

SENATE BILL No. 9

AN ACT concerning the code of civil procedure; amending K.S.A. 20-3017 and 60-2003 and K.S.A. 2010 Supp. 38-2305, 60-203, 60-206, 60-209, 60-211, 60-214, 60-226, 60-228a, 60-235, 60-249, 60-260, 60-270, 60-304, 60-310, 60-460 and 65-4902 and repealing the existing sections; also repealing K.S.A. 2010 Supp. 38-2305a.

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

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

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

(b) Except as provided in subsection (c), venue for sentencing proceedings shall be in the county of the juvenile offender's residence or, if the juvenile offender is not a resident of this state, in the county where the adjudication occurred. When the sentencing hearing is to be held in a county other than where the adjudication occurred, upon adjudication, the judge shall contact the sentencing court and advise the judge of the transfer. The adjudicating court shall send immediately to the sentencing court a facsimile or electronic copy of the complaint, the adjudication journal entry or judge's minutes, if available, and any recommendations in regard to sentencing. The adjudicating court shall also send to the sentencing court a complete copy of the official and social files in the case by mail or electronic means within ~~five working~~ seven days of the adjudication.

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

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

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

(c) *Entry of appearance*. The filing of an entry of appearance has the same effect as service. Written contact with the court by a defendant, or an attorney for the defendant invoking protection for the defendant under the servicemembers civil relief act (50 U.S.C. § 501 et seq.), and amendments thereto, is not an entry of appearance.

(d) *Electronic filing*. As used in this section, filing a petition with the

court includes receipt by the court of a petition by electronic means complying with supreme court rules.

Sec. 4. K.S.A. 2010 Supp. 60-206 is hereby amended to read as follows: 60-206. (a) *Computing time*. The following provisions apply in computing any time period specified in this chapter, in any local rule or court order or in any statute or administrative rule or regulation that does not specify a method of computing time.

(1) *Period stated in days or a longer unit*. When the period is stated in days or a longer unit of time:

(A) Exclude the day of the event that triggers the period;

(B) count every day, including intermediate Saturdays, Sundays and legal holidays; and

(C) include the last day of the period, but if the last day is a Saturday, Sunday or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday or legal holiday.

(2) *Period stated in hours*. When the period is stated in hours:

(A) Begin counting immediately on the occurrence of the event that triggers the period;

(B) count every hour, including hours during intermediate Saturdays, Sundays and legal holidays; and

(C) if the period would end on a Saturday, Sunday or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday or legal holiday.

(3) *Inaccessibility of the clerk's office*. Unless the court orders otherwise, if the clerk's office is inaccessible:

(A) On the last day for filing under subsection (a)(1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday or legal holiday; or

(B) during the last hour for filing under subsection (a)(2), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday or legal holiday.

(4) *"Last day" defined*. Unless a different time is set by a statute, local rule or court order, the last day ends:

(A) For electronic or telefacsimile filing, at midnight in the court's time zone; and

(B) for filing by other means, when the clerk's office is scheduled to close.

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

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

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

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

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

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

(c) *Motions, notices of hearing and affidavits or declarations*. (1) *In general*. A written motion and notice of the hearing must be served at least seven days before that time specified for the hearing with the following exceptions:

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

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

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

(2) *Supporting affidavit or declaration*. Any affidavit or declaration pursuant to K.S.A. 53-601, and amendments thereto, supporting a motion must be served with the motion. Except as otherwise provided in subsection (d) of K.S.A. 60-259, and amendments thereto, any opposing affidavit or

declaration must be served at least one day before the hearing, unless the court permits service at another time.

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

Sec. 5. K.S.A. 2010 Supp. 60-209 is hereby amended to read as follows: 60-209. (a) *Capacity or authority to sue; legal existence.* (1) *In general.* A pleading need not allege:

- (A) A party's capacity to sue or be sued;
 - (B) a party's authority to sue or be sued in a representative capacity;
- or
- (C) the legal existence of an organized association of persons that is made a party.

(2) *Raising those issues.* To raise any of those issues, a party must do so by a specific denial, which must state any supporting facts that are peculiarly within the party's knowledge.

(b) *Fraud or mistake; conditions of the mind.* In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake. Malice, intent, knowledge and other conditions of a person's mind may be alleged generally.

(c) *Conditions precedent.* In pleading conditions precedent, it suffices to allege generally that all conditions precedent have occurred or have been performed. But when denying that a condition precedent has occurred or been performed, a party must do so with particularity.

(d) *Official document or act.* In pleading an official document or official act, it suffices to allege that the document was legally issued or the act legally done.

(e) *Judgment.* In pleading a judgment or decision of a domestic or foreign court, a judicial or quasi-judicial tribunal, or a board or officer, it suffices to plead the judgment or decision without showing jurisdiction to render it.

(f) *Time and place.* An allegation of time or place is material when testing the sufficiency of a pleading.

(g) *Special damages.* If an item of special damage is claimed, it must be specifically stated. If the court allows an amended petition pursuant to K.S.A. 60-3703, and amendments thereto, to include a claim for exemplary or punitive damages the amended petition must state only whether the amount sought as damages is or is not in excess of \$75,000.

(h) *Pleading a written instrument.* A claim, defense or counterclaim founded on a written instrument may be pleaded by:

- (1) Reasonably identifying the written instrument and stating its substance;
- (2) reciting the contents of the written instrument in the pleading; or
- (3) attaching a copy to the pleading as an exhibit.

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

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

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

(b) *Representations to the court.* By presenting to the court a pleading,

written motion or other paper, whether by signing, filing, submitting or later advocating it, an attorney or unrepresented party certifies that to the best of the person's knowledge, information and belief formed after an inquiry reasonable under the circumstances:

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

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

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

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

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

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

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

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

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

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

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

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

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

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

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

and amendments thereto, or any crossclaim under subsection (g) of K.S.A. 60-213, and amendments thereto.

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

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

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

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

Sec. 8. K.S.A. 2010 Supp. 60-226 is hereby amended to read as follows: 60-226. (a) *Discovery methods.* Parties may obtain discovery by one or more of the following methods: Depositions on oral examination or written questions; written interrogatories; production of documents or things or permission to enter onto land or other property under K.S.A. 60-234, subsection (a)(1)(A)(iii) of K.S.A. 60-245 or K.S.A. 60-245a, and amendments thereto; physical and mental examinations; and requests for admission.

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) *Trial preparation; experts.*

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

(B) *Expert employed only for trial preparation.* Ordinarily, a party may not, by interrogatories or deposition, discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or to prepare for trial and who is not expected to be called as a witness at trial. But a party may do so only:

(i) As provided in subsection (b) of K.S.A. 60-235, and amendments thereto; or

(ii) on showing exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.

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

(i) Pay the expert a reasonable fee for time spent in responding to discovery under subsection (b)(5)(A) or (b)(5)(B); and

(ii) for discovery under subsection (b)(5)(B), also pay the other party a fair portion of the fees and expenses it reasonably incurred in obtaining the expert's facts and opinions.

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

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

(i) The subject matter on which the expert is expected to testify;

(ii) the substance of the facts and opinions to which the expert is expected to testify; and

(iii) a summary of the grounds for each opinion.

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

(i) At least 90 days before the date set for trial or for the case to be ready for trial; or

(ii) if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under subsection (b)(6)(B), within 30 days after the other party's disclosure.

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

(E) *Form of disclosures.* Unless otherwise ordered by the court, all disclosures under this subsection must be:

(i) In writing, signed and served; and

(ii) filed with the court in accordance with subsection (d) of K.S.A. 60-205, and amendments thereto.

(7) *Claiming privilege or protecting trial preparation materials.* (A) *Information withheld.* When a party withholds information otherwise dis-

coverable by claiming that the information is privileged or subject to protection as trial preparation material, the party must:

(i) Expressly make the claim; and

(ii) describe the nature of the documents, communications or things not produced or disclosed, and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

(B) *Information produced.* If information produced in discovery is subject to a claim of privilege or of protection as trial preparation material, the party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The producing party must preserve the information until the claim is resolved.

(c) *Protective orders.* (1) *In general.* A party or any person from whom discovery is sought may move for a protective order in the court where the action is pending, as an alternative on matters relating to a deposition, in the district court where the deposition will be taken. The motion must include a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action and must describe the steps taken by all attorneys or unrepresented parties to resolve the issues in dispute. The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression or undue burden or expense, including one or more of the following:

(A) Forbidding the disclosure or discovery;

(B) specifying terms, including time and place, for the disclosure or discovery;

(C) prescribing a discovery method other than the one selected by the party seeking discovery;

(D) forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters;

(E) designating the persons who may be present while the discovery is conducted;

(F) requiring that a deposition be sealed and opened only on court order;

(G) requiring that a trade secret or other confidential research, development or commercial information not be revealed or be revealed only in a specified way; and

(H) requiring that the parties simultaneously file specified documents or information in sealed envelopes, to be opened as the court orders.

(2) *Ordering discovery.* If a motion for a protective order is wholly or partly denied the court may, on just terms, order that any party or person provide or permit discovery.

(3) *Awarding expenses.* The provisions of K.S.A. 60-237, and amendments thereto, apply to the award of expenses.

(d) *Sequence of discovery.* Unless, on motion, the court orders otherwise for the parties' and witnesses' convenience and in the interests of justice:

(1) Methods of discovery may be used in any sequence; and

(2) discovery by one party does not require any other party to delay its discovery.

(e) *Supplementing disclosures and responses.* (1) *In general.* A party who has made a disclosure under subsection (b)(6), or who has responded to an interrogatory, request for production or request for admission, must supplement or correct its disclosure or response:

(A) In a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing; or

(B) as ordered by the court.

(2) *Expert witness.* For an expert to whom the disclosure requirement in subsection (b)(6) applies, the party's duty to supplement extends both to information included in the disclosure and to information given during the

expert's deposition. Any additions or changes to this information must be disclosed at least 30 days before trial, unless the court orders otherwise.

(f) *Signing of disclosures and discovery requests, responses and objections.* (1) *Signature required; effect of signature.* Every disclosure under subsection (b)(6) and every discovery request, response or objection must be signed by at least one attorney of record in the attorney's own name, or by the party personally, if unrepresented, and must state the signor's address, e-mail address and telephone number. By signing, an attorney or party certifies that to the best of the person's knowledge, information and belief formed after a reasonable inquiry:

(A) With respect to a disclosure, it is complete and correct as of the time it is made;

(B) with respect to a discovery request, response or objection, it is:

(i) Consistent with the rules of civil procedure and warranted by existing law or by a nonfrivolous argument for extending, modifying or reversing existing law or for establishing new law;

(ii) not interposed for any improper purpose, such as to harass, cause unnecessary delay or needlessly increase the cost of litigation; and

(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. 60-228a 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~~ act 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.

Sec. 10. 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 deposing 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 delivered by the party with custody or control of the person examined if the party shows that it could not obtain them. Reports provided under this subsection must contain the information specified in subsection (b)(2).

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

Sec. 11. K.S.A. 2010 Supp. 60-249 is hereby amended to read as follows: 60-249. (a) *Special verdict.* (1) *In general.* The court may require a jury to return only a special verdict in the form of a special written finding on each issue of fact. The court may do so by:

- (A) Submitting written questions susceptible of a categorical or other brief answer;
- (B) submitting written forms of the special findings that might properly be made under the pleadings and evidence; or
- (C) using any other method that the court considers appropriate.

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

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

(b) *General verdict with answers to written questions.* (1) *In general.* The court may on written request, submit to the jury forms for a general verdict, together with written questions on one or more issues of fact that the jury must decide. The court must give the instructions and explanations necessary to enable the jury to render a general verdict and answer the questions in writing, and must direct the jury to do both.

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

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

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

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

(C) order a new trial.

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

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

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

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

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

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

(4) the judgment is void;

(5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or

(6) any other reason that justifies relief.

(c) *Timing and effect of the motion.* (1) *Timing.* A motion under subsection (b) must be made within a reasonable time, and for reasons under paragraphs (b)(1), (2) and (3) no more than one year after the entry of the judgment or order, or the date of the proceeding.

(2) *Effect on finality.* The motion does not affect the judgment's finality or suspend its operation.

(d) *Other powers to grant relief.* This section does not limit a court's power to:

(1) Entertain an independent action to relieve a party from a judgment, order or proceeding;

(2) grant relief under K.S.A. 60-309, and amendments thereto, to a defendant who was not personally notified of the action; or

(3) set aside a judgment for fraud on the court.

(e) *Bills and writs abolished.* The following bills are abolished: Bills of review; bills in the nature of bills of review; and writs of coram nobis, coram vobis and audita querela.

Sec. 13. K.S.A. 2010 Supp. 60-270 is hereby amended to read as follows: 60-270. (a) *Retention of original discovery documents.* A party or attorney possessing original deposition transcripts, original responses to interrogatories, original requests for admissions, original requests for production or other original matters produced during discovery must retain those documents until the case is closed.

(b) *Destruction or disposition of original discovery documents.* Except as provided in subsection (c), when the case has been closed the party or attorney possessing the original documents specified in subsection (a) may destroy or dispose of them.

(c) *Original discovery documents subject to order, rule, statute or agreement.* Original discovery documents subject to or covered by a protective order, court rule, statute or written agreement of the parties must be retained, returned, destroyed or disposed of in accordance with the terms of the order, rule, statute or agreement.

(d) *Definition of “closed.”* As used in this section, “closed” means when an order terminating the action or proceeding has been filed and all appeals have been terminated, the time for appeal has expired or when the judgment is either satisfied or barred under K.S.A. 60-2403, and amendments thereto.

Sec. 14. K.S.A. 2010 Supp. 60-304 is hereby amended to read as follows: 60-304. As used in this section, “serving” means making service by any of the methods described in K.S.A. 60-303, and amendments thereto, unless a specific method of making service is prescribed in this section. Except for service by publication under K.S.A. 60-307, and amendments thereto, service of process under this article must be made as follows:

(a) *Individual.* On an individual other than a minor or a disabled person, by serving the individual or by serving an agent authorized by appointment or by law to receive service of process. If the agent is one designated by statute to receive service, such further notice as the statute requires must be given. Service by return receipt delivery must be addressed to an individual at the individual’s dwelling or usual place of abode and to an authorized agent at the agent’s usual or designated address. If the sheriff, party or party’s attorney files a return of service stating that the return receipt delivery to the individual at the individual’s dwelling or usual place of abode was refused or unclaimed and that a business address is known for the individual, the sheriff, party or party’s attorney may complete service by return receipt delivery, addressed to the individual at the individual’s business address.

(b) *Minor.* On a minor, by serving:

- (1) The minor; and
- (2) either:

(A) The minor’s guardian or conservator, if the minor has one within this state;

(B) the minor’s father, mother or other person having the minor’s care or control or with whom the minor resides; or

(C) if service cannot be made as specified in paragraphs (A) or (B), as provided by order of the court.

Service by return receipt delivery must be addressed to an individual at the individual’s dwelling or usual place of abode and to a corporate guardian or conservator at the guardian’s or conservator’s usual place of business.

(c) *Disabled person.* On a disabled person, as defined in K.S.A. 77-201, and amendments thereto, by:

(1) Serving:

(A) The person’s guardian, conservator or a competent adult member of the person’s family with whom the person resides;

(B) if the person resides in an institution, the director or chief executive officer of the institution; or

(C) if service cannot be made as specified in paragraphs (A) or (B), as provided by order of the court; and

(2) unless the court otherwise orders, serving the disabled person.

Service by return receipt delivery must be addressed to the director or chief executive officer of an institution at the institution, to any other individual at the individual’s dwelling or usual place of abode, and to a corporate guardian or conservator at the guardian’s or conservator’s usual place of business.

(d) *Governmental bodies.* On:

- (1) A county, by serving one of the county commissioners, the county clerk or the county treasurer;
- (2) a township, by serving the clerk or a trustee;
- (3) a city, by serving the clerk or the mayor;
- (4) any other public corporation, body politic, district or authority, by serving the clerk or secretary or, if the clerk or secretary is not found, any officer, director or manager thereof; and
- (5) the state or any governmental agency of the state, when subject to suit, by serving the attorney general or an assistant attorney general.

Service by return receipt delivery must be addressed to the appropriate official at the official's governmental office. Income withholding orders for support and orders of garnishment of earnings of state officers and employees must be served on the state or governmental agency of the state in the manner provided by K.S.A. 60-723, and amendments thereto.

(e) *Corporations, domestic or foreign limited liability companies, domestic or foreign limited partnerships, domestic or foreign limited liability partnerships and partnerships.* On a domestic or foreign corporation, domestic or foreign limited liability company, domestic or foreign limited partnership, domestic or foreign limited liability partnership or a partnership or other unincorporated association that is subject to suit in a common name, by:

- (1) Serving an officer, manager, partner or a resident, managing or general agent;
- (2) leaving a copy of the summons and petition or other document at any of its business offices with the person having charge thereof; or
- (3) serving any agent authorized by appointment or by law to receive service of process, *and* if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.

Service by return receipt delivery on an officer, partner or agent must be addressed to the person at the person's usual place of business.

(f) *Resident agent for a corporation, limited liability company, limited partnership or limited liability partnership.* A domestic corporation, domestic limited liability company or domestic limited partnership, and, if it is authorized to transact business or transacts business without authority in this state, a foreign corporation, foreign limited liability company or foreign limited partnership irrevocably authorizes the secretary of state as its agent to accept on its behalf service of process, or any notice or demand required or permitted by law to be served on it, when: (1) It fails to appoint or maintain in this state a resident agent on whom service may be had; or (2) its resident agent cannot with reasonable diligence be found at the registered office in this state. Service on the secretary of state of any process, notice or demand must be made by delivering to the secretary of state, by personal service or by return receipt delivery, the original and two copies of the process and two copies of the petition, notice or demand. When any process, notice or demand is served on the secretary of state, the secretary must promptly forward a copy of it by return receipt delivery, addressed to the corporation, limited liability company or limited partnership at its principal office as it appears in the records of the secretary of state, or at the registered or principal office of the corporation, limited liability company or limited partnership in the state of its incorporation or formation. The secretary of state must keep a record of all processes, notices and demands served on the secretary under this subsection, and must record the time of the service and the action taken by the secretary. A fee of \$40 must be paid to the secretary of state by the party requesting the service of process, to cover the cost of serving process, except the secretary of state may waive the fee for state agencies. The fee must not be included in or paid from any deposit as security for costs or the docket fee required by K.S.A. 60-2001 or 61-4001, and amendments thereto.

(g) *Insurance companies or associations.* Service of summons or other process on any insurance company or association, organized under the laws of this state, may also be made by serving the commissioner of insurance in the same manner as provided for service on foreign insurance companies or associations.

(h) *Service on an employee.* If a party or a party's agent or attorney files an affidavit or a declaration pursuant to K.S.A. 53-601, and amendments thereto, that to the best of the affiant's or declarant's knowledge and belief the person to be served is employed in this state, and is a nonresident or that the place of residence of the person is unknown, the affiant or

declarant may request that the sheriff or other duly authorized person direct an officer, partner, managing or general agent or the individual having charge of the place at which the person to be served is employed, to make the person available to permit the sheriff or other duly authorized person to serve the summons or other process.

Sec. 15. K.S.A. 2010 Supp. 60-310 is hereby amended to read as follows: 60-310. (a) *Generally*. In an action against two or more defendants, when one or more, but not all have been served, the plaintiff may proceed as follows:

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

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

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

Sec. 16. K.S.A. 2010 Supp. 60-460 is hereby amended to read as follows: 60-460. Evidence of a statement which is made other than by a witness while testifying at the hearing, offered to prove the truth of the matter stated, is hearsay evidence and inadmissible except:

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

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

(c) *Depositions and prior testimony*. Subject to the same limitations and objections as though the declarant were testifying in person, (1) testimony in the form of a deposition taken in compliance with the law of this state for use as testimony in the trial of the action in which offered or (2) if the judge finds that the declarant is unavailable as a witness at the hearing, testimony given as a witness in another action or in a preliminary hearing or former trial in the same action, or in a deposition taken in compliance with law for use as testimony in the trial of another action, when (A) the testimony is offered against a party who offered it in the party's own behalf on the former occasion or against the successor in interest of such party or (B) the issue is such that the adverse party on the former occasion had the right and opportunity for cross-examination with an interest and motive similar to that which the adverse party has in the action in which the testimony is offered, but the provisions of this subsection (c) shall not apply in criminal actions if it denies to the accused the right to meet the witness face to face.

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

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

(f) *Confessions*. In a criminal proceeding as against the accused, a previous statement by the accused relative to the offense charged, but only if the judge finds that the accused (1) when making the statement was conscious and was capable of understanding what the accused said and did and

(2) was not induced to make the statement (A) under compulsion or by infliction or threats of infliction of suffering upon the accused or another, or by prolonged interrogation under such circumstances as to render the statement involuntary or (B) by threats or promises concerning action to be taken by a public official with reference to the crime, likely to cause the accused to make such a statement falsely, and made by a person whom the accused reasonably believed to have the power or authority to execute the same.

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

(h) *Authorized and adoptive admissions.* As against a party, a statement (1) by a person authorized by the party to make a statement or statements for the party concerning the subject of the statement or (2) of which the party with knowledge of the content thereof has, by words or other conduct, manifested the party's adoption or belief in its truth.

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

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

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

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

(m) *Business entries and the like.* Writings offered as memoranda or records of acts, conditions or events to prove the facts stated therein, if the judge finds that (1) they were made in the regular course of a business at or about the time of the act, condition or event recorded and (2) the sources of information from which made and the method and circumstances of their preparation were such as to indicate their trustworthiness.

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

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

(o) *Content of official record.* Subject to K.S.A. 60-461 and amend-

ments thereto, (1) if meeting the requirements of authentication under K.S.A. 60-465 and amendments thereto, to prove the content of the record, a writing purporting to be a copy of an official record or of an entry therein or (2) to prove the absence of a record in a specified office, a writing made by the official custodian of the official records of the office, reciting diligent search and failure to find such record.

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

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

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

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

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

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

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

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

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

(y) *Reputation—boundaries, general history, family history.* Evidence of reputation in a community as tending to prove the truth of the matter reputed, if the reputation concerns (1) boundaries of or customs affecting land in the community and the judge finds that the reputation, if any, arose before controversy, (2) an event of general history of the community or of

the state or nation of which the community is a part and the judge finds that the event was of importance to the community or (3) the birth, marriage, divorce, death, legitimacy, relationship by blood or marriage, or race-ancestry of a person resident in the community at the time of the reputation, or some other similar fact of the person's family history or of the person's personal status or condition which the judge finds likely to have been the subject of a reliable reputation in that community.

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

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

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

(cc) *Learned treatises.* A published treatise, periodical or pamphlet on a subject of history, science or art, to prove the truth of a matter stated therein, if the judge takes judicial notice, or a witness expert in the subject testifies, that the treatise, periodical or pamphlet is a reliable authority in the subject.

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

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

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

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

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

Sec. 17. K.S.A. 60-2003 is hereby amended to read as follows: 60-2003. Items which may be included in the taxation of costs are:

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

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

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

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

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

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

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

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

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

Sec. 19. K.S.A. 20-3017 and 60-2003 and K.S.A. 2010 Supp. 38-2305, 38-2305a, 60-203, 60-206, 60-209, 60-211, 60-214, 60-226, 60-228a, 60-235, 60-249, 60-260, 60-270, 60-304, 60-310, 60-460 and 65-4902 are hereby repealed.

Sec. 20. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.