

SENATE BILL No. 477

By Committee on Federal and State Affairs

2-26

1 AN ACT concerning civil actions and civil procedure; relating to post-
2 judgment proceedings; hearing in aid of execution; prohibiting bench
3 warrants when judgment arises out of or relates to medical debt;
4 amending K.S.A. 60-2419 and 61-3608 and repealing the existing
5 sections.

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

8 Section 1. K.S.A. 60-2419 is hereby amended to read as follows: 60-
9 2419. (a) When an execution against the judgment debtor or one of several
10 debtors in the same judgment issued to the sheriff of the county where the
11 debtor resides or, if the debtor does not reside in the state, to the sheriff of
12 the county where judgment was rendered or a transcript of the judgment
13 has been filed, is returned unsatisfied in whole or in part, the judgment
14 creditor is entitled to have an order for a hearing in aid of execution by the
15 district court of the county to which the execution was issued. If a
16 judgment creditor, without having attempted execution, alleges that the
17 judgment creditor is without sufficient knowledge of the debtor's assets to
18 advise the sheriff where and on what to levy execution, the judgment
19 creditor shall be entitled to have an order for a hearing in aid of execution
20 by the district court of the county where the debtor resides and a transcript
21 of the judgment has been filed or, if the debtor does not reside in the state,
22 where judgment was rendered or a transcript of the judgment has been
23 filed. An order for a hearing in aid of execution shall require the judgment
24 debtor to appear and answer concerning the debtor's property and income,
25 before the judge, or a referee appointed by the judge, at a time and place
26 specified in the order, within the county where the court is located.
27 Witnesses may also be subpoenaed to testify at the hearing. If, on proper
28 application by the judgment creditor, the court finds that it will not cause
29 undue hardship on the judgment debtor, the court may order a debtor
30 residing in another county in this state to appear before the court for such a
31 hearing.

32 (b) (1) If any person fails, neglects or refuses to appear and answer
33 concerning the person's property and income at the time and place
34 specified in an order for a hearing in aid of execution or, if any person
35 subpoenaed to appear as a witness at the hearing fails, neglects or refuses
36 to appear or to testify concerning anything about which the person can

1 lawfully be interrogated, the person shall be guilty of contempt of court,
2 and the court shall issue a citation requiring the person, at an early date
3 specified in the citation, to appear before the court and show cause, if any,
4 why the person should not be punished for contempt. *Except as provided*
5 *in subsection (b)(2)*, if, after proper service of the citation by any officer or
6 other person, the person does not appear before the court on the specified
7 day or if it appears to the court that the person is hiding to avoid the
8 process of the court or is about to leave the county for that purpose, the
9 court may issue an attachment or bench warrant commanding the officer to
10 whom it is directed to bring the person before the court to answer for
11 contempt. If the court determines that any such person is guilty of
12 contempt, the person shall be punished as the court directs.

13 (2) *The court shall not issue a bench warrant for the arrest of a*
14 *judgment debtor for any act or failure to act that arises out of or relates to*
15 *a judgment for medical debt.*

16 (c) At a hearing in aid of execution, when the existence of any
17 nonexempt property of the judgment debtor is disclosed, the court shall
18 order the debtor to deliver the property to the sheriff and shall also order
19 the sheriff to accept its delivery. Upon receipt of the property, the sheriff
20 shall give a receipt for it. If the property is other than currency, the sheriff
21 shall sell the property, in the same manner as other property taken under
22 execution is sold and the proceeds from the sale shall be applied to the
23 judgment and costs.

24 (d) If upon the hearing, it appears that the debtor may have income or
25 property which the debtor will have in the future or refuses to disclose or
26 apply to the judgment, the debtor may be ordered to return to the court
27 from time to time, to appear before the court as the judge directs. Any
28 debtor who fails to appear before the court as so ordered is guilty of
29 contempt. The same procedure as provided above may be invoked at any
30 time nonexempt property of the debtor is disclosed.

31 Sec. 2. K.S.A. 61-3608 is hereby amended to read as follows: 61-
32 3608. (a) *Except as provided in subsection (a)(2)*, if a person fails to
33 comply with the requirements of K.S.A. 61-3606, and amendments
34 thereto, or if it appears to the court that the person is hiding to avoid the
35 process of the court or is about to leave the county for that purpose, the
36 court may issue a bench warrant commanding the sheriff to whom it is
37 directed to bring such person before the court to answer for contempt. The
38 bench warrant does not need to be supported by affidavit or other
39 verification. The court may make such orders concerning the release of the
40 person pending the hearing as the court deems proper.

41 (2) *The court shall not issue a bench warrant for the arrest of a*
42 *judgment debtor for any act or failure to act that arises out of or relates to*
43 *a judgment for medical debt.*

1 (b) When such person is brought before the court, a hearing shall be
2 held to determine if the person should be punished for contempt. If the
3 court determines that the person is guilty of contempt, the court may
4 punish the person by a fine in an amount to be set by the court or by
5 imprisonment in the county jail for a period of not to exceed 30 days, or
6 both. The court may also order the person guilty of contempt to pay the
7 reasonable attorney fees incurred by the judgment creditor in the filing of
8 the bench warrant and the hearing thereon.

9 Sec. 3. K.S.A. 60-2419 and 61-3608 are hereby repealed.

10 Sec. 4. This act shall take effect and be in force from and after its
11 publication in the Kansas register.