

HOUSE BILL No. 2610

AN ACT concerning civil procedure; relating to service outside the state; jurisdiction; amending K.S.A. 60-308 and repealing the existing section.

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

Section 1. K.S.A. 60-308 is hereby amended to read as follows: 60-308. (a) *Proof and effect.* (1) Service of process may be made upon any party outside the state. If upon a person domiciled in this state or upon a person who has submitted to the jurisdiction of the courts of this state, ~~it shall have the force and effect of service of process within this state; otherwise it shall have the force and effect of service by publication such~~ *service shall provide personal jurisdiction over that party; otherwise it shall provide in rem jurisdiction over specifically identified property that party may have in the state.*

(2) The service of process shall be made (A) in the same manner as service within this state, by any officer authorized to make service of process in this state or in the state where the defendant is served or (B) by sending a copy of the process and of the petition or other document to the person to be served in the manner provided in subsection ~~(c)~~ (d). No order of a court is required. An affidavit, or any other competent proofs, of the server shall be filed stating the time, manner and place of service. The court may consider the affidavit, or any other competent proofs, in determining whether service has been properly made.

(3) No default shall be entered until the expiration of at least 30 days after service. A default judgment rendered on service outside this state may be set aside only on a showing which would be timely and sufficient to set aside a default judgment under subsection (b) of K.S.A. 60-260, and amendments thereto.

(b) ~~Submitting to jurisdiction — process.~~ (1) Any person, whether or not a citizen or resident of this state, who in person or through an agent or instrumentality does any of the acts hereinafter enumerated, thereby submits the person and, if an individual, the individual's personal representative, to the jurisdiction of the courts of this state as to any cause of action arising from the doing of any of these acts:

~~(1)~~ (A) Transaction of any business within this state;
~~(2)~~ (B) commission of a tortious act within this state;
~~(3)~~ (C) ownership, use or possession of any real estate situated in this state;

~~(4)~~ (D) contracting to insure any person, property or risk located within this state at the time of contracting;

~~(5)~~ (E) entering into an express or implied contract, by mail or otherwise, with a resident of this state to be performed in whole or in part by either party in this state;

~~(6)~~ (F) acting within this state as director, manager, trustee or other officer of any corporation organized under the laws of or having a place of business within this state or acting as executor or administrator of any estate within this state;

~~(7)~~ (G) causing to persons or property within this state any injury arising out of an act or omission outside of this state by the defendant if, at the time of the injury either ~~(A)~~ (i) the defendant was engaged in solicitation or service activities within this state; or ~~(B)~~ (ii) products, materials or things processed, serviced or manufactured by the defendant anywhere were used or consumed within this state in the ordinary course of trade or use;

~~(8)~~ (H) living in the marital relationship within the state notwithstanding subsequent departure from the state, as to all obligations arising for maintenance, child support or property settlement under article 16 of this chapter, if the other party to the marital relationship continues to reside in the state;

~~(9)~~ (I) serving as the insurer of any person at the time of any act by the person which is the subject of an action in a court of competent jurisdiction within the state of Kansas which results in judgment being taken against the person;

~~(10)~~ (J) performing an act of sexual intercourse within the state, as to an action against a person seeking to adjudge the person to be a parent of a child and as to an action to require the person to provide support for a child as provided by law, if ~~(A)~~ (i) the conception of the child results from the act and ~~(B)~~ (ii) the other party to the act or the child continues to reside in the state; or

~~(11)~~ (K) entering into an express or implied arrangement, whether

by contract, tariff or otherwise, with a corporation or partnership, either general or limited, residing or doing business in this state under which such corporation or partnership has supplied transportation services, or communication services or equipment, including, without limitation, telephonic communication services, for a business or commercial user where the services supplied to such user are managed, operated or monitored within the state of Kansas, provided that such person is put on reasonable notice that arranging or continuing such transportation services or telecommunication services may result in the extension of jurisdiction pursuant to this section.

(2) *A person may be considered to have submitted to the jurisdiction of the courts of this state for a cause of action which did not arise in this state if substantial, continuous and systematic contact with this state is established that would support jurisdiction consistent with the constitutions of the United States and of this state.*

~~(c) Service of process upon any person who is subject to the jurisdiction of the courts of this state, as provided in subsection (b), may be made by serving the process upon the defendant outside this state, as provided in subsection (a)(2), with the same force and effect as though process had been served within this state, but only causes of action arising from acts enumerated in subsection (b) may be asserted against a defendant in an action in which jurisdiction over the defendant is based upon this subsection.~~

~~(d)~~ (c) Nothing contained in this section limits or affects the right to serve any process in any other manner provided by law, *including, but not limited to, K.S.A. 17-7301, 17-7307, 40-218 and 50-631, and amendments thereto.*

~~(e)~~ (d) *Service by return receipt delivery.* (1) Service of any out-of-state process by return receipt delivery shall include service effected by certified mail, priority mail, commercial courier service, overnight delivery service, or other reliable personal delivery service to the party addressed, in each instance evidenced by a written or electronic receipt showing to whom delivered, date of delivery, address where delivered, and person or entity effecting delivery. (2) The party or party's attorney shall cause a copy of the process and petition or other document to be placed in a sealed envelope addressed to the person to be served in accordance with K.S.A. 60-304, and amendments thereto, with postage or other delivery fees prepaid, and the sealed envelope placed in the custody of the person or entity effecting delivery. (3) Service of process shall be considered obtained under K.S.A. 60-203, and amendments thereto, upon the delivery of the sealed envelope. (4) After service and return of the return receipt, the party or party's attorney shall execute a return on service stating the nature of the process, to whom delivered, the date, the address where delivered and the person or entity effecting delivery. The original return of service shall be filed with the clerk, along with a copy of the return receipt evidencing such delivery. (5) If the sealed envelope is returned with an endorsement showing refusal to accept delivery, the party or the party's attorney may send a copy of the process and petition or other document by first-class mail addressed to the party to be served, or may elect other methods of service. If mailed, service shall be considered obtained three days after the mailing by first-class mail, postage prepaid, which shall be evidenced by a certificate of service filed with the clerk. If the unopened envelope sent first-class mail is returned as undelivered for any reason, the party or party's attorney shall file an amended certificate of service with the clerk indicating nondelivery, and service by such mailing shall not be considered obtained. Mere failure to claim return receipt delivery is not refusal of service within the meaning of this subsection.

Sec. 2. K.S.A. 60-308 is hereby repealed.

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

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.