

2012 Kansas Statutes

20-1204a. Indirect contempt; procedure. (a) When an order in a civil action has been entered, the court that rendered the same may order a person alleged to be guilty of indirect contempt of such order to appear and show cause why such person should not be held in contempt if there is filed a motion requesting an order to appear and show cause which is accompanied by an affidavit specifically setting forth the facts constituting the alleged violation.

(b) Except as provided in subsection (e), the order to appear and show cause shall be served upon the party allegedly in contempt by the sheriff or some other person appointed by the court for such purpose. Such order shall state the time and place where the person is to appear and shall be accompanied by a copy of the affidavit provided for in subsection (a). The court shall hear the matter at the time specified in the order, and upon proper showing, may extend the time so as to give the accused a reasonable opportunity to purge oneself of the contempt. If the court determines that a person is guilty of contempt such person shall be punished as the court shall direct.

(c) If, after proper service of the order to appear and show cause, the person served shall not appear in court as ordered, or if the court finds at a hearing held on motion of a party to the civil action that the person allegedly in contempt is secreting oneself to avoid the process of the court, the court may issue a bench warrant commanding that the person be brought before the court to answer for contempt. When such person is brought before the court, the court shall proceed as provided in subsection (b). The court may make such orders concerning the release of the person pending the hearing as the court deems proper.

(d) The provisions of this section shall apply to both criminal and civil contempts, but in the case of a criminal contempt the court on its own motion may cause the motion and affidavit provided for in subsection (a) to be filed.

(e) In cases involving an alleged violation of a restraining order issued pursuant to subsection (a)(2) of K.S.A. 2012 Supp. 23-2707, and amendments thereto, if the affidavit filed pursuant to subsection (a) alleges physical abuse in violation of the court's order, the court immediately may issue a bench warrant and proceed as provided in subsection (c).

(f) If a person is found guilty of contempt in a child support enforcement proceeding, including an assignment of child support rights to the commissioner of juvenile justice and the evidence shows that the person is or may be authorized to practice a profession by a licensing body as defined in K.S.A. 74-146, and amendments thereto, the court, in addition to any other remedies, may order that a notice pursuant to subsection (a) of K.S.A. 74-147, and amendments thereto, be served on the licensing body. If the person found guilty of contempt as provided in this subsection is a licensed attorney, the court may file a complaint with the disciplinary administrator if the licensing agency is the Kansas supreme court, or the appropriate bar counsel's office if the licensee practices in another state.

(g) If a person is found guilty of contempt in a child support enforcement proceeding, including an assignment of child support rights to the commissioner of juvenile justice, in an amount equal to or greater than the amount of support payable for six months or the obligor has been ordered by the court to pay a sum certain each month toward the liquidation of the arrearages and the obligor has substantially failed to abide by that order, the court may restrict the obligor's driver's license. Such restriction may include, but not be limited to, driving to, from and during the course of such person's employment. The court may order the public office, as defined in K.S.A. 2012 Supp. 23-3102, and amendments thereto, to contact the division of vehicles of the department of revenue to restrict the obligor's driver's license as indicated in the court order until further order of the court.

(h) The court shall not recognize a motion to issue nor order in a civil or criminal action a contempt citation against any person who reports or publishes the information that a gag order has been issued by the court.

History: L. 1978, ch. 114, § 1; L. 1994, ch. 292, § 17; L. 1994, ch. 327, § 1; L. 1996, ch. 229, § 17; L. 1996, ch. 229, § 18; L. 2012, ch. 162, § 31; May 31.