

2023 Kansas Statutes

60-426. Attorney-client privilege. (a) General rule. Subject to K.S.A. 60-437, and amendments thereto, and except as otherwise provided by subsection (b), communications found by the judge to have been between an attorney and such attorney's client in the course of that relationship and in professional confidence, are privileged, and a client has a privilege: (1) If such client is the witness, to refuse to disclose any such communication; (2) to prevent such client's attorney from disclosing it; and (3) to prevent any other witness from disclosing such communication if it came to the knowledge of such witness (i) in the course of its transmittal between the client and the attorney, (ii) in a manner not reasonably to be anticipated by the client or (iii) as a result of a breach of the attorney-client relationship. The privilege may be claimed by the client in person or by such client's attorney, or if an incapacitated person, by either such person's guardian or conservator, or if deceased, by such person's personal representative.

(b) Exceptions. Such privileges shall not extend to a communication: (1) If the judge finds that sufficient evidence, aside from the communication, has been introduced to warrant a finding that the legal service was sought or obtained in order to enable or aid the commission or planning of a crime or a tort; (2) relevant to an issue between parties all of whom claim through the client, regardless of whether the respective claims are by testate or intestate succession or by inter vivos transaction; (3) relevant to an issue of breach of duty by the attorney to such attorney's client, or by the client to such client's attorney; (4) relevant to an issue concerning an attested document of which the attorney is an attesting witness; or (5) relevant to a matter of common interest between two or more clients if made by any of them to an attorney whom they have retained in common when offered in an action between any of such clients.

(c) Definitions. As used in this section:

(1) "Client" means a person or corporation or other association that, directly or through an authorized representative, consults an attorney or attorney's representative for the purpose of retaining the attorney or securing legal service or advice from the attorney in a professional capacity; and includes an incapacitated person who, or whose guardian on behalf of the incapacitated person, so consults the attorney or the attorney's representative in behalf of the incapacitated person.

(2) "Communication" includes advice given by the attorney in the course of representing the client and includes disclosures of the client to a representative, associate or employee of the attorney incidental to the professional relationship.

(3) "Attorney" means a person authorized, or reasonably believed by the client to be authorized, to practice law in any state or nation the law of which recognizes a privilege against disclosure of confidential communications between client and attorney.

History: L. 1963, ch. 303, 60-426; L. 1965, ch. 354, § 7; L. 2011, ch. 96, § 2; July 1.