

SENATE BILL No. 695

By Committee on Ways and Means

3-21

9 AN ACT concerning the contempt powers of the court; relating to res-
10 titution, fines and costs; amending K.S.A. 22-3424, 22-3425 and 60-
11 4304 and repealing the existing sections.

12

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

14 Section 1. K.S.A. 22-3424 is hereby amended to read as follows: 22-
15 3424. (a) The judgment shall be rendered and sentence imposed in open
16 court.

17 (b) If the verdict or finding is not guilty, judgment shall be rendered
18 immediately and the defendant shall be discharged from custody and the
19 obligation of the defendant's appearance bond.

20 (c) If the verdict or finding is guilty, judgment shall be rendered and
21 sentence pronounced without unreasonable delay, allowing adequate
22 time for the filing and disposition of post-trial motions and for completion
23 of such presentence investigation as the court may require.

24 (d) If the verdict or finding is guilty, upon request of the victim or
25 the victim's family and before imposing sentence, the court shall hold a
26 hearing to establish restitution. The defendant may waive the right to the
27 hearing and accept the amount of restitution as established by the court.
28 If the court orders restitution to be paid to the victim or the victim's
29 family, the order shall be enforced as a judgment of restitution pursuant
30 to K.S.A. ~~1995 Supp.~~ 60-4301 through 60-4304, *and amendments thereto,*
31 *or by the exercise of the contempt powers pursuant to K.S.A. 20-1204a,*
32 *and amendments thereto.*

33 (e) Before imposing sentence the court shall: (1) Allow the prose-
34 cuting attorney to address the court, if the prosecuting attorney so re-
35 quests; (2) afford counsel an opportunity to speak on behalf of the de-
36 fendant; (3) allow the victim or such members of the victim's family as
37 the court deems appropriate to address the court, if the victim or the
38 victim's family so requests; and (4) address the defendant personally and
39 ask the defendant if the defendant wishes to make a statement on the
40 defendant's own behalf and to present any evidence in mitigation of
41 punishment.

42 (f) After imposing sentence in a case which has gone to trial on a plea
43 of not guilty, the court shall advise the defendant of the defendant's right

1 to appeal and of the right of a person who is unable to pay the costs of
2 an appeal to appeal *in forma pauperis*.

3 Sec. 2. K.S.A. 22-3425 is hereby amended to read as follows: 22-
4 3425. ~~(1)~~ (a) When a defendant is adjudged to pay a fine and costs, the
5 court may order ~~him~~ *the defendant* to be committed to the county jail
6 until such fine and costs are paid or may make an order providing for the
7 payment of such fines and costs in installments.

8 ~~(2)~~ (b) Any person confined in the county jail for failure to pay a fine
9 or costs may be released by the court which imposed sentence, upon
10 satisfactory proof that such person is unable to pay such fine and costs.
11 A release under this section shall not discharge a person from ~~his~~ *such*
12 *person's* liability to pay the fine and costs adjudged against ~~him~~ *such*
13 *person*, but ~~they~~ *the fine and costs* may thereafter be collected by execu-
14 tion as on judgments in civil cases.

15 (c) *Orders made pursuant to this section may be enforced pursuant*
16 *to K.S.A. 20-1204a, and amendments thereto.*

17 Sec. 3. K.S.A. 60-4304 is hereby amended to read as follows: 60-
18 4304. (a) The right of a judgment creditor to bring an action to enforce
19 such creditor's judgment instead of proceeding under K.S.A. 60-4301
20 through 60-4303, *and amendments thereto, or of the court to enforce the*
21 *order through the exercise of the contempt powers pursuant to K.S.A. 20-*
22 *1204a, and amendments thereto*, remains unimpaired.

23 (b) A judgment of restitution will not bar any subsequent civil remedy
24 or recovery, but the amount of any restitution paid shall be set off against
25 any subsequent civil recovery.

26 Sec. 4. K.S.A. 22-3424, 22-3425 and 60-4304 are hereby repealed.

27 Sec. 5. This act shall take effect and be in force from and after its
28 publication in the statute book.