

## SENATE BILL No. 188

By Committee on Ways and Means

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9 AN ACT concerning civil procedure; relating to wage garnishment;  
10 amending K.S.A. 60-2310 and repealing the existing section.

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

13 Section 1. K.S.A. 60-2310 is hereby amended to read as follows: 60-  
14 2310. (a) *Definitions.* As used in this act and the acts of which this act is  
15 amendatory, unless the context otherwise requires, the following words  
16 and phrases shall have the meanings respectively ascribed to them:

17 (1) “Earnings” means compensation paid or payable for personal  
18 services, whether denominated as wages, salary, commission, bonus or  
19 otherwise;

20 (2) “disposable earnings” means that part of the earnings of any in-  
21 dividual remaining after the deduction from such earnings of any amounts  
22 required by law to be withheld;

23 (3) “wage garnishment” means any legal or equitable procedure  
24 through which the earnings of any individual are required to be withheld  
25 for payment of any debt; ~~and~~

26 (4) “federal minimum hourly wage” means that wage prescribed by  
27 subsection (a)(1) of section 6 of the federal fair labor standards act of  
28 1938, and any amendments thereto; *and*

29 (5) “*immediate family*” means a spouse, parent, grandparent, chil-  
30 dren (natural or adopted) and siblings (natural or adopted) of the judg-  
31 ment debtor.

32 (b) *Restriction on wage garnishment.* Subject to the provisions of sub-  
33 section (e), only the aggregate disposable earnings of an individual may  
34 be subjected to wage garnishment. The maximum part of such earnings  
35 of any wage earning individual which may be subjected to wage garnish-  
36 ment for any workweek or multiple thereof may not exceed the lesser of:  
37 (1) Twenty-five percent of the individual’s aggregate disposable earnings  
38 for that workweek or multiple thereof; (2) the amount by which the in-  
39 dividual’s aggregate disposable earnings for that workweek or multiple  
40 thereof exceed an amount equal to 30 times the federal minimum hourly  
41 wage, or equivalent multiple thereof for such longer period; or (3) the  
42 amount of the plaintiff’s claim as found in the order for garnishment. No  
43 one creditor may issue more than one garnishment against the earnings

1 of the same judgment debtor during any one 30-day period, but the court  
2 shall allow the creditor to file amendments or corrections of names or  
3 addresses of any party to the order of garnishment at any time. In an-  
4 swering such order the garnishee-employer shall withhold from all earn-  
5 ings of the judgment-debtor for any pay period or periods ending during  
6 such 30-day period an amount or amounts as are allowed and required  
7 by law. Nothing in this act shall be construed as charging the plaintiff in  
8 any garnishment action with the knowledge of the amount of any de-  
9 fendant's earnings prior to the commencement of such garnishment  
10 action.

11 (c) *Sickness preventing work.* (1) If any debtor is prevented from  
12 working at the debtor's regular trade, profession or calling *by an em-  
13 ployer's actions, an act of God, or other legitimate reason* for any period  
14 greater than two weeks because of illness of the debtor or any member  
15 of the *immediate* family of the debtor, and this fact is shown by the affi-  
16 davit of the debtor, the provisions of this section shall not be invoked  
17 against any such debtor until after the expiration of two months after  
18 recovery from such illness.

19 (2) *The affidavit required in this subsection shall be titled as an "af-  
20 fidavit of judgment debtor" and shall begin, "I, [full name], be-  
21 ing of lawful age, being first duly sworn upon my oath, state as follows:".*  
22 *The judgment debtor shall set forth the allegations and averments suffi-  
23 cient to support the affiant's claim. The judgment debtor's signature shall  
24 be notarized or made pursuant to an unsworn declaration under K.S.A.  
25 53-601, and amendments thereto. If there is an attending physician that  
26 supports the judgment debtor's statements in the judgment debtor's affi-  
27 davit, a sworn statement from the attending physician shall be affixed to  
28 the judgment debtor's affidavit. No court shall consider relief under this  
29 subsection without a duly signed affidavit set forth herein.*

30 (3) *The provisions of this subsection shall apply to garnishments un-  
31 der this section regardless of whether the jurisdiction is chapter 60 or  
32 chapter 61 of the Kansas Statutes Annotated, and amendments thereto.*

33 (d) *Assignment of account.* If any person, firm or corporation sells or  
34 assigns an account to any person or collecting agency, that person, firm  
35 or corporation or their assignees shall not have or be entitled to the ben-  
36 efits of wage garnishment. The provision of this subsection shall not apply  
37 to the following:

38 (1) Assignments of support rights to the secretary of social and re-  
39 habilitation services pursuant to K.S.A. 39-709 and 39-756, and amend-  
40 ments thereto, and support enforcement actions conducted by court trust-  
41 ees pursuant to K.S.A. 23-492, et seq., and amendments thereto;

42 (2) support rights which have been assigned to any other state pur-  
43 suant to title IV-D of the federal social security act (42 U.S.C. § 651 et

1 seq.);

2 (3) assignments of accounts receivable or taxes receivable to the di-  
3 rector of accounts and reports made under K.S.A. 75-3728b and amend-  
4 ments thereto; or

5 (4) collections pursuant to contracts entered into in accordance with  
6 K.S.A. 75-719 and amendments thereto involving the collection of resti-  
7 tution or debts to district courts.

8 (e) *Exceptions to restrictions on wage garnishment.* The restrictions  
9 on the amount of disposable earnings subject to wage garnishment as  
10 provided in subsection (b) shall not apply in the following instances:

11 (1) Any order of any court for the support of any person, including  
12 any order for support in the form of alimony, but the foregoing shall be  
13 subject to the restriction provided for in subsection (g);

14 (2) any order of any court of bankruptcy under chapter XIII of the  
15 federal bankruptcy act; and

16 (3) any debt due for any state or federal tax.

17 (f) *Prohibition on courts.* No court of this state may make, execute  
18 or enforce any order or process in violation of this section.

19 (g) The maximum part of the aggregate disposable earnings of an  
20 individual for any workweek which is subject to garnishment to enforce  
21 any order for the support of any person shall not exceed:

22 (1) If the individual is supporting a spouse or dependent child (other  
23 than a spouse or child with respect to whose support such order is used),  
24 50% of the individual's disposable earnings for that week;

25 (2) if the individual is not supporting a spouse or dependent child  
26 described in clause (1), 60% of such individual's disposable earnings for  
27 that week; and

28 (3) with respect to the disposable earnings of any individual for any  
29 workweek, the 50% specified in clause (1) shall be 55% and the 60%  
30 specified in clause (2) shall be 65%, if such earnings are subject to gar-  
31 nishment to enforce a support order for a period which is prior to the  
32 twelve-week period which ends with the beginning of such workweek.

33 Sec. 2. K.S.A. 60-2310 is hereby repealed.

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