

SENATE BILL No. 323

By Committee on Judiciary

1-14

1 AN ACT concerning civil procedure; relating to wage garnishment;
2 modifying the definition of earnings to include paid compensation for
3 wage garnishment exemption purposes; amending K.S.A. 60-2310 and
4 repealing the existing section.

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

7 Section 1. K.S.A. 60-2310 is hereby amended to read as follows: 60-
8 2310. (a) *Definitions.* As used in this act and the acts of which this act is
9 amendatory, unless the context otherwise requires, the following words
10 and phrases shall have the meanings respectively ascribed to them:

11 (1) "Earnings" means compensation *paid or* payable for personal
12 services, whether denominated as wages, salary, commission, bonus or
13 otherwise;

14 (2) "disposable earnings" means that part of the earnings of any
15 individual remaining after the deduction from such earnings of any
16 amounts required by law to be withheld;

17 (3) "wage garnishment" means any legal or equitable procedure
18 through which the earnings of any individual are required to be withheld
19 for payment of any debt; and

20 (4) "federal minimum hourly wage" means that wage prescribed by
21 subsection (a)(1) of section 6 of the federal fair labor standards act of
22 1938, and any amendments thereto.

23 (b) *Restriction on wage garnishment.* Subject to the provisions of
24 subsection (e), only the aggregate disposable earnings of an individual
25 may be subjected to wage garnishment. The maximum part of such
26 earnings of any wage earning individual ~~which~~ *who* may be subjected to
27 wage garnishment for any workweek or multiple thereof may not exceed
28 the lesser of: (1) ~~Twenty-five percent~~ 25% of the individual's aggregate
29 disposable earnings for that workweek or multiple thereof; (2) the amount
30 by which the individual's aggregate disposable earnings for that workweek
31 or multiple thereof exceed an amount equal to 30 times the federal
32 minimum hourly wage, or equivalent multiple thereof for such longer
33 period; or (3) the amount of the plaintiff's claim as found in the order for
34 garnishment. No one creditor may issue more than one garnishment
35 against the earnings of the same judgment debtor during any one 30-day
36 period, but the court shall allow the creditor to file amendments or

1 corrections of names or addresses of any party to the order of garnishment
2 at any time. In answering such order the garnishee-employer shall
3 withhold from all earnings of the judgment-debtor for any pay period or
4 periods ending during such 30-day period an amount or amounts as are
5 allowed and required by law. Nothing in this act shall be construed as
6 charging the plaintiff in any garnishment action with the knowledge of the
7 amount of any defendant's earnings prior to the commencement of such
8 garnishment action.

9 (c) *Sickness preventing work.* If any debtor is prevented from working
10 at the debtor's regular trade, profession or calling for any period greater
11 than two weeks because of illness of the debtor or any member of the
12 family of the debtor, and this fact is shown by the affidavit of the debtor,
13 the provisions of this section shall not be invoked against any such debtor
14 until after the expiration of two months after recovery from such illness.

15 (d) *Assignment of account.* If any person, firm or corporation sells or
16 assigns an account to any person or collecting agency, that person, firm or
17 corporation or their assignees shall not have or be entitled to the benefits
18 of wage garnishment. ~~The provision~~ *provisions* of this subsection shall not
19 apply to the following:

20 (1) Assignments of support rights to the secretary for children and
21 families pursuant to K.S.A. 39-709 and 39-756, and amendments thereto,
22 and support enforcement actions conducted by court trustees pursuant to
23 K.S.A. 23-492 et seq., and amendments thereto;

24 (2) support rights ~~which~~ *that* have been assigned to any other state
25 pursuant to title IV-D of the federal social security act, 42 U.S.C. § 651 et
26 seq.;

27 (3) assignments of accounts receivable or taxes receivable to the
28 director of accounts and reports made under K.S.A. 75-3728b, and
29 amendments thereto; or

30 (4) collections pursuant to contracts entered into in accordance with
31 K.S.A. 20-169, and amendments thereto, involving the collection of
32 restitution or debts to district courts.

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

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

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

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

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

1 (g) The maximum part of the aggregate disposable earnings of an
2 individual for any workweek—~~which~~ *that* is subject to garnishment to
3 enforce any order for the support of any person shall not exceed:

4 (1) If the individual is supporting a spouse or dependent child other
5 than a spouse or child with respect to whose support such order is used,
6 50% of the individual's disposable earnings for that week;

7 (2) if the individual is not supporting a spouse or dependent child
8 described in paragraph (1), 60% of such individual's disposable earnings
9 for that week; and

10 (3) with respect to the disposable earnings of any individual for any
11 workweek, the 50% specified in paragraph (1) shall be 55% and the 60%
12 specified in paragraph (2) shall be 65%, if such earnings are subject to
13 garnishment to enforce a support order for a period—~~which~~ *that* is prior to
14 the ~~twelve-week~~ *12-week* period—~~which~~ *that* ends with the beginning of
15 such workweek.

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

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