

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Judiciary** recommends **SB 20** be amended on page 1, following line 5, by inserting:

"Section 1. K.S.A. 60-903 is hereby amended to read as follows: 60-903. ~~(a) No notice or bond required. A restraining order may issue without notice or bond, except as provided in subsection (b) of K.S.A. 60-904, and amendments thereto, but if it appears to the judge that a restraining order may result in damage to the party restrained, a bond to secure payment of any damages sustained may be required. An application for a restraining order shall also be considered as an application for a temporary injunction and either party may give notice of hearing thereon. The order shall remain in force until the hearing on the application for a temporary injunction.~~

(a) Temporary restraining order; issuing without notice. Except as provided in subsection (b) of K.S.A. 60-904, and amendments thereto, the court may issue a temporary restraining order without notice or bond to the adverse party or its attorney only if:

(1) Specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss or damage will result to the movant before the adverse party can be heard in opposition;

(2) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required; and

(3) notice of the issuance of a temporary restraining order is provided to the attorney general of the state of Kansas if the adverse party is the state of Kansas or an agency, officer or

employee thereof, or to the appropriate city clerk or county clerk if the adverse party is a city or county or an agency, officer or employee thereof.

(b) *Contents; expiration.* Every temporary restraining order issued without notice must state the date and hour it was issued, describe the injury and state why it is irreparable, state why the order was issued without notice and be promptly filed in the clerk's office and entered in the record. The order expires at the time after entry, not to exceed 14 days, that the court sets, unless before that time the court, for good cause, extends it for a like period or the adverse party consents to a longer extension. The reasons for an extension must be entered in the record.

(c) *Expediting the temporary injunction hearing.* If the temporary restraining order is issued without notice, the motion for a temporary injunction must be set for hearing at the earliest possible time, taking precedence over all other matters except hearings on older matters of the same character. At the hearing, the party who obtained the order must proceed with the motion, and if the party does not, the court must dissolve the order.

(d) *Service.* Where a temporary restraining order is issued without notice, it shall be served upon each party restrained in the manner prescribed for personal service of a summons.

(e) *Motion to Dissolve.* On two days' notice to the party who obtained the temporary restraining order without notice, or on shorter notice set by the court, the adverse party may appear and move to dissolve or modify the order. The court must then hear and decide the motion as promptly as justice requires.

(f) *Security.* Unless otherwise provided by statute or this section, no temporary restraining order shall operate unless the party obtaining the same shall give an undertaking with one or more sufficient sureties in an amount fixed and approved by the judge of the court, securing to the party injured the damages such injured party may sustain including attorney fees if it be finally determined that the state nor any of its agencies shall be required to give an undertaking with one or more

sufficient sureties in order to be granted a temporary restraining order. For any other party, at the discretion of the judge, the undertaking required by this subsection may be waived.";

On page 1, in line 21, by striking "the court may issue an"; by striking all in line 22; in line 23, by striking "the filing fee to be paid" and inserting "no fee will be required";

On page 2, in line 18, by striking "Upon"; by striking all in lines 19 through 22; in line 23, by striking "immune from such relief." and inserting "Upon such review, if the court finds that the plaintiff's allegation of poverty is untrue, the court shall direct the plaintiff to pay the docket fee or dismiss the petition without prejudice.";

And by renumbering sections accordingly;

On page 3, in line 4, after "K.S.A." by inserting "60-903 and K.S.A."; also in line 4, by striking "is" and inserting "are";

On page 1, in the title, in line 1, after "relating to" by inserting "temporary restraining orders;"; in line 2, after "K.S.A." by inserting "60-903 and K.S.A."; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Chairperson