

As Amended by Senate Committee

Session of 2013

SENATE BILL No. 18

By Committee on Judiciary

1-15

1 AN ACT concerning civil procedure; relating to restraining orders;
2 amending K.S.A. 60-903 and repealing the existing section.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

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

23 (3) *notice of the issuance of a temporary restraining order is*
24 *provided to the attorney general of the state of Kansas if the adverse party*
25 *is the state of Kansas or an agency, officer or employee thereof, or to the*
26 ***appropriate city clerk or county clerk if the adverse party is a city or***
27 ***county or an agency, officer or employee thereof.***

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

36 (c) *Expediting the ~~preliminary~~ temporary injunction hearing.* If the

1 *temporary restraining order is issued without notice, the motion for a*
2 *~~preliminary~~ temporary injunction must be set for hearing at the earliest*
3 *possible time, taking precedence over all other matters except hearings on*
4 *older matters of the same character. At the hearing, the party who*
5 *obtained the order must proceed with the motion, and if the party does not,*
6 *the court must dissolve the order.*

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

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

15 (f) *Security.* ***Unless otherwise provided by statute or this section, the***
16 ***court may issue a ~~preliminary injunction~~ or a temporary restraining order***
17 ***only if the movant gives security in an amount that the court considers***
18 ***proper to pay the costs and damages sustained by any party found to have***
19 ***been wrongfully ~~enjoined~~ or restrained. The state of Kansas or an agency,***
20 ***officer or employee thereof, is not required to give security. For any city***
21 ***or county or an agency, officer or employee thereof, at the discretion of***
22 ***the judge, the security required by this subsection may be waived.***

23 Sec. 2. K.S.A. 60-903 is hereby repealed.

24 Sec. 3. This act shall take effect and be in force from and after its
25 publication in the statute book.