

Court Clerk—Duties; Court Costs; Attorney-Client Privilege and Work-Product Protection

House Sub. for SB 63 amends the duties of a court clerk by removing the requirements that the clerk keep the papers in each case in a wrapper or folder and that the clerk initial the date and time stamp on each paper.

The bill also gives the Kansas Supreme Court, rather than the chief judge of a district court, the authority to order that records and information of the district court be kept in a computer information storage and retrieval system.

The bill clarifies that court costs may be assessed under the Asset Seizure and Forfeiture Act.

Finally, the bill provides certain safeguards against waiver of attorney-client privilege or work-product protection. The safeguards include:

- If a waiver is found, it will apply only to information actually disclosed, unless: the waiver was intentional, undisclosed information concerned the same subject matter, and fairness required the disclosed and undisclosed information to be considered together.
- Inadvertent disclosure in a court or agency proceeding will not operate as a waiver if the holder of the privilege took reasonable steps to prevent disclosure and took prompt, reasonable steps to rectify the error.
- Disclosure made in a non-Kansas proceeding will not waive the privilege in a Kansas proceeding if the disclosure would not constitute a waiver under Kansas law or under the law of the jurisdiction where the waiver occurred. Whichever law provides the most protection against a waiver will apply.
- A court may order that disclosure in litigation pending before the court does not constitute a waiver.
- Parties may enter into agreements as to the effect of disclosures within the proceeding, although such agreements will not be binding upon non-parties unless incorporated into a court order.

The bill defines “attorney-client privilege” and “work-product protection” and makes technical amendments to KSA 60-426 and KSA 60-3003 to ensure consistency in wording.