

## 2023 Kansas Statutes

**58-3623. Violation of donor-imposed restrictions prohibited; complaint of violation; jurisdiction, venue, damages, limitations; remedies available.** (a) Except where specifically required or authorized by federal or state law, including, but not limited to, K.S.A. 58-3616, and amendments thereto, no charitable organization that accepts a contribution of property of an endowment fund or to an endowment fund pursuant to an endowment agreement that imposes a written donor-imposed restriction shall violate the terms of that restriction.

(b) If a charitable organization violates a donor-imposed restriction contained in an endowment agreement, the donor, or the donor's legal representative, may file a complaint within two years after discovery of the violation for breach of such agreement but not more than 40 years after the date of the endowment agreement that established the endowment fund. The complaint may be filed in a court of general jurisdiction in the county of this state where a charitable organization named as a party has its principal office or principal place of carrying out its charitable purpose or in the county of residence of the donor. The complaint may be filed whether or not the endowment agreement expressly reserves a right to sue or a right of enforcement. A complaint filed pursuant to K.S.A. 2023 Supp. 58-3621 through 58-3624, and amendments thereto, shall not seek, or result in, a judgment awarding damages to the plaintiff.

(c) (1) If the court determines that a charitable organization violated a donor-imposed restriction, the court may order any remedy in law or equity that is consistent with and restores, to the extent possible, the donor's intent as expressed by the donor-imposed restrictions and conditions in the endowment agreement, including, but not limited to:

(A) Future compliance with or performance of donor-imposed restrictions or conditions on the use or expenditure of the gifted endowment property;

(B) restitution or restoration by the charitable organization of property to an endowment fund that has been expended or used by the charitable organization in contravention of donor-imposed restrictions;

(C) an accounting or the imposition of accounting requirements;

(D) restoration or a change to a name required by the donor-imposed restrictions;

(E) measures to preserve the property and value of the endowment fund;

(F) modification or release of a donor-imposed restriction or reformation or dissolution of the endowment agreement as permitted by Kansas law; or

(G) transfer of property from the endowment fund to another charitable organization as directed by the donor, but only if the transfer would not jeopardize or be inconsistent with the tax-exempt status of the original charitable organization.

Nothing in this section shall conflict with or affect K.S.A. 2023 Supp. 58-3623(b), and amendments thereto.

(2) The court shall not order the return of donated funds to the donor or the donor's legal representative or estate.

**History:** L. 2023, ch. 45, § 3; July 1.