

*As Amended by Senate Committee*

[*As Amended by House Committee of the Whole*]

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*Session of 2010*

## **HOUSE BILL No. 2667**

By Committee on Judiciary

2-5

14 AN ACT concerning domestic relations; relating to recodification of cer-  
15 tain domestic relations matters; amending K.S.A. 20-164, 20-165, 20-  
16 302b, ~~23-105, 23-106, 23-109,~~ 23-4,118, ~~60-1601,~~ 60-1606, 60-  
17 1613, 60-1620, 60-1629 and 60-3107 and K.S.A. 2009 Supp. 12-5005  
18 and repealing the existing sections; also repealing K.S.A. 23-101, 23-  
19 201, 60-1608, 60-1611, 60-1612 and 60-1616 and K.S.A. 2009 Supp.  
20 60-1610.

21

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

22

23 New Section 1. The marriage contract is to be considered in law as  
24 a civil contract between two parties who are of opposite sex. All other  
25 marriages are declared to be contrary to the public policy of this state  
26 and are void. The consent of the parties is essential. The marriage cere-  
27 mony may be regarded either as a civil ceremony or as a religious sacra-  
28 ment, but the marriage relation shall only be entered into, maintained or  
29 abrogated as provided by law.

30

31 New Sec. 2. The state of Kansas shall not recognize a common-law  
32 marriage contract if either party to the marriage contract is under 18 years  
33 of age.

33

34 New Sec. 3. The property, real and personal, which any person in  
35 this state may own at the time of the person's marriage, and the rents,  
36 issues, profits or proceeds thereof, and any real, personal or mixed prop-  
37 erty which shall come to a person by descent, devise or bequest, and the  
38 rents, issues, profits or proceeds thereof, or by gift from any person except  
39 the person's spouse, shall remain the person's sole and separate property,  
40 notwithstanding the marriage, and not be subject to the disposal of the  
41 person's spouse or liable for the spouse's debts.

41

42 New Sec. 4. An action for divorce shall not be heard until 60 days  
43 after the filing of the petition unless the judge enters an order declaring  
the existence of an emergency, stating the precise nature of the emer-

1 gency, the substance of the evidence material to the emergency and the  
2 names of the witnesses who gave the evidence. A request for an order  
3 declaring the existence of an emergency may be contained in a pleading  
4 or made by motion. Unless otherwise agreed by the parties, a request for  
5 the declaration of an emergency shall not be heard prior to the expiration  
6 of the time permitted for the filing of an answer. Unless waived, notice  
7 of the hearing requesting the declaration of an emergency shall be given  
8 to all parties not in default not less than seven days prior to the date of  
9 the hearing. Upon a finding that an emergency exists, the divorce and all  
10 issues pertaining thereto may be heard immediately.

11 New Sec. 5. In an action for divorce, the court shall conduct a pre-  
12 trial conference or conferences in accordance with K.S.A. 60-216, and  
13 amendments thereto, upon request of either party or on the court's own  
14 motion. Any pretrial conference shall be set on a date other than the date  
15 of trial and the parties shall be present or available within the courthouse.

16 New Sec. 6. (a) In an action for divorce, after the filing of the answer  
17 or other responsive pleading by the respondent, the court, on its own  
18 motion or upon motion of either of the parties, may require both parties  
19 to the action to seek marriage counseling if marriage counseling services  
20 are available within the judicial district of venue of the action. Neither  
21 party shall be required to submit to marriage counseling provided by any  
22 religious organization of any particular denomination.

23 (b) The cost of any counseling authorized by this section may be  
24 assessed as costs in the case.

25 New Sec. 7. (a) If the parties have entered into a separation agree-  
26 ment which the court finds to be valid, just and equitable, the agreement  
27 shall be incorporated in the decree. A separation agreement may include  
28 provisions relating to a parenting plan. The provisions of the agreement  
29 on all matters settled by it shall be confirmed in the decree except that  
30 any provisions relating to the legal custody, residency, visitation parenting  
31 time, support or education of the minor children shall be subject to the  
32 control of the court in accordance with all other provisions of this article.

33 (b) Matters settled by an agreement incorporated in the decree, other  
34 than matters pertaining to the legal custody, residency, visitation, par-  
35 enting time, support or education of the minor children, shall not be  
36 subject to subsequent modification by the court except: (1) As prescribed  
37 by the agreement; or (2) as subsequently consented to by the parties.

38 New Sec. 8. (a) Any marriage contracted by a party, within or outside  
39 this state, with any other person before a judgment of divorce becomes  
40 final shall be voidable until the decree of divorce becomes final. An agree-  
41 ment which waives the right of appeal from the granting of the divorce  
42 and which is incorporated into the decree or signed by the parties and  
43 filed in the case shall be effective to shorten the period of time during

1 which the remarriage is voidable.

2 (b) A judgment or decree of divorce rendered in any other state or  
3 territory of the United States, in conformity with the laws thereof, shall  
4 be given full faith and credit in this state, except that, if the respondent  
5 in the action, at the time of the judgment or decree, was a resident of  
6 this state and did not personally appear or defend the action in the court  
7 of that state or territory and that court did not have jurisdiction over the  
8 respondent's person, all matters relating to maintenance, property rights  
9 of the parties and support of the minor children of the parties shall be  
10 subject to inquiry and determination in any proper action or proceeding  
11 brought in the courts of this state within two years after the date of the  
12 foreign judgment or decree, to the same extent as though the foreign  
13 judgment or decree had not been rendered. Nothing in this section shall  
14 authorize a court of this state to enter a child custody determination, as  
15 defined in K.S.A. 38-1337, and amendments thereto, contrary to the pro-  
16 visions of the uniform child custody jurisdiction and enforcement act.

17 New Sec. 9. In an action for divorce, costs and attorney fees may be  
18 awarded to either party as justice and equity require. The court may order  
19 that the amount be paid directly to the attorney, who may enforce the  
20 order in the attorney's name in the same case.

21 New Sec. 10. Upon the request of a spouse, the court shall order the  
22 restoration of that spouse's maiden or former name. The court shall have  
23 jurisdiction to restore the spouse's maiden or former name at or after the  
24 time the decree of divorce becomes final. The judicial council shall de-  
25 velop a form which is simple, concise and direct for use with this  
26 paragraph.

27 New Sec. 11. If a party fails to comply with a provision of a decree,  
28 temporary order or injunction issued under K.S.A. 60-1601 et seq., and  
29 amendments thereto, the obligation of the other party to make payments  
30 for support or maintenance or to permit visitation or parenting time is  
31 not suspended, but the other party may request by motion that the court  
32 grant an appropriate order.

33 New Sec. 12. (a) All property owned by married persons, including  
34 the present value of any vested or unvested military retirement pay, or,  
35 for divorce or separate maintenance actions commenced on or after July  
36 1, 1998, professional goodwill to the extent that it is marketable for that  
37 particular professional, whether described in section 3, and amendments  
38 thereto, or acquired by either spouse after marriage, and whether held  
39 individually or by the spouses in some form of co-ownership, such as joint  
40 tenancy or tenancy in common, shall become marital property at the time  
41 of commencement by one spouse against the other of an action in which  
42 a final decree is entered for divorce, separate maintenance, or annulment.

43 (b) Each spouse has a common ownership in marital property which

1 vests at the time of commencement of such action, the extent of the  
2 vested interest to be determined and finalized by the court, pursuant to  
3 section 13, and amendments thereto.

4 New Sec. 13. (a) The decree shall divide the real and personal prop-  
5 erty of the parties, including any retirement and pension plans, whether  
6 owned by either spouse prior to marriage, acquired by either spouse in  
7 the spouse's own right after marriage or acquired by the spouses' joint  
8 efforts, by: (1) A division of the property in kind; (2) awarding the property  
9 or part of the property to one of the spouses and requiring the other to  
10 pay a just and proper sum; or (3) ordering a sale of the property, under  
11 conditions prescribed by the court, and dividing the proceeds of the sale.

12 (b) Upon request, the trial court shall set a valuation date to be used  
13 for all assets at trial, which may be the date of separation, filing or trial  
14 as the facts and circumstances of the case may dictate. The trial court  
15 may consider evidence regarding changes in value of various assets before  
16 and after the valuation date in making the division of property. In dividing  
17 defined-contribution types of retirement and pension plans, the court  
18 shall allocate profits and losses on the nonparticipant's portion until date  
19 of distribution to that nonparticipant.

20 (c) In making the division of property the court shall consider: (1) the  
21 age of the parties; (2) the duration of the marriage; (3) the property owned  
22 by the parties; (4) their present and future earning capacities; (5) the  
23 time, source and manner of acquisition of property; (6) family ties and  
24 obligations; (7) the allowance of maintenance or lack thereof; (8) dissipa-  
25 tion of assets; (9) the tax consequences of the property division upon  
26 the respective economic circumstances of the parties; and (10) such other  
27 factors as the court considers necessary to make a just and reasonable  
28 division of property.

29 (d) The decree shall provide for any changes in beneficiary designa-  
30 tion on: (1) Any insurance or annuity policy that is owned by the parties,  
31 or in the case of group life insurance policies, under which either of the  
32 parties is a covered person; (2) any trust instrument under which one  
33 party is the grantor or holds a power of appointment over part or all of  
34 the trust assets, that may be exercised in favor of either party; or (3) any  
35 transfer on death or payable on death account under which one or both  
36 of the parties are owners or beneficiaries.

37 Nothing in this section shall relieve the parties of the obligation to  
38 effectuate any change in beneficiary designation by the filing of such  
39 change with the insurer or issuer in accordance with the terms of such  
40 policy.

41 New Sec. 14. (a) Any decree of divorce or separate maintenance may  
42 award to either party an allowance for future support denominated as  
43 maintenance, in an amount the court finds to be fair, just and equitable

1 under all of the circumstances.

2 (b) Maintenance may be in a lump sum, in periodic payments, on a  
3 percentage of earnings or on any other basis.

4 (c) The decree may make the future payments modifiable or termi-  
5 nable under circumstances prescribed in the decree.

6 New Sec. 15. At any time, on a hearing with reasonable notice to the  
7 party affected, the court may modify the amounts or other conditions for  
8 the payment of any portion of the maintenance originally awarded that  
9 has not already become due, but no modification shall be made without  
10 the consent of the party liable for the maintenance, if it has the effect of  
11 increasing or accelerating the liability for the unpaid maintenance beyond  
12 what was prescribed in the original decree.

13 New Sec. 16. The court may make a modification of maintenance  
14 retroactive to a date at least one month after the date that the motion to  
15 modify was filed with the court. In any event, the court may not award  
16 maintenance for a period of time in excess of 121 months. If the original  
17 court decree reserves the power of the court to hear subsequent motions  
18 for reinstatement of maintenance and such a motion is filed prior to the  
19 expiration of the stated period of time for maintenance payments, the  
20 court shall have jurisdiction to hear a motion by the recipient of the  
21 maintenance to reinstate the maintenance payments. Upon motion and  
22 hearing, the court may reinstate the payments in whole or in part for a  
23 period of time, conditioned upon any modifying or terminating circum-  
24 stances prescribed by the court, but the reinstatement shall be limited to  
25 a period of time not exceeding 121 months. The recipient may file sub-  
26 sequent motions for reinstatement of maintenance prior to the expiration  
27 of subsequent periods of time for maintenance payments to be made, but  
28 no single period of reinstatement ordered by the court may exceed 121  
29 months.

30 New Sec. 17. (a) Except for good cause shown, every order requiring  
31 payment of maintenance under this section shall require that the main-  
32 tenance be paid through the central unit for collection and disbursement  
33 of support payments designated pursuant to K.S.A. 23-4,118, and amend-  
34 ments thereto. A written agreement between the parties to make direct  
35 maintenance payments to the obligee and not pay through the central  
36 unit shall constitute good cause.

37 (b) If child support and maintenance payments are both made to an  
38 obligee by the same obligor, and if the court has made a determination  
39 concerning the manner of payment of child support, then maintenance  
40 payments shall be paid in the same manner.

41 New Sec. 18. The court shall determine custody or residency, **or**  
42 **both**, of a child in accordance with the best interests of the child.

43 New Sec. 19. If the parties have entered into a parenting plan, it

1 shall be presumed that the agreement is in the best interests of the child.  
2 This presumption may be overcome and the court may make a different  
3 order if the court makes specific findings of fact stating why the agreed  
4 parenting plan is not in the best interests of the child.

5 New Sec. 20. In determining the issue of child custody, residency  
6 and parenting time, the court shall consider all relevant factors, including  
7 but not limited to:

8 (a) The length of time that the child has been under the actual care  
9 and control of any person other than a parent and the circumstances  
10 relating thereto;

11 (b) the desires of the child's parents as to custody or residency;

12 (c) the desires of the child as to the child's custody or residency;

13 (d) the interaction and interrelationship of the child with parents,  
14 siblings and any other person who may significantly affect the child's best  
15 interests;

16 (e) the child's adjustment to the child's home, school and community;

17 (f) the willingness and ability of each parent to respect and appreciate  
18 the bond between the child and the other parent and to allow for a con-  
19 tinuing relationship between the child and the other parent;

20 (g) evidence of spousal abuse;

21 (h) whether a parent is subject to the registration requirements of  
22 the Kansas offender registration act, K.S.A. 22-4901, et seq., and amend-  
23 ments thereto, or any similar act in any other state, or under military or  
24 federal law;

25 (i) whether a parent has been convicted of abuse of a child, K.S.A.  
26 21-3609, and amendments thereto;

27 (j) whether a parent is residing with an individual who is subject to  
28 registration requirements of the Kansas offender registration act, K.S.A.  
29 22-4901, et seq., and amendments thereto, or any similar act in any other  
30 state, or under military or federal law; and

31 (k) whether a parent is residing with an individual who has been con-  
32 victed of abuse of a child, K.S.A. 21-3609, and amendments thereto.

33 New Sec. 21. Neither parent shall be considered to have a vested  
34 interest in the custody or residency of any child as against the other par-  
35 ent, regardless of the age of the child, and there shall be no presumption  
36 that it is in the best interests of any infant or young child to give custody  
37 or residency to the mother.

38 New Sec. 22. There shall be a rebuttable presumption that it is not  
39 in the best interest of the child to have custody or residency granted to  
40 a parent who:

41 (a) Is residing with an individual who is subject to registration  
42 requirements of the Kansas offender registration act, K.S.A. 22-4901, et  
43 seq., and amendments thereto, or any similar act in any other state, or

1 under military or federal law; or

2 (b) is residing with an individual who has been convicted of abuse of  
3 a child, K.S.A. 21-3609, and amendments thereto.

4 New Sec. 23. Subject to the provisions of this article, the court may  
5 make any order relating to custodial arrangements which is in the best  
6 interests of the child. The order shall provide one of the following legal  
7 custody arrangements, in the order of preference: (a) *Joint legal cus-*  
8 *tody*. The court may order the joint legal custody of a child with both  
9 parties. In that event, the parties shall have equal rights to make decisions  
10 in the best interests of the child.

11 (b) *Sole legal custody*. The court may order the sole legal custody of  
12 a child with one of the parties when the court finds that it is not in the  
13 best interests of the child that both of the parties have equal rights to  
14 make decisions pertaining to the child. If the court does not order joint  
15 legal custody, the court shall include on the record specific findings of  
16 fact upon which the order for sole legal custody is based. The award of  
17 sole legal custody to one parent shall not deprive the other parent of  
18 access to information regarding the child unless the court shall so order,  
19 stating the reasons for that determination.

20 New Sec. 24. After making a determination of the legal custodial  
21 arrangements, the court shall determine the residency of the child from  
22 the following options, which arrangement the court must find to be in  
23 the best interest of the child. The parties shall submit to the court either  
24 an agreed parenting plan or, in the case of dispute, proposed parenting  
25 plans for the court's consideration. Such options are:

26 (a) *Residency*. The court may order a residential arrangement in  
27 which the child resides with one or both parents on a basis consistent  
28 with the best interests of the child.

29 (b) *Divided residency*. In an exceptional case, the court may order a  
30 residential arrangement in which one or more children reside with each  
31 parent and have parenting time with the other.

32 (c) *Nonparental residency*. If during the proceedings the court de-  
33 termines that there is probable cause to believe that the child is a child  
34 in need of care as defined by subsections (d)(1), (d)(2), (d)(3) or (d)(11)  
35 of K.S.A. 2009 Supp. 38-2202, and amendments thereto, or that neither  
36 parent is fit to have residency, the court may award temporary residency  
37 of the child to a grandparent, aunt, uncle or adult sibling, or, another  
38 person or agency if the court finds by written order that: (1) (A) The child  
39 is likely to sustain harm if not immediately removed from the home;

40 (B) allowing the child to remain in home is contrary to the welfare  
41 of the child; or

42 (C) immediate placement of the child is in the best interest of the  
43 child; and

1 (2) reasonable efforts have been made to maintain the family unit  
2 and prevent the unnecessary removal of the child from the child's home  
3 or that an emergency exists which threatens the safety to the child. In  
4 making such a residency order, the court shall give preference, to the  
5 extent that the court finds it is in the best interests of the child, first to  
6 awarding such residency to a relative of the child by blood, marriage or  
7 adoption and second to awarding such residency to another person with  
8 whom the child has close emotional ties. The court may make temporary  
9 orders for care, support, education and visitation that it considers appro-  
10 priate. Temporary residency orders are to be entered in lieu of temporary  
11 orders provided for in K.S.A. 2009 Supp. 38-2243 and 38-2244, and  
12 amendments thereto, and shall remain in effect until there is a final de-  
13 termination under the revised Kansas code for care of children. An award  
14 of temporary residency under this paragraph shall not terminate parental  
15 rights nor give the court the authority to consent to the adoption of the  
16 child. When the court enters orders awarding temporary residency of the  
17 child to an agency or a person other than the parent, the court shall refer  
18 a transcript of the proceedings to the county or district attorney. The  
19 county or district attorney shall file a petition as provided in K.S.A. 2009  
20 Supp. 38-2234, and amendments thereto, and may request termination  
21 of parental rights pursuant to K.S.A. 2009 Supp. 38-2266, and amend-  
22 ments thereto. The costs of the proceedings shall be paid from the general  
23 fund of the county. When a final determination is made that the child is  
24 not a child in need of care, the county or district attorney shall notify the  
25 court in writing and the court, after a hearing, shall enter appropriate  
26 custody orders pursuant to this section. If the same judge presides over  
27 both proceedings, the notice is not required. Any disposition pursuant to  
28 the revised Kansas code for care of children shall be binding and shall  
29 supersede any order under this section.

30 New Sec. 25. (a) A parent is entitled to reasonable parenting time  
31 unless the court finds, after a hearing, that the exercise of parenting time  
32 would seriously endanger the child's physical, mental, moral or emotional  
33 health.

34 (b) An order granting visitation rights or parenting time pursuant to  
35 this section may be enforced in accordance with the uniform child custody  
36 jurisdiction and enforcement act, or K.S.A. 23-701, and amendments  
37 thereto.

38 (c) The court may order exchange or visitation to take place at a child  
39 exchange and visitation center, as established in K.S.A. 75-720, and  
40 amendments thereto.

41 New Sec. 26. (a) Subject to the provisions of the uniform child cus-  
42 tody jurisdiction and enforcement act (K.S.A. 38-1336 through 38-1377,  
43 and amendments thereto), the court may change or modify any prior

1 order of custody, residency, visitation and parenting time, when a material  
2 change of circumstances is shown, but no ex parte order shall have the  
3 effect of changing residency of a minor child from the parent who has  
4 had the sole de facto residency of the child to the other parent unless  
5 there is sworn testimony to support a showing of extraordinary circum-  
6 stances. If an interlocutory order is issued ex parte, the court shall hear  
7 a motion to vacate or modify the order within 15 days of the date that a  
8 party requests a hearing whether to vacate or modify the order.

9 (b) The court may order physical or mental examinations of the par-  
10 ties if requested pursuant to K.S.A. 60-235, and amendments thereto.

11 New Sec. 27. Motions to modify legal custody, residency, visitation  
12 rights or parenting time in proceedings where support obligations are  
13 enforced under part D of title IV of the federal social security act (42  
14 USC § 651 *et seq.*), as amended, shall be considered proceedings in con-  
15 nection with the administration of the title IV-D program for the sole  
16 purpose of disclosing information necessary to obtain service of process  
17 on the parent with physical custody of the child.

18 New Sec. 28. (a) The court may modify an order granting or denying  
19 parenting time or visitation rights whenever modification would serve the  
20 best interests of the child.

21 (b) Repeated unreasonable denial of or interference with visitation  
22 rights or parenting time granted pursuant to this section may be consid-  
23 ered a material change of circumstances which justifies modification of a  
24 prior order of legal custody, residency, visitation or parenting time.

25 (c) Any party may petition the court to modify an order granting  
26 visitation rights or parenting time to require that the exchange or transfer  
27 of children for visitation or parenting time take place at a child exchange  
28 and visitation center, as established in K.S.A. 75-720, and amendments  
29 thereto. The court may modify an order granting visitation whenever  
30 modification would serve the best interests of the child.

31 New Sec. 29. (a) Grandparents and stepparents may be granted vis-  
32 itation rights.

33 (b) The court may modify an order granting or denying parenting  
34 time or visitation rights whenever modification would serve the best in-  
35 terests of the child.

36 (c) Repeated unreasonable denial of or interference with visitation  
37 rights or parenting time granted pursuant to this section may be consid-  
38 ered a material change of circumstances which justifies modification of a  
39 prior order of legal custody, residency, visitation or parenting time.

40 (d) (1) The court may order exchange or visitation to take place at a  
41 child exchange and visitation center, as established in K.S.A. 75-720, and  
42 amendments thereto.

43 (2) Any party may petition the court to modify an order granting

1 visitation rights or parenting time to require that the exchange or transfer  
2 of children for visitation or parenting time take place at a child exchange  
3 and visitation center, as established in K.S.A. 75-720, and amendments  
4 thereto. The court may modify an order granting visitation whenever  
5 modification would serve the best interests of the child.

6 New Sec. 30. (a) In any action for divorce or separate maintenance  
7 the court shall make provisions for the support and education of the minor  
8 children.

9 (b) Regardless of the type of custodial arrangement ordered by the  
10 court, the court may order the child support and education expenses to  
11 be paid by either or both parents for any child less than 18 years of age,  
12 at which age the support shall terminate unless: (1) The parent or parents  
13 agree, by written agreement approved by the court, to pay support beyond  
14 the time the child reaches 18 years of age; (2) the child reaches 18 years  
15 of age before completing the child's high school education in which case  
16 the support shall not terminate automatically, unless otherwise ordered  
17 by the court, until June 30 of the school year during which the child  
18 became 18 years of age if the child is still attending high school; or (3)  
19 the child is still a bona fide high school student after June 30 of the school  
20 year during which the child became 18 years of age, in which case the  
21 court, on motion, may order support to continue through the school year  
22 during which the child becomes 19 years of age so long as the child is a  
23 bona fide high school student and the parents jointly participated or  
24 knowingly acquiesced in the decision which delayed the child's comple-  
25 tion of high school. The court, in extending support pursuant to subsec-  
26 tion (b)(3), may impose such conditions as are appropriate and shall set  
27 the child support utilizing the guideline table category for 12-year through  
28 18-year old children. For purposes of this section, "bona fide high school  
29 student" means a student who is enrolled in full accordance with the  
30 policy of the accredited high school in which the student is pursuing a  
31 high school diploma or a graduate equivalency diploma (GED).

32 (c) Provision for payment of support and educational expenses of a  
33 child after reaching 18 years of age if still attending high school shall  
34 apply to any child subject to the jurisdiction of the court, including those  
35 whose support was ordered prior to July 1, 1992. If an agreement ap-  
36 proved by the court prior to July 1, 1992, provides for termination of  
37 support before the date provided by subsection (b)(3), the court may  
38 review and modify such agreement, and any order based on such agree-  
39 ment, to extend the date for termination of support to the date provided  
40 by subsection (b)(3).

41 New Sec. 31. In determining the amount to be paid for child sup-  
42 port, the court shall consider all relevant factors, without regard to marital  
43 misconduct, including the financial resources and needs of both parents,

1 the financial resources and needs of the child and the physical and emo-  
2 tional condition of the child. Until a child reaches 18 years of age, the  
3 court may set apart any portion of property of either the husband or wife,  
4 or both, that seems necessary and proper for the support of the child.

5 New Sec. 32. The court may order that each parent execute any and  
6 all documents, including any releases, necessary so that both parents may  
7 obtain information from and to communicate with any health insurance  
8 provider regarding the health insurance coverage provided by such health  
9 insurance provider to the child. The provisions of this paragraph shall  
10 apply irrespective of which parent owns, subscribes or pays for such  
11 health insurance coverage.

12 New Sec. 33. Except for good cause shown, every order requiring  
13 payment of child support under this section shall require that the support  
14 be paid through the central unit for collection and disbursement of sup-  
15 port payments designated pursuant to K.S.A. 23-4,118, and amendments  
16 thereto. A written agreement between the parties to make direct child  
17 support payments to the obligee and not pay through the central unit  
18 shall constitute good cause, unless the court finds the agreement is not  
19 in the best interest of the child or children. The obligor shall file such  
20 written agreement with the court. The obligor shall maintain written ev-  
21 idence of the payment of the support obligation and, at least annually,  
22 shall provide such evidence to the court and the obligee.

23 New Sec. 34. (a) The court may modify or change any prior **child**  
24 **support** order, including any order issued in a title IV-D case, within  
25 three years of the date of the original order or a modification order, when  
26 a material change in circumstances is shown, irrespective of the present  
27 domicile of the child or the parents. If more than three years has passed  
28 since the date of the original order or modification order, a material  
29 change in circumstance need not be shown.

30 (b) The court may make a modification of child support retroactive  
31 to a date at least one month after the date that the motion to modify was  
32 filed with the court. Any increase in support ordered effective prior to  
33 the date the court's judgment is filed shall not become a lien on real  
34 property pursuant to K.S.A. 60-2202, and amendments thereto.

35 New Sec. 35. If the divorce decree of the parties provides for an  
36 abatement of child support during any period provided in such decree,  
37 the child support such nonresidential parent owes for such period shall  
38 abate during such period of time, except that if the residential parent  
39 shows that the criteria for the abatement has not been satisfied there shall  
40 not be an abatement of such child support.

41 New Sec. 36. An order granting visitation rights or parenting time  
42 pursuant to this section may be enforced in accordance with the uniform  
43 child custody jurisdiction and enforcement act, or K.S.A. 23-701, and

1 amendments thereto.

2 **New Sec. 37. Sections 1 through 41, and amendments thereto,**  
3 **shall be known as the Kansas domestic relations code.**

4 **New Sec. 38. The provisions of the Kansas domestic relations**  
5 **code shall be construed to secure the just, speedy, inexpensive and**  
6 **equitable determination of issues in all domestic relations matters.**

7 **New Sec. 39. Procedure under the Kansas domestic relations**  
8 **code shall be governed by the code of civil procedure, except as**  
9 **the Kansas domestic relations code may otherwise specifically**  
10 **provide.**

11 **New Sec. 40. Evidence under the Kansas domestic relations**  
12 **code shall be governed by the rules of evidence, except as the**  
13 **Kansas domestic relations code may otherwise specifically provide.**

14 **New Sec. 41. A decree in an action under article 16 of chapter**  
15 **60 of the Kansas Statutes Annotated and sections 4 through 11,**  
16 **and amendments thereto, may include orders on the following**  
17 **matters:**

18 (a) **Changing or terminating the parties' marital status by dis-**  
19 **solution, annulment or separate maintenance;**

20 (b) **making an equitable division of the parties' property as au-**  
21 **thorized by sections 12 and 13, and amendments thereto;**

22 (c) **regarding spousal support as authorized by K.S.A. 60-1618**  
23 **and sections 14 through 17, and amendments thereto;**

24 (d) **changing one or both parties' names as authorized by sec-**  
25 **tion 10, and amendments thereto;**

26 (e) **allocating parental decision-making and entering a parent-**  
27 **ing plan as authorized by K.S.A. 60-1614, 60-1615, 60-1620, 60-**  
28 **1623, 60-1624, 60-1625, 60-1626, 60-1628, 60-1629, 60-1630, sec-**  
29 **tions 18 through 25, and amendments thereto;**

30 (f) **child support as authorized by sections 30 through 35, and**  
31 **amendments thereto; and**

32 (g) **awarding costs and attorneys fees to either party under sec-**  
33 **tion 9, and amendments thereto.**

34 **Sec. ~~37~~ 42. K.S.A. 2009 Supp. 12-5005 is hereby amended to read**  
35 **as follows: 12-5005. (a) Every retired member of a local police or fire**  
36 **pension plan and every active member of the plan who is entitled to make**  
37 **an election to become a member of the Kansas police and firemen's re-**  
38 **retirement system pursuant to K.S.A. 12-5003 or 74-4955 and amendments**  
39 **thereto and who does not so elect shall become a special member of the**  
40 **Kansas police and firemen's retirement system on the entry date of the**  
41 **city which is affiliating with the Kansas police and firemen's retirement**  
42 **system with regard to all active members and retired members of the**  
43 **local police or fire pension plan under K.S.A. 74-4954 and amendments**

1 thereto.

2 (b) Beginning with the first payroll for services as a policeman or  
3 fireman after an active member of a local police or fire pension plan  
4 becomes a special member of the Kansas police and firemen's retirement  
5 system under this section, the city shall deduct from the compensation  
6 of each special member the greater of 7% or the percentage rate of con-  
7 tribution which the active member was required to contribute to the local  
8 police or fire pension plan preceding the entry date of the city, as em-  
9 ployee contributions. The deductions shall be remitted quarterly, or as  
10 the board of trustees otherwise provides, to the executive secretary of the  
11 Kansas public employees retirement system for credit to the Kansas pub-  
12 lic employees retirement fund. All deductions shall be credited to the  
13 special members' individual accounts beginning on July 1 of the year  
14 following the entry date of the city for purposes of all active and retired  
15 members of the local police and fire pension plan.

16 (c) Except as otherwise provided in this act, each active member of  
17 a local police or fire pension plan who becomes a special member of the  
18 Kansas police and firemen's retirement system under this section shall be  
19 subject to the provisions of and entitled to pensions and other benefits,  
20 rights and privileges to the extent provided under the local police and fire  
21 pension plan on the day immediately preceding the entry date of the city  
22 which is affiliating with the Kansas police and firemen's retirement system  
23 with regard to all active members and retired members of the plan.

24 (d) Each retired member of a local police or fire pension plan who  
25 becomes a special member of the Kansas police and firemen's retirement  
26 system under this section shall be entitled to receive from the Kansas  
27 police and firemen's retirement system a pension or any other benefit to  
28 the same extent and subject to the same conditions as existed under the  
29 local police or fire pension plan on the day immediately preceding the  
30 entry date of the city which is affiliating with the system with regard to  
31 all active members and retired members of the plan under K.S.A. 74-  
32 4954 and amendments thereto, except no retired special member shall  
33 be appointed in or to a position or office for which compensation is paid  
34 for service to the same state agency, or the same police or fire department  
35 of a city, township, special district or county or the same sheriff's office  
36 of a county. This subsection shall not apply to service rendered by a  
37 retiree as a juror, as a witness in any legal proceeding or action, as an  
38 election board judge or clerk or in any other office or position of a similar  
39 nature. However, all such benefits paid shall be paid in accordance with  
40 the applicable requirements under section 401 (a)(9) of the federal in-  
41 ternal revenue code of 1986 as applicable to governmental plans, as in  
42 effect on July 1, 2008, and the regulations thereto, as in effect on July 1,  
43 2008, and in accordance with the provisions of K.S.A. 74-49,123, and

1 amendments thereto. Any retiree employed by a participating employer  
2 in the Kansas police and firemen's retirement system shall not make con-  
3 tributions or receive additional credit under the system for that service.  
4 This subsection, except as it relates to contributions and additional credit,  
5 shall not apply to the employment of any retiree by the state of Kansas,  
6 or any county, city, township, special district, political subdivision or in-  
7 strumentality of any one or several of the aforementioned for a period of  
8 not exceeding 30 days in any one calendar year.

9 (e) (1) Every pension or other benefit received by any special mem-  
10 ber pursuant to subsection (c) or (d) is hereby made and declared exempt  
11 from any tax of the state of Kansas or any political subdivision or taxing  
12 body of this state; shall not be subject to execution, garnishment, attach-  
13 ment or any other process or claim whatsoever, except such pension or  
14 benefit or any accumulated contributions due and owing from the system  
15 to such special member are subject to decrees for child support or main-  
16 tenance, or both, as provided in ~~K.S.A. 60-1610~~ *sections 7, 9, 10, 13, 14,*  
17 *15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 30, 31, 32, 33, 34 and 35,* and  
18 amendments thereto; and shall be unassignable, except that within 30  
19 days after the death of a retirant the lump-sum death benefit payable to  
20 a retirant pursuant to the provisions of K.S.A. 74-4989 and amendments  
21 thereto may be assignable to a funeral establishment providing funeral  
22 services to such retirant by the beneficiary of such retirant. The Kansas  
23 public employees retirement system shall not be a party to any action  
24 under article 16 of chapter 60 of the Kansas Statutes Annotated, and  
25 amendments thereto, and is subject to orders from such actions issued  
26 by the district court of the county where such action was filed. Such orders  
27 from such actions shall specify either a specific amount or specific per-  
28 centage of the amount of the pension or benefit or any accumulated  
29 contributions due and owing from the system to be distributed by the  
30 system pursuant to this act.

31 (2) Every pension or other benefit received by any special member  
32 pursuant to subsection (c) or (d) is hereby made and declared exempt  
33 from any tax of the state of Kansas or any political subdivision or taxing  
34 body of this state; shall not be subject to execution, garnishment, attach-  
35 ment or any other process or claim whatsoever, except such pension or  
36 benefit or any accumulated contributions due and owing from the system  
37 to such special members are subject to claims of an alternate payee under  
38 a qualified domestic relations order. As used in this subsection, the terms  
39 "alternate payee" and "qualified domestic relations order" shall have the  
40 meaning ascribed to them in section 414(p) of the federal internal reve-  
41 nue code of 1986, as in effect on July 1, 2008. The provisions of this  
42 subsection shall apply to any qualified domestic relations order which is  
43 in effect on or after July 1, 1994.

1 (f) (1) Subject to the provisions of K.S.A. 74-49,123 and amendments  
 2 thereto, each participating employer, pursuant to the provisions of section  
 3 414(h)(2) of the federal internal revenue code of 1986, as in effect on  
 4 July 1, 2008, shall pick up and pay the contributions which would oth-  
 5 erwise be payable by members as prescribed in subsection (b) com-  
 6 mencing with the third quarter of 1984. The contributions so picked up  
 7 shall be treated as employer contributions for purposes of determining  
 8 the amounts of federal income taxes to withhold from the member's  
 9 compensation.

10 (2) Member contributions picked up by the employer shall be paid  
 11 from the same source of funds used for the payment of compensation to  
 12 a member. A deduction shall be made from each member's compensation  
 13 equal to the amount of the member's contributions picked up by the  
 14 employer, provided that such deduction shall not reduce the member's  
 15 compensation for purposes of computing benefits under K.S.A. 12-5001  
 16 to 12-5007, inclusive, and amendments thereto.

17 (3) Member contributions picked up by the employer shall be re-  
 18 mitted quarterly, or as the board may otherwise provide, to the executive  
 19 secretary for credit to the Kansas public employees retirement fund. Such  
 20 contributions shall be credited to a separate account within the member's  
 21 individual account so that amounts contributed by the member com-  
 22 mencing with the third quarter of 1984 may be distinguished from the  
 23 member contributions picked up by the employer. Interest shall be added  
 24 annually to members' individual accounts.

25 ~~Sec. 38-43.~~ **Sec. 43.** K.S.A. 20-164 is hereby amended to read as follows: 20-  
 26 164. (a) The supreme court shall establish by rule an expedited judicial  
 27 process which shall be used in the establishment, modification and en-  
 28 forcement of orders of support pursuant to the Kansas parentage act;  
 29 K.S.A. 23-451 et seq., 39-718a, 39-755, ~~60-1610~~, and amendments  
 30 ~~thereto~~, or K.S.A. 39-718b, and amendments thereto; K.S.A. ~~2007~~ 2009  
 31 Supp. 38-2243, 38-2244 or 38-2255, and amendments thereto; or K.S.A.  
 32 23-4,105 through 23-4,118 and amendments thereto; ~~or~~ K.S.A. 23-4,125  
 33 through 23-4,137, and amendments thereto; *or sections 7, 9, 10, 13, 14,*  
 34 *15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 30, 31, 32, 33, 34 and 35, and*  
 35 *amendments thereto.*

36 (b) The supreme court shall establish by rule an expedited judicial  
 37 process for the enforcement of court orders granting visitation rights or  
 38 parenting time.

39 ~~Sec. 39-44.~~ **Sec. 44.** K.S.A. 20-165 is hereby amended to read as follows: 20-  
 40 165. The supreme court shall adopt rules establishing guidelines for the  
 41 amount of child support to be ordered in any action in this state including,  
 42 but not limited to, K.S.A. 38-1121, 39-755 and ~~60-1610~~ *sections 7, 9, 10,*  
 43 *13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 30, 31, 32, 33, 34 and*

1 35, and amendments thereto. In adopting such rules, the court shall con-  
2 sider the criteria in K.S.A. 38-1121, *and amendments thereto*.

3 Sec. ~~40~~ **45**. K.S.A. 20-302b is hereby amended to read as follows:  
4 20-302b. (a) A district magistrate judge shall have the jurisdiction and  
5 power, in any case in which a violation of the laws of the state is charged,  
6 to conduct the trial of traffic infractions, cigarette or tobacco infractions  
7 or misdemeanor charges, to conduct the preliminary examination of fel-  
8 ony charges and to hear felony arraignments subject to assignment pur-  
9 suant to K.S.A. 20-329 and amendments thereto. Except as otherwise  
10 provided, in civil cases, a district magistrate judge shall have jurisdiction  
11 over actions filed under the code of civil procedure for limited actions,  
12 K.S.A. 61-2801 et seq., and amendments thereto, and concurrent juris-  
13 diction, powers and duties with a district judge. Except as otherwise spe-  
14 cifically provided in subsection (b), a district magistrate judge shall not  
15 have jurisdiction or cognizance over the following actions:

16 (1) Any action, other than an action seeking judgment for an unse-  
17 cured debt not sounding in tort and arising out of a contract for the  
18 provision of goods, services or money, in which the amount in contro-  
19 versy, exclusive of interests and costs, exceeds \$10,000. The provisions of  
20 this subsection shall not apply to actions filed under the code of civil  
21 procedure for limited actions, K.S.A. 61-2801 et seq. and amendments  
22 thereto. In actions of replevin, the affidavit in replevin or the verified  
23 petition fixing the value of the property shall govern the jurisdiction.  
24 Nothing in this paragraph shall be construed as limiting the power of a  
25 district magistrate judge to hear any action pursuant to the Kansas probate  
26 code or to issue support orders as provided by paragraph (6) of this  
27 subsection;

28 (2) actions against any officers of the state, or any subdivisions  
29 thereof, for misconduct in office;

30 (3) actions for specific performance of contracts for real estate;

31 (4) actions in which title to real estate is sought to be recovered or  
32 in which an interest in real estate, either legal or equitable, is sought to  
33 be established. Nothing in this paragraph shall be construed as limiting  
34 the right to bring an action for forcible detainer as provided in the acts  
35 contained in K.S.A. 61-3801 through 61-3808, and amendments thereto.  
36 Nothing in this paragraph shall be construed as limiting the power of a  
37 district magistrate judge to hear any action pursuant to the Kansas probate  
38 code;

39 (5) actions to foreclose real estate mortgages or to establish and fore-  
40 close liens on real estate as provided in the acts contained in article 11 of  
41 chapter 60 of the Kansas Statutes Annotated, and amendments thereto;

42 (6) actions for divorce, separate maintenance or custody of minor  
43 children. Nothing in this paragraph shall be construed as limiting the

1 power of a district magistrate judge to: (A) Except as provided in subsec-  
2 tion (e), hear any action pursuant to the Kansas code for care of children  
3 or the revised Kansas juvenile justice code; (B) establish, modify or en-  
4 force orders of support, including, but not limited to, orders of support  
5 pursuant to the Kansas parentage act, K.S.A. 23-9,101 et seq., 39-718b,  
6 39-755 or ~~60-1610~~ or K.S.A. 23-4,105 through 23-4,118, 23-4,125 through  
7 23-4,137, or K.S.A. ~~2007~~ **2009** Supp. 38-2338, 38-2339 ~~or~~, 38-2350 *or*  
8 *sections 7, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 30, 31,*  
9 *32, 33, 34 and 35, and amendments thereto; or (C) enforce orders grant-*  
10 *ing visitation rights or parenting time;*  
11 (7) habeas corpus;  
12 (8) receiverships;  
13 (9) change of name;  
14 (10) declaratory judgments;  
15 (11) mandamus and quo warranto;  
16 (12) injunctions;  
17 (13) class actions;  
18 (14) rights of majority; and  
19 (15) actions pursuant to K.S.A. 59-29a01 et seq. and amendments  
20 thereto.  
21 (b) Notwithstanding the provisions of subsection (a), in the absence,  
22 disability or disqualification of a district judge, a district magistrate judge  
23 may:  
24 (1) Grant a restraining order, as provided in K.S.A. 60-902 and  
25 amendments thereto;  
26 (2) appoint a receiver, as provided in K.S.A. 60-1301 and amend-  
27 ments thereto; and  
28 (3) make any order authorized by K.S.A. 60-1607 and amendments  
29 thereto.  
30 (c) In accordance with the limitations and procedures prescribed by  
31 law, and subject to any rules of the supreme court relating thereto, any  
32 appeal permitted to be taken from an order or final decision of a district  
33 magistrate judge shall be tried and determined *de novo* by a district judge,  
34 except that in civil cases where a record was made of the action or pro-  
35 ceeding before the district magistrate judge, the appeal shall be tried and  
36 determined on the record by a district judge.  
37 (d) Except as provided in subsection (e), upon motion of a party, the  
38 chief judge may reassign an action from a district magistrate judge to a  
39 district judge.  
40 (e) Upon motion of a party for a petition or motion filed under the  
41 Kansas code for care of children requesting termination of parental rights  
42 pursuant to K.S.A. ~~2007~~ **2009** Supp. 38-2361 through 38-2367, and  
43 amendments thereto, the chief judge shall reassign such action from a

1 district magistrate judge to a district judge.

2 Sec. ~~44~~ **46**. K.S.A. 23-4,118 is hereby amended to read as follows:  
3 23-4,118. (a) The department of social and rehabilitation services, the  
4 title IV-D agency for the state, shall maintain a central unit for collection  
5 and disbursement of support payments to meet the requirements of title  
6 IV-D and this section. Such central unit shall be known as the Kansas  
7 payment center. The name “Kansas payment center” shall be reserved  
8 for use by the state of Kansas for the functions of the central unit and  
9 shall not be used by any entity without the consent of the secretary of  
10 social and rehabilitation services.

11 The department may contract with another entity for development,  
12 enhancement or operation, in whole or in part, of such central unit. The  
13 Kansas payment center shall be subject to the following conditions and  
14 limitations:

15 (1) The Kansas payment center shall be subject to the Kansas su-  
16 preme court rule concerning official child support and maintenance re-  
17 cords established pursuant to subsection (c).

18 (2) No contract shall include provisions allowing the contractor to be  
19 paid, in whole or in part, on the basis of an amount per phone call received  
20 by the center nor allowing the contractor to be paid an amount per check  
21 issued for checks that were issued in error by the center. Nothing in this  
22 paragraph shall be construed to prevent the secretary of social and re-  
23 habilitation services from compensating on the basis of an amount per  
24 phone call any contractor that does not process receipts or disbursements  
25 under this section.

26 (3) Any contract for processing receipts or disbursements under this  
27 section shall include penalty provisions for noncompliance with federal  
28 regulations relating to the timeliness of collections and disbursements and  
29 shall include a monetary penalty of \$100 for each erroneous transaction,  
30 whether related to collection or disbursement. Penalties shall be collected  
31 as and when assessed. Of the penalty, \$25 shall be allocated to the obligee  
32 and \$75 shall be allocated to the department of social and rehabilitation  
33 services.

34 (4) Designees of the secretary of social and rehabilitation services and  
35 designees of the office of judicial administration shall have full access to  
36 all data, subject to the provisions of title IV-D of the federal social security  
37 act, 42 U.S.C. § 651 et seq. Designees of the secretary of social and  
38 rehabilitation services, all district court clerks and court trustees shall have  
39 access to records of the Kansas payment center sufficient to allow them  
40 to assist in the process of matching support payments to the correct  
41 accounts.

42 (5) The Kansas payment center shall provide sufficient customer  
43 service staff during regular business hours. Obligor and obligees shall be

1 provided 24-hour access to information about the status of receipts and  
2 disbursements, including, but not limited to, date of receipt by the center,  
3 date of processing by the center and date of disbursement to the obligee.

4 (b) The Kansas payment center shall have, by operation of law, a  
5 limited power of attorney to perform the specific act of endorsing and  
6 negotiating all drafts, checks, money orders or other negotiable instru-  
7 ments representing support payments received by the center. Nothing in  
8 this subsection shall be construed as affecting the property rights or in-  
9 terests of any person in such negotiable instruments. The provisions of  
10 this subsection shall apply to any negotiable instrument received by the  
11 center on or after October 1, 2000.

12 (c) The Kansas supreme court, by court rule, shall establish the pro-  
13 cedure for the creation, maintenance and correction of official child sup-  
14 port and maintenance records for use as official court records.

15 (d) The department shall collaborate with the Kansas supreme court  
16 to maintain the Kansas payment center, which shall include all support  
17 payments subject to the requirements of title IV-D of the federal social  
18 security act, 42 U.S.C. § 651 et seq., and, except as specifically directed  
19 otherwise by the court pursuant to ~~K.S.A. 60-1610 sections 7, 9, 10, 13,~~  
20 ~~14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 30, 31, 32, 33, 34 and 35,~~  
21 **17 and 33**, and amendments thereto, all other support payments due  
22 under a court order entered in this state.

23 (e) Any provision in any support order or income withholding order  
24 entered in this state which requires remittance of support payments to  
25 the clerk of the district court or district court trustee shall be deemed to  
26 require remittance of support payments to the Kansas payment center,  
27 regardless of the date the support or income withholding order was  
28 entered.

29 (f) (1) Except as otherwise provided in this subsection, payments re-  
30 ceived by the Kansas payment center which cannot be matched to any  
31 account nor returned to the payor shall be transferred to the state trea-  
32 surer in accordance with the unclaimed property act.

33 (2) Except as otherwise provided in this subsection, disbursements  
34 which cannot be delivered to the payee after a good faith effort to locate  
35 the payee shall be transferred to the state treasurer in accordance with  
36 the unclaimed property act.

37 (3) To the extent that the secretary of social and rehabilitation serv-  
38 ices would be required to treat as federal program income any amount  
39 transferable to the state treasurer pursuant to this subsection or the un-  
40 claimed property act, such amount shall not be presumed abandoned but  
41 shall be held by the secretary until the amount may be delivered to the  
42 true owner. The secretary and the state treasurer shall collaborate on  
43 procedures for locating the true owner and confirming claims to amounts

1 so held.

2 Sec. ~~42~~ **47**. K.S.A. 60-1606 is hereby amended to read as follows:  
3 60-1606. The court shall grant a requested decree of divorce, separate  
4 maintenance or annulment unless the granting of the decree is discre-  
5 tionary under this act or unless the court finds that there are no grounds  
6 for the requested alteration of marital status. If a decree of divorce, sep-  
7 arate maintenance or annulment is denied for lack of grounds, the court  
8 shall nevertheless, if application is made by one of the parties, make the  
9 orders authorized by ~~subsections (a) and (b) of K.S.A. 60-1610 sections 1~~  
10 ~~and 2~~, **13 through 24, section 26, and sections 30 through 35**, and  
11 amendments thereto.

12 Sec. ~~43~~ **48**. K.S.A. 60-1613 is hereby amended to read as follows:  
13 60-1613. (a) The provisions of K.S.A. 23-4,107 shall apply to all orders of  
14 support issued under ~~K.S.A. 60-1610 sections 7, 9, 10, 13, 14, 15, 16, 17,~~  
15 ~~18, 19, 20, 21, 22, 23, 24, 26, 30, 31, 32, 33, 34 and 35~~, and amendments  
16 thereto.

17 (b) Any assignment previously ordered under this section remains  
18 binding on the employer, trustee or other payor of the earnings or income.  
19 The payor shall withhold from the earnings or trust income payable to  
20 the person obligated to support the amount specified in the assignment  
21 and shall transmit the payments to the district court trustee or the person  
22 specified in the order. The payor may withhold from the earnings or trust  
23 income payable to the person obliged to pay support a cost recovery fee  
24 of \$5 for each payment made or \$10 for each month for which payment  
25 is made, whichever is less. An employer shall not discharge or otherwise  
26 discipline an employee as a result of an assignment previously ordered  
27 under this section.

28 Sec. ~~44~~ **49**. K.S.A. 60-1620 is hereby amended to read as follows:  
29 60-1620. (a) Except as provided in subsection (d), a parent entitled to  
30 legal custody or residency of or parenting time with a child pursuant to  
31 ~~K.S.A. 60-1610 sections 7, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23,~~  
32 ~~24, 26, 30, 31, 32, 33, 34 and 35~~, **27 and 28**, and amendments thereto,  
33 shall give written notice to the other parent not less than 30 days prior  
34 to: (1) Changing the residence of the child; or (2) removing the child from  
35 this state for a period of time exceeding 90 days. Such notice shall be sent  
36 by restricted mail, return receipt requested, to the last known address of  
37 the other parent.

38 (b) Failure to give notice as required by subsection (a) is an indirect  
39 civil contempt punishable as provided by law. In addition, the court may  
40 assess, against the parent required to give notice, reasonable attorney fees  
41 and any other expenses incurred by the other parent by reason of the  
42 failure to give notice.

43 (c) A change of the residence or the removal of a child as described

1 in subsection (a) may be considered a material change of circumstances  
2 which justifies modification of a prior order of legal custody, residency,  
3 child support or parenting time. In determining any motion seeking a  
4 modification of a prior order based on change of residence or removal as  
5 described in (a), the court shall consider all factors the court deems ap-  
6 propriate including, but not limited to: (1) The effect of the move on the  
7 best interests of the child; (2) the effect of the move on any party having  
8 rights granted pursuant to ~~K.S.A. 60-1610 sections 7, 9, 10, 13, 14, 15,~~  
9 ~~16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 30, 31, 32, 33, 34 and 35,~~ **27 and**  
10 **28**, and amendments thereto; and (3) the increased cost the move will  
11 impose on any party seeking to exercise rights granted under ~~K.S.A. 60-~~  
12 ~~1610 sections 7, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26,~~  
13 ~~30, 31, 32, 33, 34 and 35,~~ **27 and 28**, and amendments thereto.

14 (d) A parent entitled to the legal custody or residency of a child pur-  
15 suant to ~~K.S.A. 60-1610 sections 7, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20,~~  
16 ~~21, 22, 23, 24, 26, 30, 31, 32, 33, 34 and 35,~~ **27 and 28**, and amendments  
17 thereto, shall not be required to give the notice required by this section  
18 to the other parent when the other parent has been convicted of any  
19 crime specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes  
20 Annotated in which the child is the victim of such crime.

21 Sec. ~~45-~~ **50**. K.S.A. 60-1629 is hereby amended to read as follows:  
22 60-1629. (a) A parent entitled to legal custody of, or residency of, or  
23 parenting time with a child pursuant to ~~K.S.A. 60-1610 sections 7, 9, 10,~~  
24 ~~13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 30, 31, 32, 33, 34 and~~  
25 ~~35,~~ **24 and 26**, and amendments thereto, shall give written notice to the  
26 other parent of one or more of the following events when such parent:  
27 (1) Is subject to the registration requirements of the Kansas offender  
28 registration act, K.S.A. 22-4901, et seq., and amendments thereto, or any  
29 similar act in any other state, or under military or federal law; (2) has  
30 been convicted of abuse of a child, K.S.A. 21-3609, and amendments  
31 thereto; (3) is residing with an individual who is known by the parent to  
32 be subject to the registration requirements of the Kansas offender reg-  
33 istration act, K.S.A. 22-4901, et seq., and amendments thereto, or any  
34 similar act in any other state, or under military or federal law; or (4) is  
35 residing with an individual who is known by the parent to have been  
36 convicted of abuse of a child, K.S.A. 21-3609, and amendments thereto.  
37 Such notice shall be sent by restricted mail, return receipt requested, to  
38 the last known address of the other parent within 10 days following such  
39 event.

40 (b) Failure to give notice as required by subsection (a) is an indirect  
41 civil contempt punishable as provided by law. In addition, the court may  
42 assess, against the parent required to give notice, reasonable attorney fees  
43 and any other expenses incurred by the other parent by reason of the

1 failure to give notice.

2 (c) An event described in subsection (a) may be considered a material  
3 change of circumstances which justifies modification of a prior order of  
4 legal custody, residency, child support or parenting time.

5 ~~Sec. 46.~~ **51.** K.S.A. 60-3107 is hereby amended to read as follows:  
6 60-3107. (a) The court may approve any consent agreement to bring about  
7 a cessation of abuse of the plaintiff or minor children or grant any of the  
8 following orders:

9 (1) Restraining the defendant from abusing, molesting or interfering  
10 with the privacy or rights of the plaintiff or of any minor children of the  
11 parties. Such order shall contain a statement that if such order is violated,  
12 such violation may constitute assault as provided in K.S.A. 21-3408, and  
13 amendments thereto, battery as provided in K.S.A. 21-3412, and amend-  
14 ments thereto, domestic battery as provided in K.S.A. 21-3412a, and  
15 amendments thereto and violation of a protective order as provided in  
16 K.S.A. 21-3843, and amendments thereto.

17 (2) Granting possession of the residence or household to the plaintiff  
18 to the exclusion of the defendant, and further restraining the defendant  
19 from entering or remaining upon or in such residence or household, sub-  
20 ject to the limitation of subsection (d). Such order shall contain a state-  
21 ment that if such order is violated, such violation shall constitute criminal  
22 trespass as provided in subsection (c) of K.S.A. 21-3721, and amendments  
23 thereto, and violation of a protective order as provided in K.S.A. 21-3843,  
24 and amendments thereto. The court may grant an order, which shall ex-  
25 pire 60 days following the date of issuance, restraining the defendant from  
26 cancelling utility service to the residence or household.

27 (3) Requiring defendant to provide suitable, alternate housing for the  
28 plaintiff and any minor children of the parties.

29 (4) Awarding temporary custody and residency and establishing tem-  
30 porary parenting time with regard to minor children.

31 (5) Ordering a law enforcement officer to evict the defendant from  
32 the residence or household.

33 (6) Ordering support payments by a party for the support of a party's  
34 minor child, if the party is the father or mother of the child, or the plain-  
35 tiff, if the plaintiff is married to the defendant. Such support orders shall  
36 remain in effect until modified or dismissed by the court or until expi-  
37 ration and shall be for a fixed period of time not to exceed one year. On  
38 the motion of the plaintiff, the court may extend the effect of such order  
39 for 12 months.

40 (7) Awarding costs and attorney fees to either party.

41 (8) Making provision for the possession of personal property of the  
42 parties and ordering a law enforcement officer to assist in securing pos-  
43 session of that property, if necessary.

- 1 (9) Requiring any person against whom an order is issued to seek  
2 counseling to aid in the cessation of abuse.
- 3 (10) Ordering or restraining any other acts deemed necessary to pro-  
4 mote the safety of the plaintiff or of any minor children of the parties.
- 5 (b) No protection from abuse order shall be entered against the plain-  
6 tiff unless:
- 7 (1) The defendant properly files a written cross or counter petition  
8 seeking such a protection order;
- 9 (2) the plaintiff had reasonable notice of the written cross or counter  
10 petition by personal service as provided in subsection (d) of K.S.A. 60-  
11 3104, and amendments thereto; and
- 12 (3) the issuing court made specific findings of abuse against both the  
13 plaintiff and the defendant and determined that both parties acted pri-  
14 marily as aggressors and neither party acted primarily in self-defense.
- 15 (c) Any order entered under the protection from abuse act shall not  
16 be subject to modification on ex parte application or on motion for tem-  
17 porary orders in any action filed pursuant to K.S.A. 60-1601 et seq., or  
18 K.S.A. ~~38-1101~~ **38-1110** et seq., and amendments thereto. Orders pre-  
19 viously issued in an action filed pursuant to K.S.A. 60-1601 et seq., or  
20 K.S.A. ~~38-1101~~ **38-1110** et seq., and amendments thereto, shall be sub-  
21 ject to modification under the protection from abuse act only as to those  
22 matters subject to modification by the terms of ~~K.S.A. 60-1610 et seq.~~  
23 ~~sections 7, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 30, 31,~~  
24 ~~32, 33, 34 and 35~~, and amendments thereto, and on sworn testimony to  
25 support a showing of good cause. Immediate and present danger of abuse  
26 to the plaintiff or minor children shall constitute good cause. If an action  
27 is filed pursuant to ~~K.S.A. 60-1610 et seq. sections 7, 9, 10, 13, 14, 15,~~  
28 ~~16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 30, 31, 32, 33, 34 and 35,~~ **60-1601**  
29 **et seq.**, or K.S.A. ~~38-1101~~ **38-1110** et seq., and amendments thereto,  
30 during the pendency of a proceeding filed under the protection from  
31 abuse act or while an order issued under the protection from abuse act  
32 is in effect, the court, on final hearing or on agreement of the parties,  
33 may issue final orders authorized by ~~K.S.A. 60-1610 sections 7, 9, 10, 13,~~  
34 ~~14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 30, 31, 32, 33, 34 and 35,~~  
35 and amendments thereto, that are inconsistent with orders entered under  
36 the protection from abuse act. Any inconsistent order entered pursuant  
37 to this subsection shall be specific in its terms, reference the protection  
38 from abuse order and parts thereof being modified and a copy thereof  
39 shall be filed in both actions. The court shall consider whether the actions  
40 should be consolidated in accordance with K.S.A. 60-242 and amend-  
41 ments thereto.
- 42 (d) If the parties to an action under the protection from abuse act  
43 are not married to each other and one party owns the residence or house-

1 hold, the court shall not have the authority to grant possession of the  
 2 residence or household under subsection (a)(2) to the exclusion of the  
 3 party who owns it.

4 (e) Subject to the provisions of subsections (b), (c) and (d), a protec-  
 5 tive order or approved consent agreement shall remain in effect until  
 6 modified or dismissed by the court and shall be for a fixed period of time  
 7 not to exceed one year, except that, on motion of the plaintiff, such period  
 8 may be extended for one additional year.

9 (f) The court may amend its order or agreement at any time upon  
 10 motion filed by either party.

11 (g) No order or agreement under the protection from abuse act shall  
 12 in any manner affect title to any real property.

13 (h) If a person enters or remains on premises or property violating  
 14 an order issued pursuant to subsection (a)(2), such violation shall consti-  
 15 tute criminal trespass as provided in subsection (c) of K.S.A. 21-3721, and  
 16 amendments thereto, and violation of a protective order as provided in  
 17 K.S.A. 21-3843, and amendments thereto. If a person abuses, molests or  
 18 interferes with the privacy or rights of another violating an order issued  
 19 pursuant to subsection (a)(1), such violation may constitute assault as  
 20 provided in K.S.A. 21-3408, and amendments thereto, battery as provided  
 21 in K.S.A. 21-3412, and amendments thereto, domestic battery as provided  
 22 in K.S.A. 21-3412a, and amendments thereto, and violation of a protective  
 23 order as provided in K.S.A. 21-3843, and amendments thereto.

24 ~~**[New Sec. 52. (a) A covenant marriage is a marriage entered**~~  
 25 ~~**into by one male and one female who understand and agree that**~~  
 26 ~~**the marriage between them is a lifelong relationship. Parties to a**~~  
 27 ~~**covenant marriage have received counseling emphasizing the na-**~~  
 28 ~~**ture and purposes of marriage and the responsibilities thereto.**~~  
 29 ~~**Only when there has been a complete and total breach of the mar-**~~  
 30 ~~**ital covenant commitment may the nonbreaching party seek a dec-**~~  
 31 ~~**laration that the marriage is no longer legally recognized.**~~

32 ~~**—(b) A man and woman may contract a covenant marriage by**~~  
 33 ~~**declaring their intent to do so on their application for a marriage**~~  
 34 ~~**license as provided in K.S.A. 23-106, and amendments thereto, and**~~  
 35 ~~**executing a declaration of intent to contract a covenant marriage,**~~  
 36 ~~**as provided in subsection (c). The application for a marriage li-**~~  
 37 ~~**cence and the declaration of intent shall be filed with the district**~~  
 38 ~~**court which issues the marriage license.**~~

39 ~~**—(c) A declaration of intent to contract a covenant marriage**~~  
 40 ~~**shall contain all of the following:**~~

41 ~~**—(1) A recitation by the parties to the following effect:**~~

42 ~~**“A COVENANT MARRIAGE**~~

43 ~~**—[We do solemnly declare that marriage is a covenant between a**~~

1 ~~man and a woman who agree to live together as husband and wife~~  
2 ~~for so long as they both may live. We have chosen each other care-~~  
3 ~~fully and disclosed to one another everything which could ad-~~  
4 ~~versely affect the decision to enter into this marriage. We have~~  
5 ~~received premarital counseling on the nature, purposes and re-~~  
6 ~~sponsibilities of marriage. We have read the covenant marriage~~  
7 ~~act, and we understand that a covenant marriage is for life. If we~~  
8 ~~experience marital difficulties, we commit ourselves to take all rea-~~  
9 ~~sonable efforts to preserve our marriage, including marital~~  
10 ~~counseling;~~  
11 ~~—[With full knowledge of what this commitment means, we do~~  
12 ~~hereby declare that our marriage will be bound by Kansas law on~~  
13 ~~covenant marriages and we promise to love, honor and care for~~  
14 ~~one another as husband and wife for the rest of our lives.”~~  
15 ~~—[(2) (A) An affidavit by the parties that they have received pre-~~  
16 ~~marital counseling from a priest, minister, rabbi, clergy person or~~  
17 ~~organized ministry of any religious denomination or sect, includ-~~  
18 ~~ing a Christian Science practitioner, or a licensed marriage and~~  
19 ~~family therapist, which counseling shall include a discussion of the~~  
20 ~~seriousness of covenant marriage, communication of the fact that~~  
21 ~~a covenant marriage is a commitment for life, a discussion of the~~  
22 ~~obligation to seek marital counseling in times of marital difficul-~~  
23 ~~ties, and a discussion of the exclusive grounds for legally termi-~~  
24 ~~nating a covenant marriage by divorce or by divorce after separate~~  
25 ~~maintenance;~~  
26 ~~—[(B) A notarized attestation, signed by the counselor and at-~~  
27 ~~tached to or included in the parties’ affidavit, confirming that the~~  
28 ~~parties were counseled as to the nature and purpose of the mar-~~  
29 ~~riage and the grounds for termination thereof and an acknowl-~~  
30 ~~edging that the counselor provided to the parties the informational~~  
31 ~~pamphlet developed and promulgated by the office of the attorney~~  
32 ~~general, pursuant to section 4, and amendments thereto, which~~  
33 ~~pamphlet entitled the covenant marriage act provides a full expla-~~  
34 ~~nation of the terms and conditions of a covenant marriage.~~  
35 ~~—[(3) (A) The signature of both parties witnessed by a notary;~~  
36 ~~—[(B) If one or both of the parties are minors, the written con-~~  
37 ~~sent or authorization of those persons required by law to consent~~  
38 ~~to or authorize the marriage of minors.~~  
39 ~~—[(d) The declaration shall contain two separate documents, the~~  
40 ~~recitation and the affidavit, the latter of which shall include the~~  
41 ~~attestation either included therein or attached thereto. The reci-~~  
42 ~~tation shall be prepared in duplicate originals, one of which shall~~  
43 ~~be retained by the parties and the other, together with the affidavit~~

1 ~~and attestation, shall be registered and recorded as provided in~~  
2 ~~article 1 of chapter 23 of the Kansas Statutes Annotated, and~~  
3 ~~amendments thereto.~~

4 ~~—[(c) In addition to any fee for a marriage license, the supreme~~  
5 ~~court shall establish by rule a covenant marriage fee not to exceed~~  
6 ~~\$25.~~

7 ~~—[New Sec. 53. (a) A covenant marriage shall be governed by~~  
8 ~~all of the provisions of article 1 of chapter 23 of the Kansas Statutes~~  
9 ~~Annotated and article 16 of chapter 60 of the Kansas Statutes An-~~  
10 ~~notated, and amendments thereto.~~

11 ~~—[(b) As used in this act, “counselor” includes but is not limited~~  
12 ~~to, a priest, minister, rabbi, clergy person or organized ministry of~~  
13 ~~any religious denomination or sect, including Christian Science~~  
14 ~~practitioner, or a licensed marriage and family therapist.~~

15 ~~—[New Sec. 54. (a) On or after July 1, 1998, married couples~~  
16 ~~may execute a declaration of intent to designate their marriage as~~  
17 ~~a covenant marriage to be governed by the laws relative thereto.~~

18 ~~—[(b) (1) This declaration of intent in the form and containing~~  
19 ~~the contents required by subsection (c) shall be presented to the~~  
20 ~~district court who issued the couple’s marriage license and the~~  
21 ~~secretary of health and environment with whom the couple’s mar-~~  
22 ~~riage license is filed. If the couple were married outside of this~~  
23 ~~state, a copy of the foreign marriage certificate, with the declara-~~  
24 ~~tion of intent attached thereto, shall be filed with the district court~~  
25 ~~who issues marriage licenses in the county in which the couple is~~  
26 ~~domiciled. The court shall make a notation on the marriage cer-~~  
27 ~~tificate of the declaration of intent of a covenant marriage and~~  
28 ~~attach a copy of the declaration to the certificate.~~

29 ~~—[(2) On or before the fifteenth day of each calendar month, the~~  
30 ~~court shall forward to the secretary of health and environment~~  
31 ~~each declaration of intent of a covenant marriage filed with the~~  
32 ~~court during the preceding calendar month pursuant to this~~  
33 ~~section.~~

34 ~~—[(c) (1) A declaration of intent to designate a marriage as a~~  
35 ~~covenant marriage shall contain all of the following:~~

36 ~~—[(A) A recitation by the parties to the following effect:~~

37 ~~“A COVENANT MARRIAGE~~

38 ~~—[We do solemnly declare that marriage is a covenant between a~~  
39 ~~man and a woman who agree to live together as husband and wife~~  
40 ~~for so long as they both may live. We understand the nature, pur-~~  
41 ~~pose and responsibilities of marriage. We have read the covenant~~  
42 ~~marriage act, and we understand that a covenant marriage is for~~  
43 ~~life. If we experience marital difficulties, we commit ourselves to~~

1 ~~take all reasonable efforts to preserve our marriage, including~~  
2 ~~marital counseling;~~  
3 ~~[With full knowledge of what this commitment means, we do~~  
4 ~~hereby declare that our marriage will be bound by Kansas law on~~  
5 ~~covenant marriage, and we renew our promise to love, honor and~~  
6 ~~care for one another as husband and wife for the rest of our lives.”~~  
7 ~~[(B) (i) An affidavit by the parties that they have discussed~~  
8 ~~their intent to designate their marriage as a covenant marriage~~  
9 ~~with a priest, minister, rabbi, clergy person or organized ministry~~  
10 ~~of any religious denomination or sect, including a Christian Sci-~~  
11 ~~ence practitioner, or a licensed marriage and family therapist,~~  
12 ~~which included a discussion of the obligation to seek marital coun-~~  
13 ~~seling in times of marital difficulties and the exclusive grounds for~~  
14 ~~legally terminating a covenant marriage by divorce or by divorce~~  
15 ~~after separate maintenance;~~  
16 ~~[(ii) A notarized attestation, signed by the counselor and at-~~  
17 ~~tached to the parties’ affidavit, acknowledging that the counselor~~  
18 ~~provided to the parties the information pamphlet developed and~~  
19 ~~promulgated by the office of the attorney general, pursuant to sec-~~  
20 ~~tion 4, and amendments thereto, which pamphlet entitled the cov-~~  
21 ~~enant marriage act provides a full explanation of the terms and~~  
22 ~~conditions of a covenant marriage;~~  
23 ~~[(iii) The signature of both parties witnessed by a notary;~~  
24 ~~[(2) The declaration shall contain two separate documents, the~~  
25 ~~recitation and the affidavit, the latter of which shall include the~~  
26 ~~attestation either included therein or attached thereto. The reci-~~  
27 ~~tation shall be prepared in duplicate originals, one of which shall~~  
28 ~~be retained by the parties and the other, together with the affidavit~~  
29 ~~and attestation, shall be filed as provided in subsection (b).~~  
30 ~~[(d) The court shall collect a declaration of intent of a covenant~~  
31 ~~marriage fee as established by the supreme court by rule in an~~  
32 ~~amount not to exceed \$50;~~  
33 ~~[New Sec. 55. On or before July 1, 1998, the office of the at-~~  
34 ~~torney general shall develop and promulgate an informational~~  
35 ~~pamphlet entitled “covenant marriage act”. Such pamphlet shall~~  
36 ~~outline in sufficient detail the consequences of entering into a cov-~~  
37 ~~enant marriage. Such pamphlet shall be made available to any~~  
38 ~~counselor who provides marriage counseling as provided for by~~  
39 ~~this act.~~  
40 ~~[Sec. 56. K.S.A. 23-105 is hereby amended to read as follows:~~  
41 ~~23-105. All marriages, including covenant marriages, occurring~~  
42 ~~within the state shall be registered under the supervision of the~~  
43 ~~secretary of health and environment as provided in K.S.A. 65-102;~~

1 ~~and amendments thereto.~~

2 ~~[Sec. 57. K.S.A. 23-106 is hereby amended to read as follows:~~

3 ~~23-106. (a) The clerks of the district courts or judges thereof, when~~  
4 ~~applied to for a marriage license by any person who is one of the~~  
5 ~~parties to the proposed marriage and who is legally entitled to a~~  
6 ~~marriage license, shall issue a marriage license in substance as~~  
7 ~~follows:~~

8 [MARRIAGE LICENSE

9 [(Name of place where office located, month, day and year.)

10 [TO ANY PERSON authorized by law to perform the marriage ceremony,

11 [Greeting:

12 —[You are hereby authorized to join in marriage A B of \_\_\_\_\_, date of birth  
13 \_\_\_\_\_, and C D of \_\_\_\_\_, date of birth \_\_\_\_\_, (and name of  
14 parent or guardian consenting), and of this license, duly endorsed, you will make  
15 due return to this office immediately after performing the ceremony:

16 [E F, (title of person issuing the license):

17 ~~—[(b) If such parties intend the marriage to be a covenant marriage, a~~  
18 ~~declaration of intent to contract a covenant marriage, as established in~~  
19 ~~section 1, and amendments thereto, shall be attached to the marriage~~  
20 ~~license and the license shall also include the following:~~

21 ~~—[“We, (name of intended wife) and (name of intended husband), do hereby declare our~~  
22 ~~intent to contract a covenant marriage and, accordingly, have executed a declaration of intent~~  
23 ~~attached hereto.”~~

24 ~~—[(b) (c) No clerk or judge of the district court shall issue a mar-~~  
25 ~~riage license before the third calendar day (Sunday and holidays~~  
26 ~~included) following the date of the filing of the application therefor~~  
27 ~~in such clerk’s or judge’s office except that in cases of emergency~~  
28 ~~or extraordinary circumstances, a judge of the district court may~~  
29 ~~upon proper showing being made, permit by order of the court~~  
30 ~~the issuance of such marriage license without waiting three days.~~  
31 ~~Each district court shall keep a record of all marriages resulting~~  
32 ~~from licenses issued by the court, which record shall show the~~  
33 ~~names of the persons who were married and the date of the mar-~~  
34 ~~riage:~~

35 ~~—[(c) (d) No clerk or judge shall issue a license authorizing the~~  
36 ~~marriage of any person:~~

37 ~~—[(1) Under the age of 16 years, except that a judge of the dis-~~  
38 ~~trict court may, after due investigation, give consent and issue the~~  
39 ~~license authorizing the marriage of a person 15 years of age when~~  
40 ~~the marriage is in the best interest of the person 15 years of age;~~

41 ~~or~~

42 ~~—[(2) who is 16 or 17 years of age without the express consent of~~  
43 ~~such person’s father, mother or legal guardian and the consent of~~

1 ~~the judge unless consent of both the mother and father and any~~  
2 ~~legal guardian or all then living parents and any legal guardian is~~  
3 ~~given in which case the consent of the judge shall not be required.~~  
4 ~~If not given in person at the time of the application, the consent~~  
5 ~~shall be evidenced by a written certificate subscribed thereto and~~  
6 ~~duly attested. Where the applicants or either of them are 16 or 17~~  
7 ~~years of age and their parents are dead and there is no legal guard-~~  
8 ~~ian then a judge of the district court may after due investigation~~  
9 ~~give consent and issue the license authorizing the marriage.~~  
10 ~~—[(d)(e) The judge or clerk may issue a license upon the affidavit~~  
11 ~~of the party personally appearing and applying therefor, to the~~  
12 ~~effect that the parties to whom such license is to be issued are of~~  
13 ~~lawful age, as required by this section, and the judge or clerk is~~  
14 ~~hereby authorized to administer oaths for that purpose.~~  
15 ~~—[(e)(f) Every person swearing falsely in such affidavit shall be~~  
16 ~~guilty of a misdemeanor and shall be punished by a fine not ex-~~  
17 ~~ceeding \$500. A clerk or judge of the district court shall state in~~  
18 ~~every license the birth dates of the parties applying for the same,~~  
19 ~~and if either or both are 16 or 17 years of age, the name of the~~  
20 ~~father, mother, or guardian consenting to such marriage.~~  
21 ~~—[(f)(g) Every marriage license shall expire at the end of six~~  
22 ~~months from the date of issuance if the marriage for which the~~  
23 ~~license was issued does not take place within the six-month period~~  
24 ~~of time.~~  
25 ~~—[Sec. 58. K.S.A. 23-109 is hereby amended to read as follows:~~  
26 ~~23-109. (a) Every person who performs a marriage ceremony un-~~  
27 ~~der the provisions of this act shall endorse the person's certificate~~  
28 ~~of the marriage on the license, give the duplicate copy of the li-~~  
29 ~~cence to the parties to the marriage and return the license, along~~  
30 ~~with a copy of the declaration of intent to contract a covenant marriage~~  
31 ~~if applicable, within 10 days after the marriage, to the judge or clerk~~  
32 ~~of the district court who issued it. The judge or clerk shall record~~  
33 ~~the marriage on the marriage record in the office of the judge or~~  
34 ~~clerk and shall forward, not later than the third day of the follow-~~  
35 ~~ing month, to the secretary of health and environment the license~~  
36 ~~and certificate of marriage, along with a copy of the declaration of~~  
37 ~~intent to contract a covenant marriage if applicable, together with a~~  
38 ~~statement of the names of the parties and the name and address~~  
39 ~~of the person who performed the marriage ceremony.~~  
40 ~~—[(b) If no marriage license has been issued by the judge or~~  
41 ~~clerk of the district court during a month, the judge or clerk shall~~  
42 ~~promptly notify the secretary of health and environment to that~~  
43 ~~effect on a form provided for that purpose.~~

1 ~~—[Sec. 59. K.S.A. 60-1601 is hereby amended to read as follows:~~  
2 ~~60-1601. (a) (1) Except in the case of a covenant marriage, the district~~  
3 ~~court shall grant a decree of divorce or separate maintenance for~~  
4 ~~any of the following grounds: (1) (A) Incompatibility; (2) (B) failure~~  
5 ~~to perform a material marital duty or obligation; or (3) (C) incom-~~  
6 ~~patibility by reason of mental illness or mental incapacity of one~~  
7 ~~or both spouses.~~  
8 ~~—[(b) (2) The ground of incompatibility by reason of mental ill-~~  
9 ~~ness or mental incapacity of one or both spouses shall require a~~  
10 ~~finding of either: (1) (A) Confinement of the spouse in an institution~~  
11 ~~by reason of mental illness for a period of two years, which con-~~  
12 ~~finement need not be continuous; or (2) (B) an adjudication of men-~~  
13 ~~tal illness or mental incapacity of the spouse by a court of com-~~  
14 ~~petent jurisdiction while the spouse is confined in an institution by~~  
15 ~~reason of mental illness. In either case, there must be a finding by~~  
16 ~~at least two of three physicians, appointed by the court before~~  
17 ~~which the action is pending, that the mentally ill or mentally in-~~  
18 ~~capacitated spouse has a poor prognosis for recovery from the~~  
19 ~~mental illness or mental incapacity, based upon general knowledge~~  
20 ~~available at the time. A decree granted on the ground of incom-~~  
21 ~~patibility by reason of mental illness or mental incapacity of one~~  
22 ~~or both spouses shall not relieve a party from contributing to the~~  
23 ~~support and maintenance of the mentally ill or mentally incapac-~~  
24 ~~itated spouse. If both spouses are confined to institutions because~~  
25 ~~of mental illness or mental incapacity, the guardian of either~~  
26 ~~spouse may file a petition for divorce and the court may grant the~~  
27 ~~divorce on the ground of incompatibility by reason of mental ill-~~  
28 ~~ness or mental incapacity.~~  
29 ~~—[(b) Notwithstanding any other law to the contrary and subsequent~~  
30 ~~to the parties obtaining counseling, the district court shall grant a decree~~  
31 ~~of divorce to a spouse of a covenant marriage only upon proof of any of~~  
32 ~~the following grounds:~~  
33 ~~—[(1) The other spouse has committed adultery.~~  
34 ~~—[(2) The other spouse has been convicted of capital murder, as pro-~~  
35 ~~vided in, K.S.A. 21-3439, and amendments thereto, murder in the first~~  
36 ~~degree, as provided in, K.S.A. 21-3401, and amendments thereto, murder~~  
37 ~~in the second degree, as provided in, K.S.A. 21-3402, and amendments~~  
38 ~~thereto, voluntary manslaughter, as provided in, K.S.A. 21-3403, and~~  
39 ~~amendments thereto, involuntary manslaughter, as provided in, K.S.A.~~  
40 ~~21-3404 or 21-3442, and amendments thereto, rape, as provided in, K.S.A.~~  
41 ~~21-3502, and amendments thereto, indecent liberties with a child, as pro-~~  
42 ~~vided in, K.S.A. 21-3503, and amendments thereto, aggravated indecent~~  
43 ~~liberties with a child, as provided in, K.S.A. 21-3504, and amendments~~

1 ~~thereto, criminal sodomy subsection (a)(2) and (a)(3) of K.S.A. 21-3505~~  
2 ~~and amendments thereto, aggravated criminal sodomy, as provided in,~~  
3 ~~K.S.A. 21-3506, and amendments thereto, indecent solicitation of a child,~~  
4 ~~as provided in, K.S.A. 21-3510, and amendments thereto, aggravated in-~~  
5 ~~decent solicitation of a child, as provided in, K.S.A. 21-3511, and amend-~~  
6 ~~ments thereto, sexual exploitation of a child, as provided in, K.S.A. 21-~~  
7 ~~3516, and amendments thereto, aggravated sexual battery, as provided~~  
8 ~~in, K.S.A. 21-3518, and amendments thereto or any conviction for a felony~~  
9 ~~offense that is comparable to a crime listed above, or any federal or other~~  
10 ~~state conviction for a felony offense that under the laws of this state would~~  
11 ~~be an offense as listed above.~~  
12 ~~—[(3) The other spouse has abandoned the matrimonial domicile for a~~  
13 ~~period of one year and constantly refuses to return.~~  
14 ~~—[(4) The other spouse has physically or sexually abused the spouse~~  
15 ~~seeking the divorce or a child of one of the spouses.~~  
16 ~~—[(5) The spouses have been living separate and apart continuously~~  
17 ~~without reconciliation for a period of two years.~~  
18 ~~—[(6) (A) The spouses have been living separate and apart continu-~~  
19 ~~ously without reconciliation for a period of one year from the date the~~  
20 ~~judgment of separate maintenance was signed.~~  
21 ~~—[(B) If there is a minor child or children of the marriage, the spouses~~  
22 ~~have been living separate and apart continuously without reconciliation~~  
23 ~~for a period of one year and six months from the date the judgment of~~  
24 ~~separate maintenance was signed. However, if abuse of a child of the~~  
25 ~~marriage or a child of one of the spouses is the basis for which the judg-~~  
26 ~~ment of separate maintenance was obtained, then a judgment of divorce~~  
27 ~~may be obtained if the spouses have been living separate and apart con-~~  
28 ~~tinuously without reconciliation for a period of one year from the date~~  
29 ~~the judgment of separate maintenance was signed.~~  
30 ~~—[(C) Notwithstanding any other law to the contrary and subsequent~~  
31 ~~to the parties obtaining counseling, the district court shall grant a decree~~  
32 ~~of separate maintenance to a spouse of a covenant marriage upon proof~~  
33 ~~of any of the following grounds:~~  
34 ~~—[(1) The other spouse has committed adultery.~~  
35 ~~—[(2) The other spouse has been convicted of capital murder K.S.A. 21-~~  
36 ~~3439 and amendments thereto, murder in the first degree, as provided in,~~  
37 ~~K.S.A. 21-3401, and amendments thereto, murder in the second degree,~~  
38 ~~as provided in, K.S.A. 21-3402, and amendments thereto, voluntary man-~~  
39 ~~slaughter, as provided in, K.S.A. 21-3403, and amendments thereto, in-~~  
40 ~~voluntary manslaughter, as provided in, K.S.A. 21-3404 or 21-3442, and~~  
41 ~~amendments thereto, rape, as provided in K.S.A. 21-3502, and amend-~~  
42 ~~ments thereto, indecent liberties with a child, as provided in, K.S.A. 21-~~  
43 ~~3503, and amendments thereto, aggravated indecent liberties with a child,~~

1 ~~as provided in, K.S.A. 21-3504, and amendments thereto, criminal sodomy~~  
 2 ~~subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto,~~  
 3 ~~aggravated criminal sodomy, as provided in, K.S.A. 21-3506, and amend-~~  
 4 ~~ments thereto, indecent solicitation of a child, as provided in, K.S.A. 21-~~  
 5 ~~3510, and amendments thereto, aggravated indecent solicitation of a child,~~  
 6 ~~as provided in, K.S.A. 21-3511, and amendments thereto, sexual exploi-~~  
 7 ~~tation of a child, as provided in, K.S.A. 21-3516, and amendments thereto,~~  
 8 ~~aggravated sexual battery, as provided in, K.S.A. 21-3518, and amend-~~  
 9 ~~ments thereto or any conviction for a felony offense that is comparable to~~  
 10 ~~a crime listed above, or any federal or other state conviction for a felony~~  
 11 ~~offense that under the laws of this state would be an offense as listed above.~~  
 12 ~~—[(3) The other spouse has abandoned the matrimonial domicile for a~~  
 13 ~~period of one year and constantly refuses to return.~~  
 14 ~~—[(4) The other spouse has physically or sexually abused the spouse~~  
 15 ~~seeking the divorce or a child of one of the spouses.~~  
 16 ~~—[(5) The spouses have been living separate and apart continuously~~  
 17 ~~without reconciliation for a period of two years.~~  
 18 ~~—[(6) On account of habitual intemperance of the other spouse, or ex-~~  
 19 ~~cesses, cruel treatment, or outrages of the other spouse, if habitual intem-~~  
 20 ~~perance, or such ill-treatment is of such a nature as to render their living~~  
 21 ~~together insupportable.]~~  
 22 Sec. ~~47. 52. [60.] 52.~~ K.S.A. 20-164, 20-165, 20-302b, 23-101, ~~[23-~~  
 23 ~~105, 23-106, 23-109,]~~ 23-201, 23-4,118, ~~[60-1601,]~~ 60-1606, 60-1608,  
 24 60-1611, 60-1612, 60-1613, 60-1616, 60-1620, 60-1629 and 60-3107 and  
 25 K.S.A. 2009 Supp. 12-5005 and 60-1610 are hereby repealed.  
 26 Sec. ~~48. 53. [61.] 53.~~ This act shall take effect and be in force from  
 27 and after its publication in the statute book.