

SENATE BILL No. 520

By Committee on Judiciary

2-7

9 AN ACT concerning civil procedure; relating to limited actions; return
10 of summons or process; copy mailed to attorney for requesting party
11 or to requesting party; amending K.S.A. 61-3005 and repealing the
12 existing section.
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14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 61-3005 is hereby amended to read as follows: 61-
16 3005. Proof of service shall be made as follows:

17 (a) Personal and residence service. (1) Every officer to whom sum-
18 mons or other process shall be delivered for service within or without the
19 state, shall make return thereof in writing stating the time, place and
20 manner of service of such writ, and shall sign such officer's name to such
21 return.

22 (2) If such process is directed to and delivered to a person other than
23 by an officer for service, such person shall make affidavit as to the time,
24 place and manner of such person's service thereof.

25 (b) Service by return receipt delivery. Service by return receipt de-
26 livery shall be proven in the manner provided by subsection (e) of K.S.A.
27 60-308 or subsection (c) of K.S.A. 61-3003, and amendments thereto.

28 (c) Publication service. Service by publication shall be proven by an
29 affidavit showing the dates upon, and the newspaper in which the notice
30 of publication was published. A copy of the notice shall be attached to
31 the affidavit which shall be filed in the cause. When mailing of copies of
32 the publication notice is required in accordance with subsection (e) of
33 K.S.A. 60-307, and amendments thereto, the proof of such mailing shall
34 be by affidavit of the person who mailed such copies and such affidavit
35 shall be filed with the clerk of the court in which the action has been
36 filed. Any return receipt shall be made a part of the affidavit and filed
37 therewith.

38 (d) Time for return. The officer or other person receiving a summons
39 or other process in forcible detainer cases shall make return of service
40 promptly and, in any event, no later than three days before the date stated
41 in the summons for the defendant to either appear or plead to the peti-
42 tion. In all other cases return of service shall be made promptly and, in
43 any event, no later than five days before the date stated in the summons

1 for the defendant to either appear or plead to the petition. If the process
2 cannot be served as directed, it shall be returned to the court forthwith
3 with a statement of the reason for the failure to serve the same. *Imme-*
4 *diately upon receipt of the return upon any summons or other process by*
5 *the clerk of the court issuing the same, such clerk shall mail a copy of*
6 *such return to the attorney for the party requesting the issuance of such*
7 *summons or other process or, if such party has no attorney, then to the*
8 *requesting party.*

9 (e) Amendment of return. At any time in the judge's discretion and
10 upon such terms as the judge deems just, the judge may allow any process,
11 return or proof of service thereof to be amended, unless it clearly appears
12 that material prejudice would result to the substantial rights of the party
13 against whom the process issued.

14 (f) Garnishment service of process. (1) First class mail. The return
15 shall show the nature of the process, the date on which the process was
16 mailed and the name and address on the envelope containing the process.

17 (2) Telefacsimile communication. The return shall show the nature
18 of the process, the time and date on which the process was transmitted
19 by telefacsimile, the telephone number of the transmitting machine and
20 the telephone number of the receiving machine.

21 (3) Internet electronic mail. The return shall show the nature of the
22 process, the time and date on which the process was transmitted by in-
23 ternet electronic mail, the internet electronic mail address of the trans-
24 mitting person and the internet electronic mail address of the receiving
25 person.

26 Sec. 2. K.S.A. 61-3005 is hereby repealed.

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