

HOUSE BILL No. 2667

By Committee on Judiciary

2-5

9 AN ACT concerning domestic relations; relating to recodification of cer-
10 tain domestic relations matters; amending K.S.A. 20-164, 20-165, 20-
11 302b, 23-4,118, 60-1606, 60-1613, 60-1620, 60-1629 and 60-3107 and
12 K.S.A. 2009 Supp. 12-5005 and repealing the existing sections; also
13 repealing K.S.A. 23-101, 23-201, 60-1608, 60-1611, 60-1612 and 60-
14 1616 and K.S.A. 2009 Supp. 60-1610.
15

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

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

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

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

35 New Sec. 4. An action for divorce shall not be heard until 60 days
36 after the filing of the petition unless the judge enters an order declaring
37 the existence of an emergency, stating the precise nature of the emer-
38 gency, the substance of the evidence material to the emergency and the
39 names of the witnesses who gave the evidence. A request for an order
40 declaring the existence of an emergency may be contained in a pleading
41 or made by motion. Unless otherwise agreed by the parties, a request for
42 the declaration of an emergency shall not be heard prior to the expiration
43 of the time permitted for the filing of an answer. Unless waived, notice

1 of the hearing requesting the declaration of an emergency shall be given
2 to all parties not in default not less than seven days prior to the date of
3 the hearing. Upon a finding that an emergency exists, the divorce and all
4 issues pertaining thereto may be heard immediately.

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

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

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

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

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

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

39 (b) A judgment or decree of divorce rendered in any other state or
40 territory of the United States, in conformity with the laws thereof, shall
41 be given full faith and credit in this state, except that, if the respondent
42 in the action, at the time of the judgment or decree, was a resident of
43 this state and did not personally appear or defend the action in the court

1 of that state or territory and that court did not have jurisdiction over the
2 respondent's person, all matters relating to maintenance, property rights
3 of the parties and support of the minor children of the parties shall be
4 subject to inquiry and determination in any proper action or proceeding
5 brought in the courts of this state within two years after the date of the
6 foreign judgment or decree, to the same extent as though the foreign
7 judgment or decree had not been rendered. Nothing in this section shall
8 authorize a court of this state to enter a child custody determination, as
9 defined in K.S.A. 38-1337, and amendments thereto, contrary to the pro-
10 visions of the uniform child custody jurisdiction and enforcement act.

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

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

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

27 New Sec. 12. (a) All property owned by married persons, including
28 the present value of any vested or unvested military retirement pay, or,
29 for divorce or separate maintenance actions commenced on or after July
30 1, 1998, professional goodwill to the extent that it is marketable for that
31 particular professional, whether described in section 3, and amendments
32 thereto, or acquired by either spouse after marriage, and whether held
33 individually or by the spouses in some form of co-ownership, such as joint
34 tenancy or tenancy in common, shall become marital property at the time
35 of commencement by one spouse against the other of an action in which
36 a final decree is entered for divorce, separate maintenance, or annulment.

37 (b) Each spouse has a common ownership in marital property which
38 vests at the time of commencement of such action, the extent of the
39 vested interest to be determined and finalized by the court, pursuant to
40 section 13, and amendments thereto.

41 New Sec. 13. (a) The decree shall divide the real and personal prop-
42 erty of the parties, including any retirement and pension plans, whether
43 owned by either spouse prior to marriage, acquired by either spouse in

1 the spouse's own right after marriage or acquired by the spouses' joint
2 efforts, by: (1) A division of the property in kind; (2) awarding the property
3 or part of the property to one of the spouses and requiring the other to
4 pay a just and proper sum; or (3) ordering a sale of the property, under
5 conditions prescribed by the court, and dividing the proceeds of the sale.

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

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

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

31 Nothing in this section shall relieve the parties of the obligation to
32 effectuate any change in beneficiary designation by the filing of such
33 change with the insurer or issuer in accordance with the terms of such
34 policy.

35 New Sec. 14. (a) Any decree of divorce or separate maintenance may
36 award to either party an allowance for future support denominated as
37 maintenance, in an amount the court finds to be fair, just and equitable
38 under all of the circumstances.

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

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

43 New Sec. 15. At any time, on a hearing with reasonable notice to the

1 party affected, the court may modify the amounts or other conditions for
2 the payment of any portion of the maintenance originally awarded that
3 has not already become due, but no modification shall be made without
4 the consent of the party liable for the maintenance, if it has the effect of
5 increasing or accelerating the liability for the unpaid maintenance beyond
6 what was prescribed in the original decree.

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

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

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

35 New Sec. 18. The court shall determine custody or residency of a
36 child in accordance with the best interests of the child.

37 New Sec. 19. If the parties have entered into a parenting plan, it
38 shall be presumed that the agreement is in the best interests of the child.
39 This presumption may be overcome and the court may make a different
40 order if the court makes specific findings of fact stating why the agreed
41 parenting plan is not in the best interests of the child.

42 New Sec. 20. In determining the issue of child custody, residency
43 and parenting time, the court shall consider all relevant factors, including

1 but not limited to:

- 2 (a) The length of time that the child has been under the actual care
3 and control of any person other than a parent and the circumstances
4 relating thereto;
- 5 (b) the desires of the child's parents as to custody or residency;
- 6 (c) the desires of the child as to the child's custody or residency;
- 7 (d) the interaction and interrelationship of the child with parents,
8 siblings and any other person who may significantly affect the child's best
9 interests;
- 10 (e) the child's adjustment to the child's home, school and community;
- 11 (f) the willingness and ability of each parent to respect and appreciate
12 the bond between the child and the other parent and to allow for a con-
13 tinuing relationship between the child and the other parent;
- 14 (g) evidence of spousal abuse;
- 15 (h) whether a parent is subject to the registration requirements of
16 the Kansas offender registration act, K.S.A. 22-4901, et seq., and amend-
17 ments thereto, or any similar act in any other state, or under military or
18 federal law;
- 19 (i) whether a parent has been convicted of abuse of a child, K.S.A.
20 21-3609, and amendments thereto;
- 21 (j) whether a parent is residing with an individual who is subject to
22 registration requirements of the Kansas offender registration act, K.S.A.
23 22-4901, et seq., and amendments thereto, or any similar act in any other
24 state, or under military or federal law; and
- 25 (k) whether a parent is residing with an individual who has been con-
26 victed of abuse of a child, K.S.A. 21-3609, and amendments thereto.

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

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

- 35 (a) Is residing with an individual who is subject to registration
36 requirements of the Kansas offender registration act, K.S.A. 22-4901, et
37 seq., and amendments thereto, or any similar act in any other state, or
38 under military or federal law; or
- 39 (b) is residing with an individual who has been convicted of abuse of
40 a child, K.S.A. 21-3609, and amendments thereto.

41 New Sec. 23. Subject to the provisions of this article, the court may
42 make any order relating to custodial arrangements which is in the best
43 interests of the child. The order shall provide one of the following legal

1 custody arrangements, in the order of preference: (a) *Joint legal cus-*
2 *tody.* The court may order the joint legal custody of a child with both
3 parties. In that event, the parties shall have equal rights to make decisions
4 in the best interests of the child.

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

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

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

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

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

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

36 (C) immediate placement of the child is in the best interest of the
37 child; and

38 (2) reasonable efforts have been made to maintain the family unit
39 and prevent the unnecessary removal of the child from the child's home
40 or that an emergency exists which threatens the safety to the child. In
41 making such a residency order, the court shall give preference, to the
42 extent that the court finds it is in the best interests of the child, first to
43 awarding such residency to a relative of the child by blood, marriage or

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

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

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

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

35 New Sec. 26. (a) Subject to the provisions of the uniform child cus-
36 tody jurisdiction and enforcement act (K.S.A. 38-1336 through 38-1377,
37 and amendments thereto), the court may change or modify any prior
38 order of custody, residency, visitation and parenting time, when a material
39 change of circumstances is shown, but no ex parte order shall have the
40 effect of changing residency of a minor child from the parent who has
41 had the sole de facto residency of the child to the other parent unless
42 there is sworn testimony to support a showing of extraordinary circum-
43 stances. If an interlocutory order is issued ex parte, the court shall hear

1 a motion to vacate or modify the order within 15 days of the date that a
2 party requests a hearing whether to vacate or modify the order.

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

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

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

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

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

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

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

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

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

37 (2) Any party may petition the court to modify an order granting
38 visitation rights or parenting time to require that the exchange or transfer
39 of children for visitation or parenting time take place at a child exchange
40 and visitation center, as established in K.S.A. 75-720, and amendments
41 thereto. The court may modify an order granting visitation whenever
42 modification would serve the best interests of the child.

43 New Sec. 30. (a) In any action for divorce or separate maintenance

1 the court shall make provisions for the support and education of the minor
2 children.

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

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

35 New Sec. 31. In determining the amount to be paid for child sup-
36 port, the court shall consider all relevant factors, without regard to marital
37 misconduct, including the financial resources and needs of both parents,
38 the financial resources and needs of the child and the physical and emo-
39 tional condition of the child. Until a child reaches 18 years of age, the
40 court may set apart any portion of property of either the husband or wife,
41 or both, that seems necessary and proper for the support of the child.

42 New Sec. 32. The court may order that each parent execute any and
43 all documents, including any releases, necessary so that both parents may

1 obtain information from and to communicate with any health insurance
2 provider regarding the health insurance coverage provided by such health
3 insurance provider to the child. The provisions of this paragraph shall
4 apply irrespective of which parent owns, subscribes or pays for such
5 health insurance coverage.

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

17 New Sec. 34. (a) The court may modify or change any prior order,
18 including any order issued in a title IV-D case, within three years of the
19 date of the original order or a modification order, when a material change
20 in circumstances is shown, irrespective of the present domicile of the
21 child or the parents. If more than three years has passed since the date
22 of the original order or modification order, a material change in circum-
23 stance need not be shown.

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

29 New Sec. 35. If the divorce decree of the parties provides for an
30 abatement of child support during any period provided in such decree,
31 the child support such nonresidential parent owes for such period shall
32 abate during such period of time, except that if the residential parent
33 shows that the criteria for the abatement has not been satisfied there shall
34 not be an abatement of such child support.

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

39 Sec. 37. K.S.A. 2009 Supp. 12-5005 is hereby amended to read as
40 follows: 12-5005. (a) Every retired member of a local police or fire pen-
41 sion plan and every active member of the plan who is entitled to make
42 an election to become a member of the Kansas police and firemen's re-
43 tirement system pursuant to K.S.A. 12-5003 or 74-4955 and amendments

1 thereto and who does not so elect shall become a special member of the
2 Kansas police and firemen's retirement system on the entry date of the
3 city which is affiliating with the Kansas police and firemen's retirement
4 system with regard to all active members and retired members of the
5 local police or fire pension plan under K.S.A. 74-4954 and amendments
6 thereto.

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

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

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

1 nature. However, all such benefits paid shall be paid in accordance with
2 the applicable requirements under section 401 (a)(9) of the federal in-
3 ternal revenue code of 1986 as applicable to governmental plans, as in
4 effect on July 1, 2008, and the regulations thereto, as in effect on July 1,
5 2008, and in accordance with the provisions of K.S.A. 74-49,123, and
6 amendments thereto. Any retiree employed by a participating employer
7 in the Kansas police and firemen's retirement system shall not make con-
8 tributions or receive additional credit under the system for that service.
9 This subsection, except as it relates to contributions and additional credit,
10 shall not apply to the employment of any retiree by the state of Kansas,
11 or any county, city, township, special district, political subdivision or in-
12 strumentality of any one or several of the aforementioned for a period of
13 not exceeding 30 days in any one calendar year.

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

36 (2) Every pension or other benefit received by any special member
37 pursuant to subsection (c) or (d) is hereby made and declared exempt
38 from any tax of the state of Kansas or any political subdivision or taxing
39 body of this state; shall not be subject to execution, garnishment, attach-
40 ment or any other process or claim whatsoever, except such pension or
41 benefit or any accumulated contributions due and owing from the system
42 to such special members are subject to claims of an alternate payee under
43 a qualified domestic relations order. As used in this subsection, the terms

1 “alternate payee” and “qualified domestic relations order” shall have the
2 meaning ascribed to them in section 414(p) of the federal internal reve-
3 nue code of 1986, as in effect on July 1, 2008. The provisions of this
4 subsection shall apply to any qualified domestic relations order which is
5 in effect on or after July 1, 1994.

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

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

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

30 Sec. 38. K.S.A. 20-164 is hereby amended to read as follows: 20-164.

31 (a) The supreme court shall establish by rule an expedited judicial process
32 which shall be used in the establishment, modification and enforcement
33 of orders of support pursuant to the Kansas parentage act; K.S.A. 23-451
34 et seq., 39-718a, 39-755, ~~60-1610~~, and amendments thereto; or K.S.A.
35 39-718b, and amendments thereto; K.S.A. ~~2007~~ 2009 Supp. 38-2243, 38-
36 2244 or 38-2255, and amendments thereto; or K.S.A. 23-4,105 through
37 23-4,118 and amendments thereto; ~~or~~ K.S.A. 23-4,125 through 23-4,137,
38 and amendments thereto; *or sections 7, 9, 10, 13, 14, 15, 16, 17, 18, 19,*
39 *20, 21, 22, 23, 24, 26, 30, 31, 32, 33, 34 and 35, and amendments thereto.*

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

43 Sec. 39. K.S.A. 20-165 is hereby amended to read as follows: 20-165.

1 The supreme court shall adopt rules establishing guidelines for the
2 amount of child support to be ordered in any action in this state including,
3 but not limited to, K.S.A. 38-1121, 39-755 and ~~60-1610~~ sections 7, 9, 10,
4 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 30, 31, 32, 33, 34 and
5 35, and amendments thereto. In adopting such rules, the court shall con-
6 sider the criteria in K.S.A. 38-1121, *and amendments thereto*.

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

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

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

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

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

43 (5) actions to foreclose real estate mortgages or to establish and fore-

1 close liens on real estate as provided in the acts contained in article 11 of
2 chapter 60 of the Kansas Statutes Annotated, and amendments thereto;

3 (6) actions for divorce, separate maintenance or custody of minor
4 children. Nothing in this paragraph shall be construed as limiting the
5 power of a district magistrate judge to: (A) Except as provided in subsec-
6 tion (e), hear any action pursuant to the Kansas code for care of children
7 or the revised Kansas juvenile justice code; (B) establish, modify or en-
8 force orders of support, including, but not limited to, orders of support
9 pursuant to the Kansas parentage act, K.S.A. 23-9,101 et seq., 39-718b,
10 39-755 or ~~60-1610~~ or K.S.A. 23-4,105 through 23-4,118, 23-4,125 through
11 23-4,137, or K.S.A. 2007 Supp. 38-2338, 38-2339 ~~or~~, 38-2350 or sections
12 7, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 30, 31, 32, 33,
13 34 and 35, and amendments thereto; or (C) enforce orders granting vis-
14 itation rights or parenting time;

15 (7) habeas corpus;

16 (8) receiverships;

17 (9) change of name;

18 (10) declaratory judgments;

19 (11) mandamus and quo warranto;

20 (12) injunctions;

21 (13) class actions;

22 (14) rights of majority; and

23 (15) actions pursuant to K.S.A. 59-29a01 et seq. and amendments
24 thereto.

25 (b) Notwithstanding the provisions of subsection (a), in the absence,
26 disability or disqualification of a district judge, a district magistrate judge
27 may:

28 (1) Grant a restraining order, as provided in K.S.A. 60-902 and
29 amendments thereto;

30 (2) appoint a receiver, as provided in K.S.A. 60-1301 and amend-
31 ments thereto; and

32 (3) make any order authorized by K.S.A. 60-1607 and amendments
33 thereto.

34 (c) In accordance with the limitations and procedures prescribed by
35 law, and subject to any rules of the supreme court relating thereto, any
36 appeal permitted to be taken from an order or final decision of a district
37 magistrate judge shall be tried and determined *de novo* by a district judge,
38 except that in civil cases where a record was made of the action or pro-
39 ceeding before the district magistrate judge, the appeal shall be tried and
40 determined on the record by a district judge.

41 (d) Except as provided in subsection (e), upon motion of a party, the
42 chief judge may reassign an action from a district magistrate judge to a
43 district judge.

1 (e) Upon motion of a party for a petition or motion filed under the
2 Kansas code for care of children requesting termination of parental rights
3 pursuant to K.S.A. 2007 Supp. 38-2361 through 38-2367, and amend-
4 ments thereto, the chief judge shall reassign such action from a district
5 magistrate judge to a district judge.

6 Sec. 41. K.S.A. 23-4,118 is hereby amended to read as follows: 23-
7 4,118. (a) The department of social and rehabilitation services, the title
8 IV-D agency for the state, shall maintain a central unit for collection and
9 disbursement of support payments to meet the requirements of title IV-
10 D and this section. Such central unit shall be known as the Kansas pay-
11 ment center. The name "Kansas payment center" shall be reserved for
12 use by the state of Kansas for the functions of the central unit and shall
13 not be used by any entity without the consent of the secretary of social
14 and rehabilitation services.

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

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

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

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

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

1 to assist in the process of matching support payments to the correct
2 accounts.

3 (5) The Kansas payment center shall provide sufficient customer
4 service staff during regular business hours. Obligor and obligees shall be
5 provided 24-hour access to information about the status of receipts and
6 disbursements, including, but not limited to, date of receipt by the center,
7 date of processing by the center and date of disbursement to the obligee.

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

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

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

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

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

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

41 (3) To the extent that the secretary of social and rehabilitation serv-
42 ices would be required to treat as federal program income any amount
43 transferable to the state treasurer pursuant to this subsection or the un-

1 claimed property act, such amount shall not be presumed abandoned but
2 shall be held by the secretary until the amount may be delivered to the
3 true owner. The secretary and the state treasurer shall collaborate on
4 procedures for locating the true owner and confirming claims to amounts
5 so held.

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

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

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

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

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

1 and any other expenses incurred by the other parent by reason of the
2 failure to give notice.

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

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

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

42 (b) Failure to give notice as required by subsection (a) is an indirect
43 civil contempt punishable as provided by law. In addition, the court may

1 assess, against the parent required to give notice, reasonable attorney fees
2 and any other expenses incurred by the other parent by reason of the
3 failure to give notice.

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

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

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

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

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

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

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

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

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

43 (8) Making provision for the possession of personal property of the

1 parties and ordering a law enforcement officer to assist in securing pos-
2 session of that property, if necessary.

3 (9) Requiring any person against whom an order is issued to seek
4 counseling to aid in the cessation of abuse.

5 (10) Ordering or restraining any other acts deemed necessary to pro-
6 mote the safety of the plaintiff or of any minor children of the parties.

7 (b) No protection from abuse order shall be entered against the plain-
8 tiff unless:

9 (1) The defendant properly files a written cross or counter petition
10 seeking such a protection order;

11 (2) the plaintiff had reasonable notice of the written cross or counter
12 petition by personal service as provided in subsection (d) of K.S.A. 60-
13 3104, and amendments thereto; and

14 (3) the issuing court made specific findings of abuse against both the
15 plaintiff and the defendant and determined that both parties acted pri-
16 marily as aggressors and neither party acted primarily in self-defense.

17 (c) Any order entered under the protection from abuse act shall not
18 be subject to modification on ex parte application or on motion for tem-
19 porary orders in any action filed pursuant to K.S.A. 60-1601 et seq., or
20 K.S.A. 38-1101 et seq., and amendments thereto. Orders previously is-
21 sued in an action filed pursuant to K.S.A. 60-1601 et seq., or K.S.A. 38-
22 1101 et seq., and amendments thereto, shall be subject to modification
23 under the protection from abuse act only as to those matters subject to
24 modification by the terms of ~~K.S.A. 60-1610 et seq.~~ *sections 7, 9, 10, 13,*
25 *14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 30, 31, 32, 33, 34 and 35,*
26 and amendments thereto, and on sworn testimony to support a showing
27 of good cause. Immediate and present danger of abuse to the plaintiff or
28 minor children shall constitute good cause. If an action is filed pursuant
29 to ~~K.S.A. 60-1610 et seq.~~ *sections 7, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20,*
30 *21, 22, 23, 24, 26, 30, 31, 32, 33, 34 and 35,* or K.S.A. 38-1101 et seq.,
31 and amendments thereto, during the pendency of a proceeding filed un-
32 der the protection from abuse act or while an order issued under the
33 protection from abuse act is in effect, the court, on final hearing or on
34 agreement of the parties, may issue final orders authorized by ~~K.S.A. 60-~~
35 ~~1610~~ *sections 7, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26,*
36 *30, 31, 32, 33, 34 and 35,* and amendments thereto, that are inconsistent
37 with orders entered under the protection from abuse act. Any inconsistent
38 order entered pursuant to this subsection shall be specific in its terms,
39 reference the protection from abuse order and parts thereof being mod-
40 ified and a copy thereof shall be filed in both actions. The court shall
41 consider whether the actions should be consolidated in accordance with
42 K.S.A. 60-242 and amendments thereto.

43 (d) If the parties to an action under the protection from abuse act

1 are not married to each other and one party owns the residence or house-
2 hold, the court shall not have the authority to grant possession of the
3 residence or household under subsection (a)(2) to the exclusion of the
4 party who owns it.

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

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

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

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

25 Sec. 47. K.S.A. 20-164, 20-165, 20-302b, 23-101, 23-201, 23-4,118,
26 60-1606, 60-1608, 60-1611, 60-1612, 60-1613, 60-1616, 60-1620, 60-1629
27 and 60-3107 and K.S.A. 2009 Supp. 12-5005 and 60-1610 are hereby
28 repealed.

29 Sec. 48. This act shall take effect and be in force from and after its
30 publication in the statute book.