

2012 Kansas Statutes

60-2419. Proceedings in aid of execution. When an execution against the judgment debtor or one of several debtors in the same judgment issued to the sheriff of the county where the debtor resides or, if the debtor does not reside in the state, to the sheriff of the county where judgment was rendered or a transcript of the judgment has been filed, is returned unsatisfied in whole or in part, the judgment creditor is entitled to have an order for a hearing in aid of execution by the district court of the county to which the execution was issued. If a judgment creditor, without having attempted execution, alleges that the judgment creditor is without sufficient knowledge of the debtor's assets to advise the sheriff where and on what to levy execution, the judgment creditor shall be entitled to have an order for a hearing in aid of execution by the district court of the county where the debtor resides and a transcript of the judgment has been filed or, if the debtor does not reside in the state, where judgment was rendered or a transcript of the judgment has been filed. An order for a hearing in aid of execution shall require the judgment debtor to appear and answer concerning the debtor's property and income, before the judge, or a referee appointed by the judge, at a time and place specified in the order, within the county where the court is located. Witnesses may also be subpoenaed to testify at the hearing. If, on proper application by the judgment creditor, the court finds that it will not cause undue hardship on the judgment debtor, the court may order a debtor residing in another county in this state to appear before the court for such a hearing.

If any person fails, neglects or refuses to appear and answer concerning the person's property and income at the time and place specified in an order for a hearing in aid of execution or, if any person subpoenaed to appear as a witness at the hearing fails, neglects or refuses to appear or to testify concerning anything about which the person can lawfully be interrogated, the person shall be guilty of contempt of court, and the court shall issue a citation requiring the person, at an early date specified in the citation, to appear before the court and show cause, if any, why the person should not be punished for contempt. If, after proper service of the citation by any officer or other person, the person does not appear before the court on the specified day or if it appears to the court that the person is hiding to avoid the process of the court or is about to leave the county for that purpose, the court may issue an attachment or bench warrant commanding the officer to whom it is directed to bring the person before the court to answer for contempt. If the court determines that any such person is guilty of contempt, the person shall be punished as the court directs.

At a hearing in aid of execution, when the existence of any nonexempt property of the judgment debtor is disclosed, the court shall order the debtor to deliver the property to the sheriff and shall also order the sheriff to accept its delivery. Upon receipt of the property, the sheriff shall give a receipt for it. If the property is other than currency, the sheriff shall sell the property, in the same manner as other property taken under execution is sold and the proceeds from the sale shall be applied to the judgment and costs.

If upon the hearing, it appears that the debtor may have income or property which the debtor will have in the future or refuses to disclose or apply to the judgment, the debtor may be ordered to return to the court from time to time, to appear before the court as the judge directs. Any debtor who fails to appear before the court as so ordered is guilty of contempt. The same procedure as provided above may be invoked at any time nonexempt property of the debtor is disclosed.

History: L. 1963, ch. 303, 60-2419; L. 1972, ch. 226, § 1; L. 1976, ch. 251, § 36; L. 1984, ch. 215, § 1; July 1.