

SESSION OF 2010

**CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE BILL NO. 2656**

As Agreed to March 25, 2010

**Brief\***

HB 2656, as amended, would amend the Kansas Code of Civil Procedure to be more in compliance with the federal Rules of Civil Procedure. Among other substantive changes, the bill would:

- Revise Kansas law on computation and extension of time to exclude the day of the event that triggers the period; count every day, including intermediate Saturdays, Sundays, and legal holidays; and include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period would continue until the end of the next day that is not a Saturday, Sunday, or legal holiday;
- Clarify that in the case of inaccessibility of the clerk's office, time for filing would be extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; and
- Amend the current 10-day period to file certain post-judgment motions to 28 days and prohibit any further extension of that time period.

**Conference Committee Action**

The 2010 Conference Committee has agreed to make further technical amendments to the bill, including reconciliation with another bill passed this session regarding days the clerk of the court is available.

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/klrd>

## **Background**

A member of the Judicial Council Civil Code Advisory Committee, who is a professor of law from Washburn University School of Law, addressed the House Committee in favor of the bill. He testified that although some of the proposed amendments in the bill are substantive in nature, the bulk of the amendments proposed in the bill are related to the comprehensive Federal Style Project which involved amendments to virtually every civil rule. The Federal Style Project was intended to clarify and simplify the rules so that they would be easier to use and understand, without making substantive changes. The Committee incorporated the federal style amendments in Kansas Code provisions modeled after the federal rules as well as in Kansas Code provisions that have no federal counterpart.

No opposition was expressed in the House Committee.

The House Committee of the Whole amendments were clarifying and technical in nature, except for one amendment which provides for the joinder of a contingently necessary party in an action to determine title or affect a security interest in real property if that party, as nominee of record, represents another party in a contract that has been made for the benefit of that other party.

A member of the Judicial Council Advisory Committee on Civil Procedure, who is a professor of law from Washburn University School of Law, addressed the Senate Committee in favor of the bill. He suggested several amendments be adopted in the bill. Written testimony in support of the amendment made by the House Committee of the Whole regarding joinder of a contingently necessary party was submitted by a representative of the Kansas Bankers Association, Mortgage Electronic Registrations Systems, Inc., and a law firm.

No opposition was expressed in the Senate Committee.

The Senate Committee amended the bill, at the suggestion of the Judicial Council, to:

- Clarify that when the findings and conclusions are made by a district magistrate judge, the time to file a motion for amended or additional findings is 14 days instead of 28 days;
- Clarify that when a judgment is rendered by a district magistrate judge, the time to file a motion for a new trial or to alter or amend judgment is 14 days instead of 28 days; and
- Add a new section providing for modification of judgment. The fiscal note indicates the Department of Revenue states that the bill would require revisions in the amount of time to accomplish certain tasks on ten Driver Control forms, including the implied consent forms used by law enforcement for chemical tests. In addition, the newly revised implied consent forms would have to be mailed to all law enforcement agencies before the effective date of the bill. It is estimated that \$40,000 in form revisions and mailing costs would be incurred but the cost could be absorbed within the Department's current budget.

The Office of Judicial Administration states that the bill would have no fiscal effect on the Judiciary. The Judicial Council is involved with updating forms, which is done electronically and could be completed with its current resources.

Kansas Code of Civil Procedure