before its complete execution or  
12 other termination or (3) one of the issues between the party and the  
13 proponent of the evidence of the statement is a legal liability of the  
14 declarant, and the statement tends to establish that liability.

15 (j) *Declarations against interest.* Subject to the limitations of  
16 exception (f), a statement which the judge finds was at the time of the  
17 assertion so far contrary to the declarant's pecuniary or proprietary  
18 interest or so far subjected the declarant to civil or criminal liability or  
19 so far rendered invalid a claim by the declarant against another or  
20 created such risk of making the declarant an object of hatred, ridicule or  
21 social disapproval in the community that a reasonable person in the  
22 declarant's position would not have made the statement unless the  
23 person believed it to be true.

24 (k) *Voter's statements.* A statement by a voter concerning the  
25 voter's qualifications to vote or the fact or content of the voter's vote.

26 (l) *Statements of physical or mental condition of declarant.* Unless  
27 the judge finds it was made in bad faith, a statement of the declarant's  
28 (1) then existing state of mind, emotion or physical sensation, including  
29 statements of intent, plan, motive, design, mental feeling, pain and  
30 bodily health, but not including memory or belief to prove the fact  
31 remembered or believed, when such a mental or physical condition is in  
32 issue or is relevant to prove or explain acts or conduct of the declarant  
33 or (2) previous symptoms, pain or physical sensation, made to a  
34 physician consulted for treatment or for diagnosis with a view to  
35 treatment, and relevant to an issue of declarant's bodily condition.

36 (m) *Business entries and the like.* Writings offered as memoranda  
37 or records of acts, conditions or events to prove the facts stated therein,  
38 if the judge finds that (1) they were made in the regular course of a  
39 business at or about the time of the act, condition or event recorded and

1 (2) the sources of information from which made and the method and  
2 circumstances of their preparation were such as to indicate their  
3 trustworthiness.

4 If the procedure specified by subsection (b) of K.S.A. 60-245a for  
5 providing business records has been complied with and no party has  
6 required the personal attendance of a custodian of the records or the  
7 production of the original records, the affidavit *or declaration* of the  
8 custodian shall be prima facie evidence that the records satisfy the  
9 requirements of this subsection.

10 (n) *Absence of entry in business records.* Evidence of the absence  
11 of a memorandum or record from the memoranda or records of a  
12 business of an asserted act, event or condition, to prove the  
13 nonoccurrence of the act or event, or the nonexistence of the condition,  
14 if the judge finds that it was the regular course of that business to make  
15 such memoranda of all such acts, events or conditions at the time  
16 thereof or within a reasonable time thereafter and to preserve them.

17 (o) *Content of official record.* Subject to K.S.A. 60-461 and  
18 amendments thereto, (1) if meeting the requirements of authentication  
19 under K.S.A. 60-465 and amendments thereto, to prove the content of  
20 the record, a writing purporting to be a copy of an official record or of  
21 an entry therein or (2) to prove the absence of a record in a specified  
22 office, a writing made by the official custodian of the official records of  
23 the office, reciting diligent search and failure to find such record.

24 (p) *Certificate of marriage.* Subject to K.S.A. 60-461 and  
25 amendments thereto, certificates that the maker thereof performed  
26 marriage ceremonies, to prove the truth of the recitals thereof, if the  
27 judge finds that (1) the maker of the certificates, at the time and place  
28 certified as the times and places of the marriages, was authorized by  
29 law to perform marriage ceremonies and (2) the certificate was issued  
30 at that time or within a reasonable time thereafter.

31 (q) *Records of documents affecting an interest in property.* Subject  
32 to K.S.A. 60-461 and amendments thereto, the official record of a  
33 document purporting to establish or affect an interest in property, to  
34 prove the content of the original recorded document and its execution  
35 and delivery by each person by whom it purports to have been  
36 executed, if the judge finds that (1) the record is in fact a record of an  
37 office of a state or nation or of any governmental subdivision thereof  
38 and (2) an applicable statute authorized such a document to be recorded  
39 in that office.

1 (r) *Judgment of previous conviction.* Evidence of a final judgment  
2 adjudging a person guilty of a felony, to prove any fact essential to  
3 sustain the judgment.

4 (s) *Judgment against persons entitled to indemnity.* To prove the  
5 wrong of the adverse party and the amount of damages sustained by the  
6 judgment creditor, evidence of a final judgment if offered by a  
7 judgment debtor in an action in which the debtor seeks to recover  
8 partial or total indemnity or exoneration for money paid or liability  
9 incurred by the debtor because of the judgment, provided the judge  
10 finds that the judgment was rendered for damages sustained by the  
11 judgment creditor as a result of the wrong of the adverse party to the  
12 present action.

13 (t) *Judgment determining public interest in land.* To prove any fact  
14 which was essential to the judgment, evidence of a final judgment  
15 determining the interest or lack of interest of the public or of a state or  
16 nation or governmental division thereof in land, if offered by a party in  
17 an action in which any such fact or such interest or lack of interest is a  
18 material matter.

19 (u) *Statement concerning one's own family history.* A statement of  
20 a matter concerning a declarant's own birth, marriage, divorce,  
21 legitimacy, relationship by blood or marriage, race-ancestry or other  
22 similar fact of the declarant's family history, even though the declarant  
23 had no means of acquiring personal knowledge of the matter declared,  
24 if the judge finds that the declarant is unavailable.

25 (v) *Statement concerning family history of another.* A statement  
26 concerning the birth, marriage, divorce, death, legitimacy, race-  
27 ancestry, relationship by blood or marriage or other similar fact of the  
28 family history of a person other than the declarant if the judge finds that  
29 the declarant (1) was related to the other by blood or marriage, or was  
30 otherwise so intimately associated with the other's family as to be likely  
31 to have accurate information concerning the matter declared, and made  
32 the statement as upon information received from the other or from a  
33 person related by blood or marriage to the other or as upon repute in the  
34 other's family and (2) is unavailable as a witness.

35 (w) *Statement concerning family history based on statement of*  
36 *another declarant.* A statement of a declarant that a statement  
37 admissible under exceptions (u) or (v) was made by another declarant,  
38 offered as tending to prove the truth of the matter declared by both  
39 declarants, if the judge finds that both declarants are unavailable as

1 witnesses.

2 (x) *Reputation in family concerning family history.* Evidence of  
3 reputation among members of a family, if the reputation concerns the  
4 birth, marriage, divorce, death, legitimacy, race-ancestry or other fact  
5 of the family history of a member of the family by blood or marriage.

6 (y) *Reputation—boundaries, general history, family history.*  
7 Evidence of reputation in a community as tending to prove the truth of  
8 the matter reputed, if the reputation concerns (1) boundaries of or  
9 customs affecting, land in the community and the judge finds that the  
10 reputation, if any, arose before controversy, (2) an event of general  
11 history of the community or of the state or nation of which the  
12 community is a part and the judge finds that the event was of  
13 importance to the community or (3) the birth, marriage, divorce, death,  
14 legitimacy, relationship by blood or marriage, or race-ancestry of a  
15 person resident in the community at the time of the reputation, or some  
16 other similar fact of the person's family history or of the person's  
17 personal status or condition which the judge finds likely to have been  
18 the subject of a reliable reputation in that community.

19 (z) *Reputation as to character.* If a trait of a person's character at a  
20 specified time is material, evidence of the person's reputation with  
21 reference thereto at a relevant time in the community in which the  
22 person then resided or in a group with which the person then habitually  
23 associated, to prove the truth of the matter reputed.

24 (aa) *Recitals in documents affecting property.* Evidence of a  
25 statement relevant to a material matter, contained in a deed of  
26 conveyance or a will or other document purporting to affect an interest  
27 in property, offered as tending to prove the truth of the matter stated, if  
28 the judge finds that (1) the matter stated would be relevant upon an  
29 issue as to an interest in the property and (2) the dealings with the  
30 property since the statement was made have not been inconsistent with  
31 the truth of the statement.

32 (bb) *Commercial lists and the like.* Evidence of statements of  
33 matters of interest to persons engaged in an occupation contained in a  
34 list, register, periodical or other published compilation, to prove the  
35 truth of any relevant matter so stated, if the judge finds that the  
36 compilation is published for use by persons engaged in that occupation  
37 and is generally used and relied upon by them.

38 (cc) *Learned treatises.* A published treatise, periodical or pamphlet  
39 on a subject of history, science or art, to prove the truth of a matter

1 stated therein, if the judge takes judicial notice, or a witness expert in  
2 the subject testifies, that the treatise, periodical or pamphlet is a reliable  
3 authority in the subject.

4 (dd) *Actions involving children.* In a criminal proceeding or a  
5 proceeding pursuant to the revised Kansas juvenile justice code or in a  
6 proceeding to determine if a child is a child in need of care under the  
7 revised Kansas code for care of children, a statement made by a child,  
8 to prove the crime or that a child is a juvenile offender or a child in  
9 need of care, if:

10 (1) The child is alleged to be a victim of the crime or offense or a  
11 child in need of care; and

12 (2) the trial judge finds, after a hearing on the matter, that the child  
13 is disqualified or unavailable as a witness, the statement is apparently  
14 reliable and the child was not induced to make the statement falsely by  
15 use of threats or promises.

16 If a statement is admitted pursuant to this subsection in a trial to a  
17 jury, the trial judge shall instruct the jury that it is for the jury to  
18 determine the weight and credit to be given the statement and that, in  
19 making the determination, it shall consider the age and maturity of the  
20 child, the nature of the statement, the circumstances under which the  
21 statement was made, any possible threats or promises that might have  
22 been made to the child to obtain the statement and any other relevant  
23 factor.

24 (ee) *Certified motor vehicle certificate of title history.* Subject to  
25 K.S.A. 60-461, and amendments thereto, a certified motor vehicle  
26 certificate of title history prepared by the division of vehicles of the  
27 Kansas department of revenue.

28 ~~Sec. 15.~~ **16.** K.S.A. 60-2003 is hereby amended to read as follows:  
29 60-2003. Items which may be included in the taxation of costs are:

30 (1) The docket fee as provided for by K.S.A. 60-2001, and  
31 amendments thereto.

32 (2) The mileage, fees, and other allowable expenses of the sheriff,  
33 other officer or private process server incurred in the service of process  
34 or in effecting any of the provisional remedies authorized by this  
35 chapter.

36 (3) Publisher's charges in effecting any publication of notices  
37 authorized by law.

38 (4) Statutory fees and mileage of witnesses attending court or the  
39 taking of depositions used as evidence.

1 (5) Reporter's or stenographic charges for the taking of depositions  
2 used as evidence.

3 (6) The postage fees incurred pursuant to K.S.A. 60-303 or  
4 ~~subsection (c) of K.S.A. 60-308~~, and amendments thereto.

5 (7) Alternative dispute resolution fees shall include fees, expenses  
6 and other costs arising from mediation, conciliation, arbitration,  
7 settlement conferences or other alternative dispute resolution means,  
8 whether or not such means were successful in resolving the matter or  
9 matters in dispute, which the court shall have ordered or to which the  
10 parties have agreed.

11 (8) Such other charges as are by statute authorized to be taxed  
12 as costs.

13 ~~Sec. 16.~~ **17.** K.S.A. 2010 Supp. 65-4902 is hereby amended to  
14 read as follows: 65-4902. The district judge or, if the district court has  
15 more than one division, the chief judge of such court shall notify the  
16 parties to the action that a screening panel has been convened. The  
17 plaintiff or claimant and the defendant or respondent shall each  
18 designate a health care provider licensed in the same profession as the  
19 defendant or respondent within ~~20~~ 21 days of such party's receipt of  
20 notice of the convening of the screening panel. The parties shall jointly  
21 designate a health care provider licensed in the same profession as the  
22 defendant or respondent within ~~10~~ 14 days after the individual  
23 designations have been made. If the parties are unable to jointly select a  
24 health care provider within such ~~10~~ 14 days, the judge of the district  
25 court or, if the district court has more than one division, the chief judge  
26 of such court shall select such health care provider.

27 ~~Sec. 17.~~ **18.** K.S.A. 20-3017 and 60-2003 and K.S.A. 2010 Supp.  
28 38-2305, 38-2305a, 60-203, 60-206, 60-209, 60-211, 60-214, 60-226,  
29 **60-228a**, 60-235, 60-249, 60-260, 60-270, 60-310, 60-460 and 65-4902  
30 are hereby repealed.

31 ~~Sec. 18.~~ **19.** This act shall take effect and be in force from and  
32 after its publication in the statute book.