

HOUSE BILL No. 2503

By Committee on Appropriations

2-12

9 AN ACT concerning child support enforcement; relating to payments
10 under an insurance policy and workers compensation; perfection of a
11 lien; unlawful acts; amending K.S.A. 39-759, 39-7,138, 39-7,140, 39-
12 7,141, 39-7,147, 39-7,148 and 39-7,150 and K.S.A. 2006 Supp. 23-
13 4,146 and repealing the existing sections.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 New Section 1. The following definitions shall apply to sections 2
17 through 5, and amendments thereto, except where the context requires
18 otherwise:

19 (a) “Insurer” or “company” means any insurance company providing
20 workers compensation coverage in this state and any insurance company
21 authorized to issue policies of liability insurance in this state.

22 (b) “Secretary” means the secretary of social and rehabilitation serv-
23 ices or a designee of the secretary.

24 (c) “Title IV-D” means part D of title IV of the federal social security
25 act (42 U.S.C. § 651 et seq.).

26 (d) “Child support lien” means any lien for unpaid support, including
27 unpaid maintenance, in a title IV-D case pursuant to K.S.A. 23-4,146,
28 and amendments thereto, or pursuant to any substantially similar law of
29 another state.

30 (e) “Business day” means any day on which state administrative of-
31 fices in Kansas are open for regular business.

32 New Sec. 2. (a) A child support lien for support owed in a title IV-
33 D case is perfected with respect to payments under a policy of insurance
34 on the date that a company has actual knowledge of the child support
35 lien or the date an attachment, including, but not limited to, an income
36 withholding order or an order to restrict transfer pursuant to K.S.A. 39-
37 7,150, and amendments thereto, is served on the company, whichever is
38 earlier.

39 (b) As provided in this subsection, prior to making any payment to a
40 claimant under a contract of insurance, the insurer shall review infor-
41 mation provided by the secretary in accordance with section 3, and
42 amendments thereto, and determine whether the payment is subject to
43 a child support lien. If the payment is for personal injury or lump-sum

1 workers compensation benefits and the amount equals or exceeds \$500,
2 the insurer shall determine whether a child support lien exists within 60
3 days but not later than 15 days prior to making the payment. If the pay-
4 ment is a recurring payment for workers compensation benefits, the in-
5 surer shall determine whether a child support lien exists within 60 days
6 but not later than 15 days prior to making the first recurring payment
7 due after the effective date of this act.

8 (c) If the insurer determines that all or part of the payment is subject
9 to a child support lien, the insurer shall comply with the requirements of
10 this subsection. To the extent that the payment is subject to priority liens
11 or interests as described in subsection (d), the insurer may make dis-
12 bursements to satisfy such priority liens or interests at any time in ac-
13 cordance with the contract of insurance and applicable law. The insurer
14 shall hold any remainder, up to the amount of the child support lien, and
15 provide notice to the secretary pursuant to subsection (e). If any amount
16 remains that is in excess of the priority liens or interests and the child
17 support lien, such excess may be disbursed at any time in accordance with
18 the contract of insurance and applicable law.

19 (d) If the company has documentation that any part of the payment
20 is subject to a lien or other enforceable interest because a third party has
21 provided or contracted to provide the claimant with goods or services
22 related to the claim including, but not limited to, the services of an at-
23 torney or a person licensed to practice medicine and surgery, such lien
24 or interest shall have priority over the child support lien. The secretary,
25 in consultation with the commissioner of insurance, may adopt rules and
26 regulations setting forth procedures to be followed by the company if a
27 third party has provided or contracted to provide goods or services to the
28 claimant and the company cannot reasonably determine the amount avail-
29 able to satisfy the child support lien.

30 (e) Within three business days after determining that a payment is
31 subject to a child support lien, the company shall notify the secretary by
32 complying with procedures established by the secretary. To the maximum
33 extent feasible, the secretary shall provide secure electronic processes for
34 this purpose.

35 (f) The insurer shall hold the amount subject to a child support lien
36 for a period of not less than 15 days following the determination that the
37 payment is subject to a child support lien or until the secretary releases
38 the lien, whichever is earlier. If the insurer does not receive an attach-
39 ment, including, but not limited to, an income withholding order or an
40 order to restrict transfer, prior to the expiration of the 15 days, the insurer
41 may disburse the held amount in accordance with the policy of insurance
42 and applicable law. However, if an attachment is received before such
43 disbursement is transmitted by depositing payment in the mail or oth-

1 erwise, the company shall withhold from the payment the support amount
2 set forth in the attachment and remit the support amount as directed in
3 the attachment. Any excess payment that remains may be disbursed in
4 accordance with the policy of insurance and applicable law. With respect
5 to any amounts not subject to an attachment, the child support lien shall
6 automatically be released upon expiration of the 15-day period and trans-
7 mission of the payment by deposit in the mail or otherwise.

8 New Sec. 3. (a) Except as otherwise provided in this subsection, the
9 secretary shall make available to insurers a listing of names and identifying
10 information for persons who owe past due support equal to or greater
11 than \$500 in a title IV-D case. To the maximum extent feasible, the sec-
12 retary shall use secure electronic data exchanges. The secretary shall re-
13 quire any insurer given access to the listing to enter into a confidentiality
14 agreement.

15 (b) Upon receipt of any remittance pursuant to section 2, and amend-
16 ments thereto, the secretary shall not distribute or disburse the amount
17 received until the time allowed for any administrative or judicial review
18 has elapsed.

19 New Sec. 4. (a) A company that knowingly fails to comply with the
20 requirements of section 2, and amendments thereto, or knowingly fails
21 to enter into the confidentiality agreement required by section 3, and
22 amendments thereto, shall be liable in a civil action to the secretary in
23 the amount of \$1,000 for each violation. A company that fails or refuses
24 to surrender to the secretary property subject to an order to restrict trans-
25 fer within the time required by the order shall be liable in a civil action
26 to the secretary for the amount not surrendered plus \$50 for each vio-
27 lation. If such failure or refusal was not done in good faith, the company
28 shall be liable in a civil action to the secretary for the amount not surren-
29 dered plus \$500 for each violation.

30 (b) A company that exchanges information with the secretary pur-
31 suant to section 2, and amendments thereto, shall be immune from any
32 liability to the claimant or other interested party for taking such action,
33 including individual or mechanical errors, provided such action does not
34 constitute gross negligence or willful misconduct.

35 (c) Any company that makes a payment to the secretary pursuant to
36 section 2, and amendments thereto, and any insured individual on whose
37 behalf the company makes such a payment shall be immune from any
38 obligation or liability to the claimant or any other interested party arising
39 from the payment, notwithstanding any other provision of law.

40 (d) Information provided by the secretary to a company under sec-
41 tions 2 and 3, and amendments thereto, may be used only for title IV-D
42 purposes and shall be subject to the provisions of K.S.A. 39-759, and
43 amendments thereto. Any individual or company who uses such infor-

1 mation for any other purpose shall be liable in a civil action to the sec-
2 retary in the amount of \$1,000 for each violation.

3 New Sec. 5. Any individual making a claim subject to section 2, and
4 amendments thereto, shall provide the claimant's current address, date
5 of birth and social security number to the insurance company upon the
6 request of the company. The company may inform the claimant that such
7 request is being made in accordance with this section for the purpose of
8 assisting the secretary to collect any unpaid support which may be due
9 from the claimant. Any individual who refuses to provide information
10 required by this section shall not receive payment on the claim, and a
11 company that declines payment on this basis shall be exempt from suit
12 and immune from liability related to the claim of such individual. Nothing
13 in this section shall be construed to prevent or delay issuance of any
14 payment on behalf of the claimant to any third party if the company has
15 documentation showing that the third party has provided or contracted
16 to provide the claimant with goods or services related to the claim in-
17 cluding, but not limited to, the services of an attorney or a person licensed
18 to practice medicine and surgery.

19 Sec. 6. K.S.A. 2006 Supp. 23-4,146 is hereby amended to read as
20 follows: 23-4,146. (a) Whenever there is an arrearage in payment of an
21 order of support in an amount equal to or greater than the amount of
22 support payable for one month, a lien shall arise by operation of law upon
23 certain personal property of the obligor. The lien may be perfected as
24 follows:

25 (1) In the case of a vehicle, the ~~secretary~~ *obligee* may perfect a lien
26 on the vehicle by filing a notice of lien with the division of vehicles of the
27 department of revenue. The perfection of the lien shall not be in effect
28 until the notation of the lien is actually placed upon the certificate of title
29 for the vehicle. The notice shall be in a form prescribed by the division,
30 or on a federal form as required by title IV-D, and shall contain a de-
31 scription of the vehicle, the name and address of the obligee or ~~secretary~~
32 *the obligee's agent*, the name and last known address of the obligor and
33 any other information required by the division. The notice shall state the
34 amount of the arrearage and that the arrearage is equal to or greater than
35 the amount of support payable for one month. A copy of the notice of
36 lien shall be sent by first-class mail to the obligor at the obligor's last
37 known address.

38 Upon the filing of the notice of lien in accordance with this subsection
39 (a)(1) and payment to the division of a fee of \$5, the division shall be
40 authorized to demand in writing the surrender of the title certificate from
41 the owner of the vehicle for the purpose of recording the lien on the title
42 certificate. Once the lien is properly recorded and perfected by actually
43 noting it on the certificate of title, a transfer of title is not valid unless the

1 lien has been released in the manner provided by K.S.A. 8-135 and
2 amendments thereto or the transfer has been consented to in writing by
3 the lienholder. If the obligor fails to surrender the title certificate within
4 15 days after the written demand by the division of vehicles, the division
5 shall notify the obligee seeking to perfect the lien. The obligee may obtain
6 an order of the court which issued the support order requiring the obligor
7 to surrender the title certificate so that the lien may be properly recorded.
8 Notwithstanding any provision of this section authorizing a lien on a ve-
9 hicle of an obligor, no lien shall attach to any vehicle which the obligor
10 has transferred to another person who has purchased the vehicle or ac-
11 cepted it by trade in exchange for other property or services in good faith,
12 for value, prior to the time that the lien on the vehicle has been noted
13 and perfected in the manner provided by this subsection (a)(1).

14 (2) In the case of a vessel or aircraft, the obligee may perfect a lien
15 on the vessel or aircraft by filing a notice of lien with the office where
16 filing is required by K.S.A. 84-9-401 and amendments thereto to perfect
17 a security interest in the vessel or aircraft. The perfection of the lien shall
18 not be in effect until the notation of the lien is actually placed upon the
19 appropriate documentation of title for the vessel or aircraft. The notice
20 shall contain a description of the make, model designation and serial num-
21 ber of the vessel or aircraft, including its identification or registration
22 number, if any; the name and address of the obligee *or the obligee's agent*;
23 and the name and last known address of the obligor. The notice shall state
24 the arrearage and that the arrearage is equal to or greater than the amount
25 of support payable for one month. A copy of the notice of lien shall be
26 sent simultaneously by first-class mail to the obligor at the obligor's last
27 known address.

28 Upon the filing of the notice of lien in accordance with this subsection
29 (a)(2) and payment of a fee of \$5, the notice of lien shall be retained by
30 the office where filed and may be enforced and foreclosed in the same
31 manner as a security agreement under the provisions of the uniform com-
32 mercial code. If the notice of lien is filed in the office of the secretary of
33 state, the filing officer shall file, index, amend, maintain, remove and
34 destroy the notice of lien in the same manner as a financing statement
35 filed under part 4 of article 9 of the uniform commercial code. The sec-
36 retary of state shall charge the same filing and information retrieval fees
37 and credit the amounts in the same manner as financing statements filed
38 under part 4 of article 9 of the uniform commercial code. Notwithstand-
39 ing any provision of this section authorizing a lien on a vessel or aircraft
40 of an obligor, no lien shall attach to any vessel or aircraft which the obligor
41 has transferred to another person who has purchased the vessel or aircraft
42 or accepted it by trade in exchange for other property or services in good
43 faith, for value, prior to the time that the lien on the vessel or aircraft has

1 been noted and perfected in the manner provided by this subsection
2 (a)(2).

3 ~~(3) In any case filed under chapter 60 or 61 of the Kansas Statutes~~
4 ~~Annotated,~~ The obligee may perfect a lien on the obligor's interest in any
5 judgment, *order of restitution* or settlement in ~~the case~~ *any action filed*
6 *in this state* by filing a notice of lien with the clerk of the district court.
7 Copies shall be served on appropriate parties to the action. The notice of
8 lien shall have the effect of attaching the obligor's interest in any judg-
9 ment, *order of restitution* or settlement in the case. Any person holding
10 property or funds to satisfy any judgment, *order of restitution* or settle-
11 ment in the obligor's favor shall be prohibited from transferring to the
12 obligor any of such property or funds without the written consent of the
13 obligee. At the time that the holder would otherwise be required to trans-
14 fer property to the obligor, such property shall be transferred to the ob-
15 ligee unless the lien on the property has been released. Nothing in this
16 subsection shall be construed to require the holder to transfer any prop-
17 erty to the obligee any sooner than the holder would have been required
18 to transfer property to the obligor. To the extent that an attorney's lien
19 on the obligor's interest in any settlement, *order of restitution* or judg-
20 ment is perfected before service of the notice of lien under this section,
21 the attorney's lien shall have priority. If the property or funds are insuf-
22 ficient to satisfy all liens, the court shall conduct a hearing to determine
23 the division of such property or funds for payment on each lien.

24 Any person affected by the notice of lien who is or will be a payor as
25 defined in the income withholding act and amendments thereto may re-
26 quest that the obligee proceed under the income withholding act and
27 release the lien perfected pursuant to this section.

28 (4) If the obligor is or may become entitled to workers compensation
29 benefits, the obligee may perfect a lien on the benefits by serving a notice
30 of lien on the obligor. Copies shall be served on appropriate persons,
31 including but not limited to the director of workers compensation. The
32 notice of lien shall have the effect of attaching the obligor's interest in
33 the workers compensation benefits. Any person holding property or funds
34 to satisfy the obligor's interest shall be prohibited from transferring to the
35 obligor any of such property or funds without the written consent of the
36 obligee. At the time that the holder would otherwise be required to trans-
37 fer property to the obligor, such property shall be transferred to the ob-
38 ligee unless the lien on the property has been released. Nothing in this
39 subsection shall be construed to require the holder to transfer any prop-
40 erty to the obligee any sooner than the holder would have been required
41 to transfer property to the obligor. To the extent that attorney fees are
42 allowed by K.S.A. 44-501 et seq. and amendments thereto, the attorney
43 fees shall have priority subject to the current limitations provided in

1 K.S.A. 44-720, and amendments thereto.

2 Any person affected by the notice of lien who is or will be a payor as
3 defined in the income withholding act and amendments thereto may re-
4 quest that the obligee proceed under the income withholding act and
5 release the lien perfected pursuant to this section.

6 (5) *With respect to amounts payable pursuant to a policy of insur-*
7 *ance, a lien may be perfected in a title IV-D case as provided in section*
8 *2, and amendments thereto.*

9 (b) As used in this section:

10 (1) “Aircraft” has the meaning provided by K.S.A. 3-201 and amend-
11 ments thereto.

12 (2) “Vehicle” has the meaning provided by K.S.A. 8-126 and amend-
13 ments thereto.

14 (3) “Vessel” has the meaning provided by K.S.A. 82a-801 and amend-
15 ments thereto.

16 (4) “Arrearage,” “title IV-D,” “obligor” and “order for support” have
17 the meanings provided by K.S.A. 23-4,106 and amendments thereto.

18 (5) “Obligee” means the person or entity to whom a duty of support
19 is owed, including but not limited to any title IV-D agency.

20 (6) “Workers compensation” has the meaning provided by K.S.A. 44-
21 501 et seq. and amendments thereto.

22 (7) “Attorney’s lien” has the meaning provided by K.S.A. 7-108 and
23 amendments thereto.

24 Sec. 7. K.S.A. 39-759 is hereby amended to read as follows: 39-759.

25 (a) With respect to information obtained by the secretary under *section*
26 *2, K.S.A. 39-758 or K.S.A., 39-7,136, 39-7,143 and or 39-7,150, and*
27 *amendments thereto, any person who willfully requests, obtains or seeks*
28 *to obtain confidential information except in accordance with any law per-*
29 *mitting such disclosure shall be guilty of a class B nonperson misde-*
30 *meanor. With respect to information obtained by the secretary under*
31 *section 2, K.S.A. 39-758 or K.S.A., 39-7,136, 39-7,143 and or 39-7,150,*
32 *and amendments thereto, any person who willfully requests, obtains or*
33 *seeks to obtain confidential information under false pretenses or who*
34 *willfully communicates or seeks to communicate such information to any*
35 *person except in accordance with any law permitting such disclosure shall*
36 *be guilty of a severity level 10, nonperson felony. If the offender is an*
37 *officer or employee of the state or a political subdivision of the state, such*
38 *officer or employee shall be dismissed from office. If the offender’s su-*
39 *ervisor does not dismiss the offender, such supervisor shall be dismissed*
40 *from office. Any violation of this subsection by a IV-D contractor or an*
41 *agent of a IV-D contractor shall be grounds for termination of the IV-D*
42 *contract and the contract shall be terminated. The provisions of this sub-*
43 *section shall be a complete defense in any civil action concerning such*

1 dismissal, termination of the IV-D contract or termination of a contrac-
2 tor's relationship with an individual offender. When the individual is hired
3 as an officer or employee of the state or a political subdivision or hired
4 by a IV-D contractor, such individual shall be given verbal and written
5 notice of the provisions of this subsection. Such individual shall sign a
6 statement stating that such information was received.

7 (b) ~~Effective October 1, 1997,~~ The secretary shall safeguard, to the
8 extent required by title IV-D or any other provision of law, any confiden-
9 tial information handled by the secretary. Unauthorized use or disclosure
10 of information relating to proceedings or actions to establish paternity or
11 to establish or enforce a support obligation is prohibited, except that noth-
12 ing in this provision shall prevent the secretary or the secretary's desig-
13 nees from using or disclosing information, or authorizing use or disclosure
14 of information, as needed in the administration of the IV-D program or
15 as authorized by title IV-D.

16 The release of information concerning the location of one party to
17 another party against whom a protective order with respect to the former
18 party has been entered is prohibited. The release of information con-
19 cerning the location of one party to another party is prohibited if the
20 secretary has reason to believe that the release of such information may
21 result in physical or emotional harm to the former party. For purposes of
22 this subsection, "has reason to believe" means that the former party has
23 claimed good cause for refusing to cooperate in IV-D activities, so long
24 as the claim is pending or has been approved. Such good cause shall relate
25 to one of the following: (1) The child was conceived as a result of incest
26 or rape; (2) there are legal proceedings for adoption of the child pending
27 before a court; (3) the custodial parent is currently being assisted by a
28 public or licensed private social agency in determining whether to keep
29 the child or relinquish the child for adoption; (4) there is documented
30 evidence to support the claim that the child may be physically or emo-
31 tionally harmed; or (5) there is documented evidence to support the claim
32 that the custodial parent may be physically or emotionally harmed so
33 seriously as to reduce the capacity to adequately care for the child.

34 (c) The provisions of this section shall be in addition to any other
35 prohibition against further disclosure, remedy or sanction provided by
36 law.

37 Sec. 8. K.S.A. 39-7,138 is hereby amended to read as follows: 39-
38 7,138. The following definitions shall apply in any IV-D administrative
39 proceeding related to K.S.A. 39-7,137 through 39-7,152 and amendments
40 thereto, except where the context requires otherwise.

41 (a) "Account" means a demand deposit account, checking or nego-
42 tiable withdrawal order account, savings account, time deposit account or
43 money-market mutual fund account.

- 1 (b) “Arrearages” means past due support under any support order of
2 any tribunal of this or any other state, including, but not limited to, the
3 unpaid balance of any costs awarded, public assistance debt or accrued
4 interest.
- 5 (c) “Business day” means a day on which state *administrative* offices
6 in Kansas are open for regular business.
- 7 (d) “Cash asset” means any intangible property that consistently
8 maintains a fair market value of one dollar per unit *and includes any*
9 *amount payable under a policy of insurance that may be subject to a lien*
10 *pursuant to K.S.A. 23-4,146, and amendments thereto.* It shall be pre-
11 sumed that any account held by a financial institution and from which
12 the obligor may make cash withdrawals, with or without penalty, consists
13 entirely of cash assets.
- 14 (e) “Current support” includes but is not limited to the duty to pro-
15 vide for a child’s ongoing medical needs through cash, insurance coverage
16 or other means. “Current support” does not include any periodic amount
17 specified to defray arrearages.
- 18 (f) “Custodial parent” means the parent or other person receiving IV-
19 D services on the child’s behalf and may include an agency acting *in loco*
20 *parentis*, a guardian, or a blood or adoptive relative with whom the child
21 resides.
- 22 (g) “Duty of support” means any duty to support another person that
23 is imposed or imposable by law or by any order, decree or judgment of
24 any tribunal, whether interlocutory or final or whether incidental to a
25 proceeding for divorce, judicial separation, separate maintenance or oth-
26 erwise, including, but not limited to, the duty to provide current support,
27 the duty to provide medical support, the duty to pay birth expenses, the
28 duty to pay a public assistance debt and the duty to pay arrearages.
- 29 (h) “Financial institution” means any financial institution as defined
30 in ~~469A~~ *section 669A* of the federal social security act (42 U.S.C. § 469A)
31 and amendments thereto.
- 32 (i) “Holder” means any person who is or may be in possession or
33 control of any cash asset of the responsible parent.
- 34 (j) “IV-D” or “title IV-D” means part D of title IV of the federal
35 social security act (42 U.S.C. § 651 *et seq.*) and amendments thereto, as
36 in effect on ~~May 1, 1997~~ *December 31, 2006.* “IV-D services” means those
37 services the secretary provides pursuant to title IV-D.
- 38 (k) “*Insurance company*” has the meaning ascribed thereto in K.S.A.
39 *40-201, and amendments thereto.*
- 40 ~~(l)~~ (l) “Party” means the secretary, the responsible parent, the cus-
41 todial parent or the child or any assignee or other successor in interest to
42 any of them.
- 43 ~~(m)~~ (m) “Public assistance debt” means the obligation to reimburse

1 public assistance as described in K.S.A. 39-718b or 39-719 and amend-
 2 ments thereto or in any similar law of this or any other state.

3 ~~(m)~~ (n) “Responsible parent” means, if a child is receiving or has
 4 received IV-D services from the secretary, the mother, father or alleged
 5 father of the child.

6 ~~(n)~~ (o) “Secretary” means the secretary of social and rehabilitation
 7 services or a designee of the secretary.

8 ~~(o)~~ (p) “State” means a state of the United States, the District of
 9 Columbia, Puerto Rico, the United States Virgin Islands or any territory
 10 or insular possession subject to the jurisdiction of the United States. The
 11 term “state” includes an Indian tribe and includes any jurisdiction de-
 12 clared a foreign reciprocating country by the United States secretary of
 13 state and any foreign jurisdiction that has established procedures for is-
 14 suance and enforcement of child support orders which are substantially
 15 similar to the procedures of this state. It shall be presumed that a foreign
 16 jurisdiction which is the subject of an unrevoked declaration by the at-
 17 torney general pursuant to K.S.A. 23-4,101 and amendments thereto is a
 18 state as defined in this subsection.

19 ~~(p)~~ (q) “Support order” means any order by which a person’s duty of
 20 support is established, including, but not limited to, any order modifying
 21 a prior support order.

22 ~~(q)~~ (r) “Tribunal” means any court, administrative agency or quasi-
 23 judicial entity authorized to establish, modify or enforce support orders
 24 or to determine parentage. ~~With respect to support orders entered in this~~
 25 ~~state, the courts are the tribunals in Kansas.~~

26 Sec. 9. K.S.A. 39-7,140 is hereby amended to read as follows: 39-
 27 7,140. (a) The secretary shall have jurisdiction over:

- 28 (1) Any person receiving IV-D services from the secretary;
- 29 (2) any person within or without this state who may be made subject
 30 to the jurisdiction of the courts of this state for the purpose of determining
 31 the person’s duty of support or for establishing or enforcing a support
 32 order;
- 33 (3) any person without this state who may be made subject to the
 34 jurisdiction of the secretary for IV-D purposes by the laws of the juris-
 35 diction in which the person resides or may be found; and
- 36 (4) any person who may be made subject to the jurisdiction of the
 37 courts of this state because the person is or may be in possession or
 38 control of property of the responsible parent, is or may be indebted to
 39 the responsible parent or is or may be the responsible parent’s payor as
 40 defined in the income withholding act and amendments thereto.

41 (b) The jurisdiction of the secretary over any person shall commence
 42 at the time the person is served with an initial notice or order in any IV-
 43 D administrative proceeding or, for a person receiving IV-D services from

1 the secretary, at the time the secretary's IV-D services begin. "Initial
2 notice or order" includes, *but is not limited to*, a subpoena, an order for
3 genetic tests, a notice of lien, an income withholding order and an order
4 to restrict transfer.

5 The secretary's jurisdiction over the responsible parent shall continue
6 so long as IV-D administrative proceedings are pending or so long as a
7 duty of support exists, whichever is longer, regardless of the responsible
8 parent's subsequent departure from this state.

9 (c) Except as provided in subsection (d) or as otherwise specifically
10 required by law, service of any subpoena, notice or order in any IV-D
11 administrative proceeding upon any person shall be by regular mail ad-
12 dressed to the person's last known address. Service by mail is complete
13 upon mailing. Nothing in this subsection shall prevent the secretary and
14 any person from agreeing to an alternative method of service, including
15 but not limited to electronic data transfer. Any person accepting an al-
16 ternative method of service under this subsection shall not be liable to
17 any person solely because of the method of service.

18 (d) Service upon the responsible parent of an order for genetic tests
19 shall be made only by personal service or ~~registered~~ *certified* mail, return
20 receipt requested.

21 ~~(e) If service of any notice or order in a IV-D administrative pro-~~
22 ~~ceeding must be made only by personal service or registered mail, return~~
23 ~~receipt requested is qualified to serve the notice or order.~~

24 ~~(f)~~ (e) Except as otherwise provided in this subsection, substantial
25 compliance with the requirements for any method of service provided by
26 this section shall effect valid service if, upon review, the hearing officer
27 or tribunal finds that, notwithstanding some irregularity or omission, the
28 person served was made aware that an action or proceeding was pending
29 in which the person's person, status or property could be affected.

30 After commencement of any IV-D administrative proceeding, service
31 upon the secretary of any notice or document in the same IV-D admin-
32 istrative proceeding at any address other than the current address pro-
33 vided by the secretary shall not be effective service upon or notice to the
34 secretary.

35 Sec. 10. K.S.A. 39-7,141 is hereby amended to read as follows: 39-
36 7,141. Except to the extent precluded by another provision of law, a per-
37 son may waive any right conferred upon that person with respect to any
38 IV-D proceeding. Anyone seeking waiver shall advise the person of the
39 right to seek independent legal advice. Such waiver may be revoked in
40 writing within ~~20~~ *three* days following the date of such waiver.

41 Sec. 11. K.S.A. 39-7,147 is hereby amended to read as follows: 39-
42 7,147. (a) Except as otherwise provided in K.S.A. 23-4,107 or K.S.A. 39-
43 7,149, and amendments thereto, if no income withholding order is in

1 effect to enforce a support order in a title IV-D case, an income with-
2 holding order may be entered by the secretary. A notice of intent to
3 initiate income withholding, as described in K.S.A. 23-4,107, and amend-
4 ments thereto, shall be served on the responsible parent at least seven
5 days before the secretary issues the income withholding order. If the
6 amount of arrearages is less than the amount of current support due for
7 one month, the requirements of subsection (d) must be met. The income
8 withholding order shall conform to the requirements of the income with-
9 holding act and amendments thereto and shall have the same force and
10 effect as an income withholding order issued by a district court of this
11 state.

12 (b) If an income withholding order is issued by the secretary to en-
13 force a support order entered by a court of this state, the original docu-
14 ment shall be delivered for filing to the clerk of the court that entered
15 the support order. Thereafter, if the secretary is no longer providing title
16 IV-D services in the case, the clerk of the district court shall use the
17 income withholding order issued by the secretary in the same manner as
18 an income withholding order issued by the court.

19 (c) If an income withholding order is issued by the secretary to en-
20 force a support order entered by a tribunal of another state, the secretary
21 shall transmit a copy of the income withholding order to the tribunal of
22 the other state.

23 (d) If there are no arrearages or the amount of arrearages under the
24 support order is less than the amount of current support due for one
25 month, the secretary may initiate income withholding only if:

- 26 (1) Any arrearages are owed;
- 27 (2) a medical child support order exists;
- 28 (3) the secretary determines that immediate issuance of the income
29 withholding order was required by K.S.A. 23-4,107, and amendments
30 thereto, or by a similar law of another state, but no income withholding
31 order was entered;
- 32 (4) the responsible parent consents;
- 33 (5) required payments have been received after the due date at least
34 twice within the preceding 12 months, regardless of whether any arrear-
35 ages are owed; or
- 36 (6) the support order was entered by a tribunal of another state.

37 (e) ~~If the support order was entered by or registered with a court of~~
38 ~~this state, the notice of intent to initiate income withholding shall be~~
39 ~~served on the responsible parent by only personal service or registered~~
40 ~~mail, return receipt requested. In all other cases, the~~ *The* notice of intent
41 to initiate income withholding ~~shall~~ *may* be served upon the responsible
42 parent ~~only by personal service or registered mail, return receipt re-~~
43 ~~quested by first class mail.~~

1 Sec. 12. K.S.A. 39-7,148 is hereby amended to read as follows: 39-
2 7,148. (a) At any time after issuing an income withholding order, the
3 secretary shall: (1) Modify or terminate the income withholding order
4 because of a modification or termination of the underlying support order;
5 (2) modify the amount of income withheld to reflect payment in full of
6 the arrearages; (3) modify or terminate the income withholding order to
7 reflect the final order in a fair hearing pursuant to K.S.A. 75-3306, and
8 amendments thereto; or (4) modify, or when appropriate terminate, an
9 income withholding order consisting in whole or in part of a medical
10 withholding order because of a modification or termination of the un-
11 derlying medical child support order.

12 (b) In addition to modifications required by subsection (a), at any
13 time the secretary may issue a modified income withholding order: (1)
14 To change the amount to be withheld to defray arrearages; or (2) to
15 conform the terms of a medical withholding order to the requirements
16 of a payer. The provisions of this subsection shall apply only to income
17 withholding orders issued pursuant to K.S.A. 39-7,147, and amendments
18 thereto, including any modifications of such orders.

19 (c) The secretary shall provide notice of any proposed modification
20 to the responsible parent by ~~only personal service or registered mail,~~
21 ~~return receipt requested~~ *first class mail* at least 14 days before entry of
22 the modified income withholding order. The responsible parent may re-
23 quest: (1) An administrative hearing pursuant to K.S.A. 75-3306, and
24 amendments thereto, for review of the proposed modification by com-
25 plying with procedures established by the secretary within ten days after
26 service of the notice; or (2) a de novo court review pursuant to K.S.A. 39-
27 7,139, and amendments thereto. If the notice is served by mail, the time
28 for requesting review shall be extended by three days. If the proposed
29 modification increases the total amount to be withheld from the respon-
30 sible parent's income, entry of the modified income withholding order
31 shall be stayed pending resolution of the review. In all other instances,
32 entry of the proposed modification shall be stayed only for cause. The
33 issues in the administrative hearing shall be limited to whether the
34 amount of current support is as stated in the proposed modification and
35 whether the total arrearages are less than the proposed installment to
36 defray arrearages.

37 (d) The responsible parent may request that the secretary terminate
38 an income withholding order for cash support if: (1) Withholding has not
39 previously been terminated and reinitiated; and (2) there is a written
40 agreement among the parties that provides for an alternative arrange-
41 ment. If an income withholding order is terminated and the obligor sub-
42 sequently accrues any arrearages, the secretary may issue another income
43 withholding order as provided in K.S.A. 39-7,147, and amendments

1 thereto.

2 (e) If the income withholding order includes both a medical with-
3 holding order and an income withholding order for cash support, modi-
4 fication or termination of one portion of the income withholding order
5 shall not modify or terminate any other portion of the income withholding
6 order except as expressly provided in the order.

7 (f) The provisions of K.S.A. 39-7,147, and amendments thereto, re-
8 lating to transmitting income withholding orders to the tribunal that is-
9 sued the underlying support order, shall apply to any order issued mod-
10 ifying or terminating income withholding that is issued pursuant to this
11 section.

12 Sec. 13. K.S.A. 39-7,150 is hereby amended to read as follows: 39-
13 7,150. (a) Upon determining that arrearages exist in a title IV-D case, the
14 secretary may enforce the support order by an administrative levy upon
15 the responsible parent's cash assets. Any retirement fund that may be
16 revoked or terminated by the responsible parent and is composed of cash
17 assets shall be subject to administrative levy under this section, notwith-
18 standing any other provision of law ~~unless the retirement fund has any~~
19 ~~primary beneficiary other than the responsible parent or the responsible~~
20 ~~parent's spouse.~~

21 (b) To initiate an administrative levy under this section, the secretary
22 shall serve an order to restrict transfer upon the holder of any cash asset
23 of the responsible parent. The secretary may include with the order to
24 restrict transfer an order to verify information concerning the cash asset.
25 Except as otherwise provided pursuant to subsection (i), the order to
26 restrict transfer ~~shall be served only by personal service or registered mail,~~
27 ~~return receipt requested~~ *may be served by first class mail.*

28 (c) The order to restrict transfer shall attach, upon receipt by the
29 holder, the interest of the responsible parent in any cash asset in the
30 possession or control of the holder subject to any *exemption*, prior at-
31 tachment or lien or any right of setoff that the holder may have against
32 such assets. *The amount attached shall not exceed the amount stated in*
33 *the order to restrict transfer.* If the total value of all attachable cash assets
34 is less than \$25 at that time, no interest shall be attached by the order to
35 restrict transfer. Upon attachment, the holder shall not transfer any of
36 the attached assets without the consent of the secretary until further order
37 of the secretary.

38 (d) Any cash asset ~~held~~ *owned* by the responsible parent in joint ten-
39 ancy with rights of survivorship shall be presumed to be owned entirely
40 by the responsible parent. The burden of proving otherwise shall be upon
41 any person asserting ownership of any attached cash asset. Neither the
42 holder nor the secretary shall be liable to the joint owners if the ownership
43 of the cash assets is later proven not to be the responsible parent's.

- 1 (e) The holder shall promptly notify any co-owner of the cash asset
2 or account about the attachment if the co-owner's interest appears to be
3 affected by the attachment.
- 4 (f) If an order to restrict transfer is issued, the secretary shall simul-
5 taneously send notice to the responsible parent by ~~only personal service~~
6 ~~or registered mail, return receipt requested~~ *first class mail*. The notice
7 shall state when review is available and how to request review.
- 8 (g) If the secretary includes with the order to restrict transfer an
9 order to verify information, the holder shall comply with the terms of the
10 order to verify information within 14 days of receipt.
- 11 (h) If the time allowed to request an administrative hearing has
12 elapsed and the proposed levy has not been challenged or the challenge
13 has been resolved, in whole or in part, in favor of the secretary, the
14 secretary shall issue an order to the holder to disburse the attached funds.
- 15 (i) If the holder is a financial institution *or insurance company* that
16 has entered into an agreement with the secretary, the agreement may
17 provide for alternative methods of: (1) Notifying the financial institution
18 *or insurance company* to restrict transfer of cash assets or to disburse
19 proceeds of the order; (2) resolving disputes between the financial insti-
20 tution *or insurance company* and the secretary concerning an adminis-
21 trative levy; and (3) exchanging any data related to the IV-D program.
- 22 (j) The exemptions contained in article 23 of chapter 60 shall apply
23 to any attachment under this section.
- 24 (k) The responsible parent, the holder or any co-owner *of the cash*
25 *asset* may contest any order entered under this section that affects the
26 person's rights or duties. The aggrieved person may request: (1) an ad-
27 ministrative hearing pursuant to K.S.A. 75-3306, and amendments
28 thereto, by complying with procedures established by the secretary within
29 ten days after entry of the order being contested; or (2) a de novo court
30 review pursuant to K.S.A. 39-7,139, and amendments thereto. If the order
31 is served on the person by mail, the person's time for requesting review
32 shall be extended by three days.
- 33 (l) Except as otherwise provided in this subsection, the effect of an
34 order to restrict transfer may be stayed pending resolution of any admin-
35 istrative hearing only upon request and only if the person requesting the
36 stay posts a cash or surety bond or provides other unencumbered security
37 equal in value to the amount of the attached assets. Upon notice and
38 opportunity for hearing, the presiding officer may stay or limit the effect
39 of an order to restrict transfer if the request for stay is accompanied by
40 a sworn statement that the responsible parent ~~is not the owner~~ *owns none*
41 *of the attached assets*.
- 42 The effect of an order to verify information or an order to disburse
43 attached funds shall be stayed only *for good cause shown and* at the

1 discretion of the presiding officer.

2 (m) An order issued pursuant to this section whose effect has not
3 been stayed may be enforced pursuant to the civil enforcement provisions
4 of the act for judicial review and civil enforcement of agency actions,
5 K.S.A. 77-601 et seq., and amendments thereto, after the time for com-
6 pliance with the order has expired. An order issued pursuant to this sec-
7 tion shall not be enforceable more than two years after the date of entry
8 shown on the face of the order.

9 Sec. 14. K.S.A. 39-759, 39-7,138, 39-7,140, 39-7,141, 39-7,147, 39-
10 7,148 and 39-7,150 and K.S.A. 2006 Supp. 23-4,146 are hereby repealed.

11 Sec. 15. This act shall take effect and be in force from and after its
12 publication in the statute book.