

SENATE BILL No. 18

By Committee on Judiciary

1-15

1 AN ACT concerning civil procedure; relating to restraining orders;
2 amending K.S.A. 60-903 and repealing the existing section.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 60-903 is hereby amended to read as follows: 60-
6 903. ~~(a) No notice or bond required. A restraining order may issue without~~
7 ~~notice or bond, except as provided in subsection (b) of K.S.A. 60-904, and~~
8 ~~amendments thereto, but if it appears to the judge that a restraining order~~
9 ~~may result in damage to the party restrained, a bond to secure payment of~~
10 ~~any damages sustained may be required. An application for a restraining~~
11 ~~order shall also be considered as an application for a temporary injunction~~
12 ~~and either party may give notice of hearing thereon. The order shall remain~~
13 ~~in force until the hearing on the application for a temporary injunction.~~

14 *(a) Temporary restraining order; issuing without notice. Except as*
15 *provided in subsection (b) of K.S.A. 60-904, and amendments thereto, the*
16 *court may issue a temporary restraining order without notice or bond to*
17 *the adverse party or its attorney only if:*

18 *(1) Specific facts in an affidavit or a verified complaint clearly show*
19 *that immediate and irreparable injury, loss or damage will result to the*
20 *movant before the adverse party can be heard in opposition;*

21 *(2) the movant's attorney certifies in writing any efforts made to give*
22 *notice and the reasons why it should not be required; and*

23 *(3) notice of the issuance of a temporary restraining order is*
24 *provided to the attorney general of the state of Kansas if the adverse party*
25 *is the state of Kansas or an agency, officer or employee thereof.*

26 *(b) Contents; expiration. Every temporary restraining order issued*
27 *without notice must state the date and hour it was issued, describe the*
28 *injury and state why it is irreparable, state why the order was issued*
29 *without notice and be promptly filed in the clerk's office and entered in the*
30 *record. The order expires at the time after entry, not to exceed 14 days,*
31 *that the court sets, unless before that time the court, for good cause,*
32 *extends it for a like period or the adverse party consents to a longer*
33 *extension. The reasons for an extension must be entered in the record.*

34 *(c) Expediting the preliminary injunction hearing. If the temporary*
35 *restraining order is issued without notice, the motion for a preliminary*
36 *injunction must be set for hearing at the earliest possible time, taking*

1 *precedence over all other matters except hearings on older matters of the*
2 *same character. At the hearing, the party who obtained the order must*
3 *proceed with the motion, and if the party does not, the court must dissolve*
4 *the order.*

5 *(d) Service. Where a temporary restraining order is issued without*
6 *notice, it shall be served upon each party restrained in the manner*
7 *prescribed for personal service of a summons.*

8 *(e) Motion to Dissolve. On two days' notice to the party who obtained*
9 *the temporary restraining order without notice, or on shorter notice set by*
10 *the court, the adverse party may appear and move to dissolve or modify*
11 *the order. The court must then hear and decide the motion as promptly as*
12 *justice requires.*

13 *(f) Security. The court may issue a preliminary injunction or a*
14 *temporary restraining order only if the movant gives security in an amount*
15 *that the court considers proper to pay the costs and damages sustained by*
16 *any party found to have been wrongfully enjoined or restrained. The state*
17 *of Kansas or an agency, officer or employee thereof, is not required to give*
18 *security.*

19 Sec. 2. K.S.A. 60-903 is hereby repealed.

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