

Kansas Divorce Laws

Chapter 23.--DOMESTIC RELATIONS

Article 1.--MARRIAGE

23-101. Nature of marriage relation.

(a) The marriage contract is to be considered in law as a civil contract between two parties who are of opposite sex. All other marriages are declared to be contrary to the public policy of this state and are void. The consent of the parties is essential. The marriage ceremony may be regarded either as a civil ceremony or as a religious sacrament, but the marriage relation shall only be entered into, maintained or abrogated as provided by law.

(b) The state of Kansas shall not recognize a common-law marriage contract if either party to the marriage contract is under 18 years of age.

Article 2.--MARRIED PERSONS

23-201. Married persons; separate property; marital property.

(a) The property, real and personal, which any person in this state may own at the time of the person's marriage, and the rents, issues, profits or proceeds thereof, and any real, personal or mixed property which shall come to a person by descent, devise or bequest, and the rents, issues, profits or proceeds thereof, or by gift from any person except the person's spouse, shall remain the person's sole and separate property, notwithstanding the marriage, and not be subject to the disposal of the person's spouse or liable for the spouse's debts.

(b) All property owned by married persons, including the present value of any vested or unvested military retirement pay, or, for divorce or separate maintenance actions commenced on or after July 1, 1998, professional goodwill to the extent that it is marketable for that particular professional, whether described in subsection (a) or acquired by either spouse after marriage, and whether held individually or by the spouses in some form of co-ownership, such as joint tenancy or tenancy in common, shall become marital property at the time of commencement by one spouse against the other of an action in which a final decree is entered for divorce, separate maintenance, or annulment. Each spouse has a common ownership in marital property which vests at the time of commencement of such action, the extent of the vested interest to be determined and finalized by the court, pursuant to K.S.A. 60-1610 and amendments thereto.

23-208. Alienation of affections actions abolished.

There shall be no right to bring an action in this state to recover damages for alienation of affections based on any act done on or after July 1, 1982.

Article 6.--MEDIATION OF DOMESTIC DISPUTES

23-601. Mediation; defined.

Mediation under this section is the process by which a neutral mediator appointed by the court, or by a hearing officer, assists the parties in reaching a mutually acceptable agreement as to issues of child custody, residency, visitation, parenting time, division of property or other issues. The role of the mediator is to aid the parties in identifying the issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise and finding points of agreement. An agreement reached by the parties is to be based on the decisions of the parties and not the decisions of the mediator.

23-602. Same; when ordered; appointment and qualifications of mediator.

(a) The court or hearing officer may order mediation of any contested issue of child custody, residency, visitation, parenting time, division of property or other issues, at any time, upon motion of a party or on the court's own motion.

(b) If the court or hearing officer orders mediation under subsection (a), the court or hearing officer shall appoint a mediator, taking into consideration the following:

(1) An agreement by the parties to have a specific mediator appointed by the court or hearing officer;

(2) the nature and extent of any relationships the mediator may have with the parties and any personal, financial or other interests the mediator may have which could result in bias or a conflict of interest;

(3) the mediator's knowledge of (A) the Kansas judicial system and the procedure used in domestic relations cases, (B) other resources in the community to which parties can be referred for assistance, (C) child development, (D) clinical issues relating to children, (E) the effects of divorce on children and (F) the psychology of families; and

(4) the mediator's training and experience in the process and techniques of mediation.

23-603. Duties of mediator.

(a) A mediator appointed under K.S.A. 23-602 and amendments thereto shall:

(1) Inform the parties of the costs of mediation;

(2) advise the parties that the mediator does not represent either or both of the parties;

(3) define and describe the process of mediation to the parties;

(4) disclose the nature and extent of any relationships with the parties and any personal, financial or other interests which could result in bias or a conflict of interest;

(5) advise each of the parties to obtain independent legal advice;

(6) allow only the parties to attend the mediation sessions;

(7) disclose to the parties' attorneys any factual documentation revealed during the mediation if at the end of the mediation process the disclosure is agreed to by the parties;

(8) ensure that the parties consider fully the best interests of the children and that the parties understand the consequences of any decision they reach concerning the children; and

(9) inform the parties of the extent to which information obtained from and about the participants through the mediation process is not privileged and may be subject to disclosure.

(b) The mediator may meet with the children of any party and, with the consent of the parties, may meet with other persons.

(c) The mediator shall make a written summary of any understanding reached by the parties. A copy of the summary shall be provided to the parties and their attorneys, if any. The mediator shall advise each party in writing to obtain legal assistance in drafting any agreement or for reviewing any agreement drafted by the other party. Any understanding reached by the parties as a result of mediation shall not be binding upon the parties nor admissible in court until it is reduced to writing, signed by the parties and their attorneys, if any, and approved by the court. If the parties are not represented by attorneys, the mediator shall provide to the court or hearing officer the written summary of any understanding signed by the parties, which, if approved by the court or hearing officer, shall be incorporated in the order of the court or hearing officer.

(d) The mediator may act as a mediator in subsequent disputes between the parties. However, the mediator shall decline to act as attorney, counselor or psychotherapist for either party during or after the mediation or divorce proceedings unless the subsequent representation, counseling or treatment is clearly distinct from the mediation issues.

23-604. Termination of mediation.

(a) At any time after the second mediation session, either party may terminate mediation ordered under K.S.A. 23-602.

(b) The mediator shall terminate mediation whenever the mediator believes that: (1) Continuation of the process would harm or prejudice one or more of the parties or the children or (2) the ability or willingness of any party to participate meaningfully in mediation is so lacking that a reasonable agreement is unlikely.

(c) The mediator shall report the termination of mediation to the court. The mediator shall not state the reason for termination except when the termination is due to a conflict of interest or bias on the part of the mediator.

23-605. Confidentiality.

(a) A mediator appointed under K.S.A. 23-602 and amendments thereto shall treat all verbal or written information transmitted between any party to a dispute and a mediator conducting the proceeding, or the staff of an approved program under K.S.A. 5-501 et seq. and amendments

thereto as confidential communications. No admission, representation or statement made in the proceeding shall be admissible as evidence or subject to discovery. A mediator shall not be subject to process requiring the disclosure of any matter discussed during the proceedings unless all the parties consent to a waiver. Any party and the neutral person or staff of an approved program conducting the proceeding, participating in the proceeding has a privilege in any action to refuse to disclose, and to prevent a witness from disclosing, any communication made in the course of the proceeding. The privilege may be claimed by the party or the neutral person or anyone the party or the neutral person authorizes to claim the privilege. A neutral person conducting the proceeding shall not be subject to process requiring the disclosure of any matter discussed within the proceedings unless all parties consent to a waiver.

(b) The confidentiality and privilege requirements of this section shall not apply to:

(1) Information that is reasonably necessary to allow investigation of or action for ethical violations against the neutral person conducting the proceeding or for the defense of the neutral person or staff of an approved program conducting the proceeding in an action against the neutral person or staff of an approved program if the action is filed by a party to the proceeding;

(2) any information that the mediator is required to report under K.S.A. 38-1522 and amendments thereto;

(3) any information that is reasonably necessary to stop the commission of an ongoing crime or fraud or to prevent the commission of a crime or fraud in the future for which there was an expressed intent to commit such crime or fraud;

(4) any information that the mediator is required to report or communicate under the specific provisions of any statute or in order to comply with orders of the court; or

(5) any report to the court that a party has issued a threat of physical violence against a party, a party's dependent or family member, the mediator or an officer or employee of the court with the apparent intention of carrying out such threat.

23-607. Costs.

The costs of any mediation ordered under K.S.A. 23-602 shall be taxed to either or both parties as equity and justice require, unless the parties have reached a reasonable agreement as to payment of the costs.

Article 7.--ENFORCEMENT OF VISITATION RIGHTS

23-701. Expedited procedure.

(a) The purpose of this section is to enhance the enforcement of court ordered child visitation rights and parenting time by establishing a simplified, expedited procedure to provide justice without necessitating the assistance of legal counsel.

(b) A party who has been granted visitation rights or parenting time may file with the court a motion alleging denial or interference with those rights and enforcement of those rights. The district court shall provide a form on which such motion may be filed. Such expedited matters shall be heard by a district judge, court trustee, or magistrate, sitting as a hearing officer. The provisions of this section are in addition to those enforcement procedures provided in the uniform child custody jurisdiction and enforcement act, and amendments thereto, and other remedies provided by law.

(c) When a motion seeking expedited enforcement under subsection (b) is filed, the hearing officer shall immediately:

(1) Set a time and place for a hearing on the motion, which shall not be more than 21 days after the date on which the motion was filed; or

(2) if deemed appropriate, issue an ex parte order for mediation in accordance with K.S.A. 23-601 et seq., and amendments thereto.

(d) If mediation ordered pursuant to subsection (c) is completed, the mediator shall submit a summary of the parties' understanding to the hearing officer within five days after it is signed by the parties. Upon receipt of the summary, the hearing officer shall enter an order in accordance with the parties' agreement or set a time and place for a hearing on the matter, which shall be not more than 10 days after the summary is received by the hearing officer.

(e) If mediation ordered pursuant to subsection (c) is terminated pursuant to K.S.A. 23-604 and amendments thereto, the mediator shall report the termination to the hearing officer within five days after the termination. Upon receipt of the report, the matter shall be set for hearing. Any

such hearing shall be not more than 10 days after the mediator's report of termination is received by the hearing officer.

(f) Notice of the hearing date set by the hearing officer shall be given to all interested parties by certified mail, return receipt requested, or as the court may order.

(g) If, upon hearing the hearing officer finds that there has been an unreasonable interference with or denial of visitation or parenting time, the hearing officer shall enter an order providing for one or more of the following:

(1) A specific schedule for visitation or parenting time;

(2) compensating visitation or parenting time to the party suffering interference or denial of visitation or parenting time, which time shall be of the same type (e.g., holiday, weekday, weekend, summer) as for which denial or interference was found and which shall be at the convenience of the party suffering the denial or interference of visitation or parenting time;

(3) the posting of a bond, either cash or with sufficient sureties, conditioned upon compliance with the order granting visitation rights or parenting time;

(4) assessment of reasonable attorney fees, mediation costs and costs of the proceedings to enforce visitation rights or parenting time against the person responsible for the unreasonable denial or interference with visitation or parenting time other than the child;

(5) attendance of one or more of the parties to the action at counseling or educational sessions which focus on the impact on children of disputes regarding visitation or parenting time. Expenses shall be assessed to the person responsible for the denial or interference with visitation or parenting time;

(6) supervised visitation or parenting time; or

(7) any other remedy which the hearing officer considers appropriate, except, if a hearing officer is not a district judge, the hearing officer shall not enter any order which grants a new order, or modifies an existing order for child support, child custody, residency, or maintenance.

(h) Decisions of any hearing officer who is not a district judge shall be subject to review by a district judge on the motion of any party filed within 10 days after the order was entered.

(i) In no case shall final disposition of a motion filed pursuant to this section take place more than 45 days after the filing of such motion.

Article 8.--UNIFORM PREMARITAL AGREEMENT ACT

23-801. Title of act.

This act may be cited as the "uniform premarital agreement act."

23-802. Definitions.

As used in this act:

(a) "Premarital agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage; and

(b) "property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

23-803. Premarital agreement; writing required.

A premarital agreement shall be in writing and signed by both parties. It is enforceable without consideration.

23-804. Same; areas with respect to which parties may contract; right of child to support not to be adversely affected.

(a) Parties to a premarital agreement may contract with respect to all of the following:

(1) The rights and obligations of each of the parties in any of the property of either, or both, whenever and wherever acquired or located;

(2) the right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of or otherwise manage and control property;

- (3) the disposition of property upon separation, marital dissolution, death or the occurrence or nonoccurrence of any other event;
 - (4) the modification or elimination of spousal support;
 - (5) the making of a will, trust or other arrangement to carry out the provisions of the agreement;
 - (6) the ownership rights in and disposition of the death benefit from a life insurance policy;
 - (7) the choice of law governing the construction of the agreement; and
 - (8) any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.
- (b) The right of a child to support may not be adversely affected by a premarital agreement.

23-805. Same; effective, when.

A premarital agreement becomes effective upon marriage.

23-806. Same; amendment or revocation after marriage.

After marriage, a premarital agreement may be amended or revoked only by a written agreement, signed by the parties. The amended agreement or the revocation is enforceable without consideration.

23-807. Same; enforceability.

(a) A premarital agreement is not enforceable if the party against whom enforcement is sought proves either of the following:

- (1) That party did not execute the agreement voluntarily; or
- (2) the agreement was unconscionable when such agreement was executed and, before execution of the agreement, all of the following applied to that party:
 - (A) Such party was not provided a fair and reasonable disclosure of the property or financial obligations of the other party;
 - (B) such party did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and
 - (C) such party did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

(b) If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, a court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.

(c) An issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

23-808. Same; effect when marriage determined to be void.

If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

23-809. Same; statute of limitations tolled during marriage; equitable defenses available.

Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

23-810. Uniformity of act.

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting such act.

23-811. Application of act.

This act shall apply to premarital agreements executed on or after the effective date of this act.

Article 16.--DIVORCE AND MAINTENANCE

60-1601. Grounds for divorce or separate maintenance.

(a) The district court shall grant a decree of divorce or separate maintenance for any of the following grounds: (1) Incompatibility; (2) failure to perform a material marital duty or obligation; or (3) incompatibility by reason of mental illness or mental incapacity of one or both spouses.

(b) The ground of incompatibility by reason of mental illness or mental incapacity of one or both spouses shall require a finding of either: (1) Confinement of the spouse in an institution by reason of mental illness for a period of two years, which confinement need not be continuous; or (2) an adjudication of mental illness or mental incapacity of the spouse by a court of competent jurisdiction while the spouse is confined in an institution by reason of mental illness. In either case, there must be a finding by at least two of three physicians, appointed by the court before which the action is pending, that the mentally ill or mentally incapacitated spouse has a poor prognosis for recovery from the mental illness or mental incapacity, based upon general knowledge available at the time. A decree granted on the ground of incompatibility by reason of mental illness or mental incapacity of one or both spouses shall not relieve a party from contributing to the support and maintenance of the mentally ill or mentally incapacitated spouse. If both spouses are confined to institutions because of mental illness or mental incapacity, the guardian of either spouse may file a petition for divorce and the court may grant the divorce on the ground of incompatibility by reason of mental illness or mental incapacity.

60-1602. Grounds for annulment.

(a) The district court shall grant a decree of annulment of any marriage for either of the following grounds: (1) The marriage is void for any reason; or (2) the contract of marriage is voidable because it was induced by fraud.

(b) The district court may grant a decree of annulment of any marriage if the contract of marriage was induced by mistake of fact, lack of knowledge of a material fact or any other reason justifying rescission of a contract of marriage.

60-1603. Residence.

(a) State. The petitioner or respondent in an action for divorce must have been an actual resident of the state for 60 days immediately preceding the filing of the petition.

(b) Military residence. Any person who has been a resident of or stationed at a United States post or military reservation within the state for 60 days immediately preceding the filing of the petition may file an action for divorce in any county adjacent to the post or reservation.

(c) Residence of spouse. For the purposes of this article, a spouse may have a residence in this state separate and apart from the residence of the other spouse.

60-1604. Petition and summons.

(a) Verification of petition. The truth of the allegations of any petition under this article must be verified by the petitioner in person or by the guardian of an incapacitated person.

(b) Captions. All pleadings shall be captioned, "In the matter of the marriage of _____ and _____." In the caption, the name of the petitioner shall appear first and the name of the respondent shall appear second, but the respective parties shall not be designated as such.

(c) Contents of petition. The grounds for divorce, annulment or separate maintenance shall be alleged as nearly as possible in the general language of the statute, without detailed statement of facts. If there are minor children of the marriage, the petition shall state their names and dates of birth and shall contain, or be accompanied by an affidavit which contains, the information required by K.S.A. 38-1356 and amendments thereto.

(d) Bill of particulars. The opposing party may demand a statement of the facts which shall be furnished in the form of a bill of particulars. The facts stated in the bill of particulars shall be the

specific facts upon which the action shall be tried. If interrogatories have been served on or a deposition taken of the party from whom the bill of particulars is demanded, the court in its discretion may refuse to grant the demand for a bill of particulars. A copy of the bill of particulars shall be delivered to the judge. The bill of particulars shall not be filed with the clerk of the court or become a part of the record except on appeal, and then only when the issue to be reviewed relates to the facts stated in the bill of particulars. The bill of particulars shall be destroyed by the district judge unless an appeal is taken, in which case the bill of particulars shall be destroyed upon receipt of the final order from the appellate court.

(e) Service of process. Service of process shall be made in the manner provided in article 3 of this chapter.

60-1605. Answer and counterclaim.

The respondent may answer and may also file a counterclaim for divorce, annulment or separate maintenance. If new matter is set up in the answer, it shall be verified by the respondent in person or by the guardian of an incapacitated person. If a counterclaim is filed, it shall be subject to the provisions of subsections (a), (b) and (c) of K.S.A. 60-1604 and amendments thereto. When there are minor children of the marriage, the answer shall contain, or be accompanied by an affidavit which contains, the information required by K.S.A. 38-1356, and amendments thereto.

60-1606. Granting of decree mandatory; exceptions; denial of relief; orders authorized.

The court shall grant a requested decree of divorce, separate maintenance or annulment unless the granting of the decree is discretionary under this act or unless the court finds that there are no grounds for the requested alteration of marital status. If a decree of divorce, separate maintenance or annulment is denied for lack of grounds, the court shall nevertheless, if application is made by one of the parties, make the orders authorized by subsections (a) and (b) of K.S.A. 60-1610 and amendments thereto.

60-1607. Interlocutory orders.

(a) Permissible orders. After a petition for divorce, annulment or separate maintenance has been filed, and during the pendency of the action prior to final judgment the judge assigned to hear the action may, without requiring bond, make and enforce by attachment, orders which:

(1) Jointly restrain the parties with regard to disposition of the property of the parties and provide for the use, occupancy, management and control of that property;

(2) restrain the parties from molesting or interfering with the privacy or rights of each other;

(3) provide for the legal custody and residency of and parenting time with the minor children and the support, if necessary, of either party and of the minor children during the pendency of the action;

(4) require mediation between the parties on issues, including, but not limited to, child custody, residency, division of property, parenting time and development of a parenting plan;

(5) make provisions, if necessary, for the expenses of the suit, including reasonable attorney's fees, that will insure to either party efficient preparation for the trial of the case; or

(6) require an investigation by court service officers into any issue arising in the action.

(b) Ex parte orders. Orders authorized by subsections (a)(1), (2), (3) and (4) may be entered after ex parte hearing upon compliance with rules of the supreme court, except that no ex parte order shall have the effect of changing the residency of a minor child from the parent who has had the sole de facto residency of the child to the other parent unless there is sworn testimony to support a showing of extraordinary circumstances. If an interlocutory order is issued ex parte, the court shall hear a motion to vacate or modify the order within 15 days of the date on which a party requests a hearing whether to vacate or modify the order. In the absence, disability, or disqualification of the judge assigned to hear the action, any other judge of the district court may make any order authorized by this section, including vacation or modification or any order issued by the judge assigned to hear the action.

(c) Support orders. (1) An order of support obtained pursuant to this section may be enforced by an order of garnishment as provided in this section.

(2) No order of garnishment shall be issued under this section unless: (A) Ten or more days have elapsed since the order of support was served upon the party required to pay the support, and (B) the order of support contained a notice that the order of support may be enforced by garnishment and that the party has a right to request an opportunity for a hearing to contest the issuance of an order of garnishment, if the hearing is requested by motion filed within five days after service of the order of support upon the party. If a hearing is requested, the court shall hold the hearing within five days after the motion requesting the hearing is filed with the court or at a later date agreed to by the parties.

(3) No bond shall be required for the issuance of an order of garnishment pursuant to this section. Except as provided in this section, garnishments authorized by this section shall be subject to the procedures and limitations applicable to other orders of garnishment authorized by law.

(4) A party desiring to have the order of garnishment issued shall file an affidavit with the clerk of the district court stating that:

(A) The order of support contained the notice required by this subsection;

(B) ten or more days have elapsed since the order of support was served upon the party required to pay the support; and

(C) either no hearing was requested on the issuance of an order of garnishment within the five days after service of the order of support upon the party required to pay the same or a hearing was requested and held and the court did not prohibit the issuance of an order of garnishment.

(d) If an interlocutory order for legal custody, residency, or parenting time is sought, the party seeking such order shall file a proposed temporary parenting plan as provided by K.S.A. 2004 Supp. 60-1623, and amendments thereto, at the time such order is sought. If any motion is filed to modify any such interlocutory orders, or in opposition to a request for issuance of interlocutory orders, that party shall attach to such motion or opposition a proposed alternative parenting plan.

(e) Service of process. Service of process served under subsection (a)(1) and (2) shall be by personal service and not by certified mail return receipt requested.

60-1608. Time for hearing; pretrial conferences; counseling, when.

(a) Time. An action for divorce shall not be heard until 60 days after the filing of the petition unless the judge enters an order declaring the existence of an emergency, stating the precise nature of the emergency, the substance of the evidence material to the emergency and the names of the witnesses who gave the evidence. A request for an order declaring the existence of an emergency may be contained in a pleading or made by motion. Unless otherwise agreed by the parties, a request for the declaration of an emergency shall not be heard prior to the expiration of the time permitted for the filing of an answer. Unless waived, notice of the hearing requesting the declaration of an emergency shall be given to all parties not in default not less than seven days prior to the date of the hearing. Upon a finding that an emergency exists, the divorce and all issues pertaining thereto may be heard immediately.

(b) Pretrial conferences. The court shall conduct a pretrial conference or conferences in accordance with K.S.A. 60-216, and amendments thereto, upon request of either party or on the court's own motion. Any pretrial conference shall be set on a date other than the date of trial and the parties shall be present or available within the courthouse.

(c) Marriage counseling. After the filing of the answer or other responsive pleading by the respondent, the court, on its own motion or upon motion of either of the parties, may require both parties to the action to seek marriage counseling if marriage counseling services are available within the judicial district of venue of the action. Neither party shall be required to submit to marriage counseling provided by any religious organization of any particular denomination.

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

60-1609. Evidence. (a) Admissions.

Upon the trial of the action, the court may admit proof of the admissions of the parties to be received in evidence, excluding such as shall appear to have been obtained by connivance, fraud, coercion, or other improper means.

(b) Marriage. Testimony admissible to prove a common-law marriage may be received as evidence of the marriage of the parties.

(c) Husband and wife as witness. Either party to the action shall be competent to testify upon all material matters involved in the controversy.

(d) Corroborating testimony. A decree of divorce, separate maintenance or annulment may be granted upon the uncorroborated testimony of either party or both of them.

60-1610. Decree; authorized orders.

A decree in an action under this article may include orders on the following matters:

(a) Minor children. (1) Child support and education. The court shall make provisions for the support and education of the minor children. The court may modify or change any prior order, including any order issued in a title IV-D case, within three years of the date of the original order or a modification order, when a material change in circumstances is shown, irrespective of the present domicile of the child or the parents. If more than three years has passed since the date of the original order or modification order, a material change in circumstance need not be shown. The court may make a modification of child support retroactive to a date at least one month after the date that the motion to modify was filed with the court. Any increase in support ordered effective prior to the date the court's judgment is filed shall not become a lien on real property pursuant to K.S.A. 60-2202 and amendments thereto. Regardless of the type of custodial arrangement ordered by the court, the court may order the child support and education expenses to be paid by either or both parents for any child less than 18 years of age, at which age the support shall terminate unless: (A) The parent or parents agree, by written agreement approved by the court, to pay support beyond the time the child reaches 18 years of age; (B) the child reaches 18 years of age before completing the child's high school education in which case the support shall not terminate automatically, unless otherwise ordered by the court, until June 30 of the school year during which the child became 18 years of age if the child is still attending high school; or (C) the child is still a bona fide high school student after June 30 of the school year during which the child became 18 years of age, in which case the court, on motion, may order support to continue through the school year during which the child becomes 19 years of age so long as the child is a bona fide high school student and the parents jointly participated or knowingly acquiesced in the decision which delayed the child's completion of high school. The court, in extending support pursuant to subsection (a)(1)(C), may impose such conditions as are appropriate and shall set the child support utilizing the guideline table category for 16-year through 18-year old children. Provision for payment of support and educational expenses of a child after reaching 18 years of age if still attending high school shall apply to any child subject to the jurisdiction of the court, including those whose support was ordered prior to July 1, 1992. If an agreement approved by the court prior to July 1, 1988, provides for termination of support before the date provided by subsection (a)(1)(B), the court may review and modify such agreement, and any order based on such agreement, to extend the date for termination of support to the date provided by subsection (a)(1)(B). If an agreement approved by the court prior to July 1, 1992, provides for termination of support before the date provided by subsection (a)(1)(C), the court may review and modify such agreement, and any order based on such agreement, to extend the date for termination of support to the date provided by subsection (a)(1)(C). For purposes of this section, "bona fide high school student" means a student who is enrolled in full accordance with the policy of the accredited high school in which the student is pursuing a high school diploma or a graduate equivalency diploma (GED). In determining the amount to be paid for child support, the court shall consider all relevant factors, without regard to marital misconduct, including the financial resources and needs of both parents, the financial resources and needs of the child and the physical and emotional condition of the child. Until a child reaches 18 years of age, the court may set apart any portion of property of either the husband or wife, or both, that seems necessary and proper for the support of the child. Except for good cause shown, every order requiring payment of child support under this section shall require that the support be paid through the central unit for collection and disbursement of support payments designated pursuant to K.S.A. 23-4,118, and amendments thereto. A written agreement between the parties to make direct child support payments to the obligee and not pay through the central unit shall constitute good cause, unless the court finds the agreement is not in the best interest of the child or children. The obligor shall file such written agreement with the court. The obligor shall maintain written evidence of the payment of the support obligation and, at least annually, shall provide such evidence to the court and the obligee. If the divorce decree of the parties provides for an abatement of child support during any period provided in such decree, the child support such nonresidential parent owes for such period shall abate during such period of time, except that if the residential parent shows that the criteria for the abatement has not been satisfied there shall not be an abatement of such child support.

(2) Child custody and residency. (A) Changes in custody. Subject to the provisions of the uniform child custody jurisdiction and enforcement act (K.S.A. 38-1336 through 38-1377, and amendments thereto), the court may change or modify any prior order of custody, residency, visitation and parenting time, when a material change of circumstances is shown, but no ex parte order shall have the effect of changing residency of a minor child from the parent who has had the sole de facto residency of the child to the other parent unless there is sworn testimony to support a showing of extraordinary circumstances. If an interlocutory order is issued ex parte, the court shall hear a motion to vacate or modify the order within 15 days of the date that a party requests a hearing whether to vacate or modify the order.

(B) Examination of parties. The court may order physical or mental examinations of the parties if requested pursuant to K.S.A. 60-235 and amendments thereto.

(3) Child custody or residency criteria. The court shall determine custody or residency of a child in accordance with the best interests of the child.

(A) If the parties have entered into a parenting plan, it shall be presumed that the agreement is in the best interests of the child. This presumption may be overcome and the court may make a different order if the court makes specific findings of fact stating why the agreed parenting plan is not in the best interests of the child.

(B) In determining the issue of child custody, residency and parenting time, the court shall consider all relevant factors, including but not limited to:

(i) The length of time that the child has been under the actual care and control of any person other than a parent and the circumstances relating thereto;

(ii) the desires of the child's parents as to custody or residency;

(iii) the desires of the child as to the child's custody or residency;

(iv) the interaction and interrelationship of the child with parents, siblings and any other person who may significantly affect the child's best interests;

(v) the child's adjustment to the child's home, school and community;

(vi) the willingness and ability of each parent to respect and appreciate the bond between the child and the other parent and to allow for a continuing relationship between the child and the other parent; and

(vii) evidence of spousal abuse.

Neither parent shall be considered to have a vested interest in the custody or residency of any child as against the other parent, regardless of the age of the child, and there shall be no presumption that it is in the best interests of any infant or young child to give custody or residency to the mother.

(4) Types of legal custodial arrangements. Subject to the provisions of this article, the court may make any order relating to custodial arrangements which is in the best interests of the child. The order shall provide one of the following legal custody arrangements, in the order of preference:

(A) Joint legal custody. The court may order the joint legal custody of a child with both parties. In that event, the parties shall have equal rights to make decisions in the best interests of the child.

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

(5) Types of residential arrangements. After making a determination of the legal custodial arrangements, the court shall determine the residency of the child from the following options, which arrangement the court must find to be in the best interest of the child. The parties shall submit to the court either an agreed parenting plan or, in the case of dispute, proposed parenting plans for the court's consideration. Such options are:

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

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

(C) Nonparental residency. If during the proceedings the court determines that there is probable cause to believe that the child is in need of care as defined by subsections (a)(1), (2) or (3) of K.S.A. 38-1502 and amendments thereto or that neither parent is fit to have residency, the court may award temporary residency of the child to a grandparent, aunt, uncle or

adult sibling, or, another person or agency if the court finds the award of custody to such person or agency is in the best interests of the child. In making such a residency order, the court shall give preference, to the extent that the court finds it is in the best interests of the child, first to awarding such residency to a relative of the child by blood, marriage or adoption and second to awarding such residency to another person with whom the child has close emotional ties. The court may make temporary orders for care, support, education and visitation that it considers appropriate. Temporary residency orders are to be entered in lieu of temporary orders provided for in K.S.A. 38-1542 and 38-1543, and amendments thereto, and shall remain in effect until there is a final determination under the Kansas code for care of children. An award of temporary residency under this paragraph shall not terminate parental rights nor give the court the authority to consent to the adoption of the child. When the court enters orders awarding temporary residency of the child to an agency or a person other than the parent, the court shall refer a transcript of the proceedings to the county or district attorney. The county or district attorney shall file a petition as provided in K.S.A. 38-1531 and amendments thereto and may request termination of parental rights pursuant to K.S.A. 38-1581 and amendments thereto. The costs of the proceedings shall be paid from the general fund of the county. When a final determination is made that the child is not a child in need of care, the county or district attorney shall notify the court in writing and the court, after a hearing, shall enter appropriate custody orders pursuant to this section. If the same judge presides over both proceedings, the notice is not required. Any disposition pursuant to the Kansas code for care of children shall be binding and shall supersede any order under this section.

(b) Financial matters. (1) Division of property. The decree shall divide the real and personal property of the parties, including any retirement and pension plans, whether owned by either spouse prior to marriage, acquired by either spouse in the spouse's own right after marriage or acquired by the spouses' joint efforts, by: (A) a division of the property in kind; (B) awarding the property or part of the property to one of the spouses and requiring the other to pay a just and proper sum; or (C) ordering a sale of the property, under conditions prescribed by the court, and dividing the proceeds of the sale. Upon request, the trial court shall set a valuation date to be used for all assets at trial, which may be the date of separation, filing or trial as the facts and circumstances of the case may dictate. The trial court may consider evidence regarding changes in value of various assets before and after the valuation date in making the division of property. In dividing defined-contribution types of retirement and pension plans, the court shall allocate profits and losses on the nonparticipant's portion until date of distribution to that nonparticipant. In making the division of property the court shall consider the age of the parties; the duration of the marriage; the property owned by the parties; their present and future earning capacities; the time, source and manner of acquisition of property; family ties and obligations; the allowance of maintenance or lack thereof; dissipation of assets; the tax consequences of the property division upon the respective economic circumstances of the parties; and such other factors as the court considers necessary to make a just and reasonable division of property. The decree shall provide for any changes in beneficiary designation on: (A) Any insurance or annuity policy that is owned by the parties, or in the case of group life insurance policies, under which either of the parties is a covered person; (B) any trust instrument under which one party is the grantor or holds a power of appointment over part or all of the trust assets, that may be exercised in favor of either party; or (C) any transfer on death or payable on death account under which one or both of the parties are owners or beneficiaries. Nothing in this section shall relieve the parties of the obligation to effectuate any change in beneficiary designation by the filing of such change with the insurer or issuer in accordance with the terms of such policy.

(2) Maintenance. The decree may award to either party an allowance for future support denominated as maintenance, in an amount the court finds to be fair, just and equitable under all of the circumstances. The decree may make the future payments modifiable or terminable under circumstances prescribed in the decree. The court may make a modification of maintenance retroactive to a date at least one month after the date that the motion to modify was filed with the court. In any event, the court may not award maintenance for a period of time in excess of 121 months. If the original court decree reserves the power of the court to hear subsequent motions for reinstatement of maintenance and such a motion is filed prior to the expiration of the stated period of time for maintenance payments, the court shall have jurisdiction to hear a motion by the recipient of the maintenance to reinstate the maintenance payments. Upon motion and hearing, the court may reinstate the payments in whole or in part for a period of time, conditioned upon any modifying or terminating circumstances prescribed by the court, but the reinstatement shall be limited to a period of time not exceeding 121 months. The recipient may file subsequent motions for reinstatement of maintenance prior to the expiration of subsequent periods of time for

maintenance payments to be made, but no single period of reinstatement ordered by the court may exceed 121 months. Maintenance may be in a lump sum, in periodic payments, on a percentage of earnings or on any other basis. At any time, on a hearing with reasonable notice to the party affected, the court may modify the amounts or other conditions for the payment of any portion of the maintenance originally awarded that has not already become due, but no modification shall be made without the consent of the party liable for the maintenance, if it has the effect of increasing or accelerating the liability for the unpaid maintenance beyond what was prescribed in the original decree. Except for good cause shown, every order requiring payment of maintenance under this section shall require that the maintenance be paid through the central unit for collection and disbursement of support payments designated pursuant to K.S.A. 23-4,118, and amendments thereto. A written agreement between the parties to make direct maintenance payments to the obligee and not pay through the central unit shall constitute good cause. If child support and maintenance payments are both made to an obligee by the same obligor, and if the court has made a determination concerning the manner of payment of child support, then maintenance payments shall be paid in the same manner.

(3) Separation agreement. If the parties have entered into a separation agreement which the court finds to be valid, just and equitable, the agreement shall be incorporated in the decree. A separation agreement may include provisions relating to a parenting plan. The provisions of the agreement on all matters settled by it shall be confirmed in the decree except that any provisions relating to the legal custody, residency, visitation parenting time, support or education of the minor children shall be subject to the control of the court in accordance with all other provisions of this article. Matters settled by an agreement incorporated in the decree, other than matters pertaining to the legal custody, residency, visitation, parenting time, support or education of the minor children, shall not be subject to subsequent modification by the court except: (A) As prescribed by the agreement or (B) as subsequently consented to by the parties.

(4) Costs and fees. Costs and attorney fees may be awarded to either party as justice and equity require. The court may order that the amount be paid directly to the attorney, who may enforce the order in the attorney's name in the same case.

(c) Miscellaneous matters. (1) Restoration of name. Upon the request of a spouse, the court shall order the restoration of that spouse's maiden or former name.

(2) Effective date as to remarriage. Any marriage contracted by a party, within or outside this state, with any other person before a judgment of divorce becomes final shall be voidable until the decree of divorce becomes final. An agreement which waives the right of appeal from the granting of the divorce and which is incorporated into the decree or signed by the parties and filed in the case shall be effective to shorten the period of time during which the remarriage is voidable.

60-1611. Effect of a decree in another state.

A judgment or decree of divorce rendered in any other state or territory of the United States, in conformity with the laws thereof, shall be given full faith and credit in this state, except that, if the respondent in the action, at the time of the judgment or decree, was a resident of this state and did not personally appear or defend the action in the court of that state or territory and that court did not have jurisdiction over the respondent's person, all matters relating to maintenance, property rights of the parties and support of the minor children of the parties shall be subject to inquiry and determination in any proper action or proceeding brought in the courts of this state within two years after the date of the foreign judgment or decree, to the same extent as though the foreign judgment or decree had not been rendered. Nothing in this section shall authorize a court of this state to enter a child custody determination, as defined in K.S.A. 38-1337 and amendments thereto contrary to the provisions of the uniform child custody jurisdiction and enforcement act.

60-1612. Obligation to comply with orders not suspended by other party's failure to comply; nature of certain motions to modify orders.

(a) If a party fails to comply with a provision of a decree, temporary order or injunction issued under K.S.A. 60-1601 et seq., the obligation of the other party to make payments for support or maintenance or to permit visitation or parenting time is not suspended, but the other party may request by motion that the court grant an appropriate order.

(b) Motions to modify legal custody, residency, visitation rights or parenting time in proceedings where support obligations are enforced under part D of title IV of the federal social

security act (42 USC § 651 et seq.), as amended, shall be considered proceedings in connection with the administration of the title IV-D program for the sole purpose of disclosing information necessary to obtain service of process on the parent with physical custody of the child.

60-1613. Enforcement of support or maintenance order; income withholding; wage assignment.

(a) The provisions of K.S.A. 23-4,107 shall apply to all orders of support issued under K.S.A. 60-1610 and amendments thereto.

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

60-1614. Interviews; court; minors.

The court may interview the minor children in chambers to assist the court in determining legal custody, residency, visitation rights and parenting time. The court may permit counsel to be present at the interviews. Upon request of any party, the court shall cause a record of the interview to be made as part of the record in the case.

60-1615. Information relating to custody or residency of children; visitation or parenting time with children.

(a) Investigation and report. In any proceeding in which legal custody, residency, visitation rights or parenting time are contested, the court may order an investigation and report concerning the appropriate legal custody, residency, visitation rights and parenting time to be granted to the parties. The investigation and report may be made by court services officers or any consenting person or agency employed by the court for that purpose. The court may use the department of social and rehabilitation services to make the investigation and report if no other source is available for that purpose. The costs for making the investigation and report may be assessed as court costs in the case as provided in article 20 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto.

(b) Consultation. In preparing the report concerning a child, the investigator may consult any person who may have information about the child and the potential legal custodial arrangements. Upon order of the court, the investigator may refer the child to other professionals for diagnosis. The investigator may consult with and obtain information from medical, psychiatric or other expert persons who have served the child in the past. If the requirements of subsection (c) are fulfilled, the investigator's report may be received in evidence at the hearing.

(c) Use of report and investigator's testimony. The court shall make the investigator's report available prior to the hearing to counsel or to any party not represented by counsel. Upon motion of either party, the report may be made available to a party represented by counsel, unless the court finds that such distribution would be harmful to either party, the child or other witnesses. Any party to the proceeding may call the investigator and any person whom the investigator has consulted for cross-examination. In consideration of the mental health or best interests of the child, the court may approve a stipulation that the interview records not be divulged to the parties.

60-1616. Parenting time; visitation orders; enforcement.

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

(b) Grandparents and stepparents. Grandparents and stepparents may be granted visitation rights.

(c) Modification. The court may modify an order granting or denying parenting time or visitation rights whenever modification would serve the best interests of the child.

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

(e) Repeated denial of rights, effect. Repeated unreasonable denial of or interference with visitation rights or parenting time granted pursuant to this section may be considered a material change of circumstances which justifies modification of a prior order of legal custody, residency, visitation or parenting time.

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

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

60-1617. Counseling. (a) Family counseling.

At any time prior or subsequent to the alteration of the parties' marital status the court may order that any party or parties and any of their children be interviewed by a psychiatrist, licensed psychologist or other trained professional in family counseling, approved by the court, for the purpose of determining whether it is in the best interests of any of the parties' children that the parties and any of their children have counseling regarding matters of legal custody, residency, visitation or parenting time. The court shall receive the written opinion of the professional, and the court shall make the opinion available as provided by K.S.A. 60-1615, and amendments thereto. Any professional consulted by the court under this section may be examined as a witness. If the opinion of the professional is that counseling is in the best interests of any of the children, the court may order the parties and any of the children to obtain counseling. Neither party shall be required to obtain counseling pursuant to this section if the party objects thereto because the counseling conflicts with sincerely held religious tenets and practices to which any party is an adherent.

(b) Costs. The costs of the counseling shall be taxed to either party as equity and justice require.

60-1618. Interpretation of terms.

For purposes of interpretation, the terms "alimony" and "maintenance" are synonymous.

60-1620. Change in child's residence; notice; effect; exceptions.

(a) Except as provided in subsection (d), a parent entitled to legal custody or residency of or parenting time with a child pursuant to K.S.A. 60-1610 and amendments thereto shall give written notice to the other parent not less than 30 days prior to: (1) Changing the residence of the child; or (2) removing the child from this state for a period of time exceeding 90 days. Such notice shall be sent by restricted mail, return receipt requested, to the last known address of the other parent.

(b) Failure to give notice as required by subsection (a) is an indirect civil contempt punishable as provided by law. In addition, the court may assess, against the parent required to give notice, reasonable attorney fees and any other expenses incurred by the other parent by reason of the failure to give notice.

(c) A change of the residence or the removal of a child as described in subsection (a) may be considered a material change of circumstances which justifies modification of a prior order of legal custody, residency, child support or parenting time. In determining any motion seeking a modification of a prior order based on change of residence or removal as described in (a), the court shall consider all factors the court deems appropriate including, but not limited to: (1) The effect of the move on the best interests of the child; (2) the effect of the move on any party having rights granted pursuant to K.S.A. 60-1610, and amendments thereto; and (3) the increased cost the move will impose on any party seeking to exercise rights granted under K.S.A. 60-1610, and amendments thereto.

(d) A parent entitled to the legal custody or residency of a child pursuant to K.S.A. 60-1610 and amendments thereto shall not be required to give the notice required by this section to the

other parent when the other parent has been convicted of any crime specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated in which the child is the victim of such crime.

60-1621. Post-decree motion docket fee.

(a) No post-decree motion petitioning for a change in legal custody, residency, visitation rights or parenting time, or for a modification of child support shall be filed or docketed in the district court without payment of a docket fee in the amount of \$21 to the clerk of the district court.

(b) A poverty affidavit may be filed in lieu of a docket fee as established in K.S.A. 60-2001, and amendments thereto.

(c) The docket fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. The docket fee shall be disbursed in accordance with subsection (f) of K.S.A. 20-362, and amendments thereto.

60-1622. Support enforcement proceeding; failure to comply; penalties.

(a) If the court in any support enforcement proceeding finds that an obligor has failed to comply with an outstanding warrant or subpoena issued by a court of competent jurisdiction of this state or any other state and such obligor has or may have an occupational, professional or driver's license, the court may impose such sanctions under this section as the court deems appropriate until the person has complied with the warrant or subpoena. As used in this section, "support enforcement proceeding" means any civil proceeding to:

(1) Establish paternity; or

(2) establish, modify or enforce the duty to provide child support or maintenance.

(b) If the obligor 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 may order that a notice pursuant to K.S.A. 74-147 and amendments thereto be served on the licensing body. If the obligor is or may be a licensed attorney, the court may file a complaint with the disciplinary administrator of the Kansas supreme court or with the appropriate official or agency of any state in which the obligor may be licensed.

(c) The court may restrict the obligor's driving privileges as provided in K.S.A. 2004 Supp. 8-292 and amendments thereto.

60-1623. Parenting plan; definitions.

(a) "Temporary parenting plan" means an agreement or order issued defining the legal custody, residency and parenting time to be exercised by parents with regard to a child between the time of filing of a matter in which a parenting plan may be entered, and any other provisions regarding the child's care which may be in the best interest of the child, until a final order is issued.

(b) "Permanent parenting plan" means an agreement between parents which is incorporated into an order at a final hearing or an order or decree issued at a final hearing without agreement that establishes legal custody, residency, parenting time and other matters regarding a child custody arrangement in a matter in which a parenting plan may be entered.

(c) "Legal custody" means the allocation of parenting responsibilities between parents, or any person acting as a parent, including decision making rights and responsibilities pertaining to matters of child health, education and welfare.

60-1624. Same; temporary orders.

(a) The court may enter a temporary parenting plan in any case in which temporary orders relating to child custody is authorized.

(b) If the court deems it appropriate, a temporary parenting plan approved by the court may include one or more of the following provisions regarding children involved in the matter before the court:

(1) Designation of the temporary legal custody of the child;

(2) designation of a temporary residence for the child;

(3) allocation of parental rights and responsibilities regarding matters pertaining to the child's health, education and welfare;

(4) a schedule for the child's time with each parent, when appropriate.

(c) A parent seeking a temporary order in which matters of child custody, residency, or parenting time are included shall file a proposed temporary parenting plan contemporaneous with any request for issuance of such temporary orders, which plan shall be served with any such temporary orders.

(d) If the parent who has not filed a proposed temporary parenting plan disputes the allocation of parenting responsibilities, residency, parenting time or other matters included in the proposed temporary parenting plan, that parent shall file and serve a responsive proposed temporary parenting plan.

(e) Either parent may move to have a proposed temporary parenting plan entered as part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order.

(f) A parent may move for amendment of a temporary parenting plan, and the court may order amendment to the temporary parenting plan, if the amendment is in the best interest of the child.

(g) If a proceeding for divorce, separate maintenance, annulment or determination of parentage is dismissed, any temporary parenting plan is vacated.

60-1625. Same; permanent; objectives; general outline, provisions.

(a) The objectives of the permanent parenting plan are to:

- (1) Establish a proper allocation of parental rights and responsibilities;
- (2) establish an appropriate working relationship between the parents such that matters regarding the health, education and welfare of their child is best determined;
- (3) provide for the child's physical care;
- (4) set forth an appropriate schedule of parenting time;
- (5) maintain the child's emotional stability;
- (6) provide for the child's changing needs as the child grows and matures in a way that minimizes the need for future modifications to the permanent parenting plan;
- (7) minimize the child's exposure to harmful parental conflict;
- (8) encourage the parents, where appropriate, to meet their responsibilities to their minor children through agreements in the permanent parenting plan, rather than by relying on judicial intervention; and
- (9) otherwise protect the best interests of the child.

(b) A permanent parenting plan may consist of a general outline of how parental responsibilities and parenting time will be shared and may allow the parents to develop a more detailed agreement on an informal basis; however, a permanent parenting plan must set forth the following minimum provisions:

- (1) Designation of the legal custodial relationship of the child;
- (2) a schedule for the child's time with each parent, when appropriate; and
- (3) a provision for a procedure by which disputes between the parents may be resolved without need for court intervention.

(c) A detailed permanent parenting plan shall include those provisions required by subsection (b), and may include, but need not be limited to, provisions relating to:

- (1) Residential schedule;
- (2) holiday, birthday and vacation planning;
- (3) weekends, including holidays and school inservice days preceding or following weekends;
- (4) allocation of parental rights and responsibilities regarding matters pertaining to the child's health, education and welfare;
- (5) sharing of and access to information regarding the child;
- (6) relocation of parents;
- (7) telephone access;
- (8) transportation; and
- (9) methods for resolving disputes.

(d) The court shall develop a permanent parenting plan, which may include such detailed provisions as the court deems appropriate, when:

- (1) So requested by either parent; or
- (2) the parent or parents are unable to develop a parenting plan.

60-1626. Same; court information; classes; mediation; forms.

- (a) The court shall inform the parents, or require them to be informed, about:
 - (1) How to prepare a parenting plan;
 - (2) the impact of family dissolution on children and how the needs of children facing family dissolution can best be addressed;
 - (3) the impact of domestic abuse on children, and resources for addressing domestic abuse;and
 - (4) mediation or other nonjudicial procedures designed to help them achieve an agreement.
- (b) The court may require the parents to attend parent education classes.
- (c) If parents are unable to resolve issues and agree to a parenting plan, the court may require mediation, unless mediation is determined inappropriate in the particular case.
- (d) The clerk of the district court shall supply forms and information prescribed by the supreme court which may be used for submission of temporary and permanent parenting plans.

60-1627. Interspousal tort.

- (a) An action for interspousal tort shall not be consolidated with an action under K.S.A. 60-1601, et seq., and amendments thereto, unless the parties agree to consolidation and consolidation is approved by the court.
- (b) A decree of divorce or separate maintenance granted under subsections (a)(1) or (3) of K.S.A. 60-1601, and amendments thereto, shall not preclude an action for interspousal tort.
- (c) A decree of divorce or separate maintenance granted under subsection (a)(2) of K.S.A. 60-1601, and amendments thereto, shall preclude an action for interspousal tort based upon the same factual allegations. An action for interspousal tort which has been finally determined shall preclude an action under subsection (a)(2) of K.S.A. 60-1601, and amendments thereto, based upon the same factual allegations.

60-1628. Modification of final order; specify factual allegations.

- (a) A party filing a motion to modify a final order pertaining to child custody or residential placement pursuant to K.S.A. 38-1101 et seq. or K.S.A. 60-1601 et seq., and amendments thereto, shall include with specificity in the verified motion, or in an accompanying affidavit, all known factual allegations which constitute the basis for the change of custody or residential placement. If the court finds that the allegations set forth in the motion or the accompanying affidavit fail to establish a prima facie case, the court shall deny the motion. If the court finds that the motion establishes a prima facie case, the matter may be tried on factual issues.
 - (b) In the event the court is asked to issue an ex parte order modifying a final child custody or residential placement order based on alleged emergency circumstances, the court shall:
 - (1) Attempt to have the nonmoving party's counsel, if any, present before taking up the matter.
 - (2) Set the matter for review hearing at the earliest possible court setting after issuance of the ex parte order, but in no case later than 15 days after issuance.
 - (3) Require personal service of the order and notice of review hearing on the nonmoving party.
- No ex parte order modifying a final custody or residential placement order shall be entered without sworn testimony to support a showing of the alleged emergency.