

Approved \_\_\_\_\_

Date 3/12/1984

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Marvin Littlejohn at \_\_\_\_\_  
Chairperson

1:30 a.m./p.m. on February 28, 1984 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Research  
Bill Wolff, Research  
Norm Furse, Revisor  
Sue Hill, Secy. to Committee

Conferees appearing before the committee:

Sherman Parks, Jr., Ks. Chiropractic Assoc., Topeka, Ks.  
Dr. Ed. Counselman, Doctor of Chiropractic, Topeka, Ks.  
Don Satterfield, Registered Physician's Assistant, McPherson, Ks.  
Bernie Reinert, President Ks. Chapter American Physical Therapy Assoc.  
Jackie Rawlings, Director of Physical Therapy, St. Mary Hosp. Manhattan, Ks.  
Susan Hanrahan, Legislative Chairperson/Registered Physical Therapists, Ks.  
Jerry Slaughter, Kansas Medical Society  
Harold Riehm, Ks. Assoc. of Osteopathic Medicine  
Mr. J. A. Robertson, CSE Senior Legal Counsel, Dept. of SRS  
Evelyn Bowers, Ks. Assoc. District Court Clerks, Oskaloosa, Ks.

Visitor's register, (see Attachment No. 1.)

Chairman called meeting to order making note of HB 3047. This bill is having an amendment drawn to amend it to HB 2796, and will be worked on the floor of the house tomorrow. There will be no hearings on HB 3047 in this committee.

HB 3034 hearings began:-

Sherman A. Parks, presented testimony to committee, (see Attachment No. 2.), for details. He urged for support of HB 3034, saying that last year K.S.A. 65-2901 and 65-2912 were amended, and this bill is asking that it be added to these two statutes in order to make the statutes complete. Said, if M.D.'s and O.D.'s, Dentists, and Podiatrist's can work with Physical Therapists, then the Ks. Doctor of Chiropractic also should be allowed to work with and consult with the registered Physical Therapists. Sees this as a consumer bill, not as a chiropractic bill.

Dr. Ed. Counselman gave printed testimony to committee, (see Attachment No. 3.), for details. He spoke to HB 3034, saying he sees no major reasons why the Doctor of Chiropractic and Physical Therapist cannot work together in providing quality health care to Kansas patients. Says this is not a "turf" battle, does not feel threatened by P.T.'s, and they should not feel threatened by Chiropractics. Urged committee for support of HB 3034. He answered questions.

Mr. Don Satterfield, Registered Physician's Assistant spoke to HB 3034, stating a great number of Physician's Assistants are more likely to settle in rural medical underserved areas and he spoke of the expanding role of PA's in today's medicine. He offered an amendment to HB 3034, adding the words, "registered Physicians Assistant", immediately after the already proposed changes. He then answered questions.

Mr. Bernie Reinert, Pres. of Ks. Physical Therapist's Association in Wichita, spoke to HB 3034 from printed testimony, see (Attachment No. 4.), for details. He spoke in opposition to HB 3034, saying there is concern with obtaining direction and supervision from Chiropractors on neurologically involved disorders. Says their education and training techniques and philosophical views are different. Stated his intent is not to say that one method of treatment is right or wrong, but there are areas that would be foreign to the educational background of those in Chiropractic, so it would be most difficult for the Physical Therapist to rely on them for direction and supervision of treatment. Asked that committee oppose HB 3034.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423-S, Statehouse, at 1:30 ~~a.m.~~/p.m. on February 28, 1984.

HB 3034 continues:--

Jackie Rawlings, Director of Physical Therapy of a hospital in Manhattan, Ks., spoke to HB 3034 from printed testimony, (see Attachment No. 5.), for details, stating because of her educational background P.T.'s do not feel comfortable with a chiropractor approving or disapproving of treatment programs for patients. In 20 years of practice she has had just one inquiry from a chiropractor regarding the benefits of a P.T. program might offer for his patient. She stressed opposition to HB 3034, and urged committee to oppose it as well.

Susan Hanrahan, Legislative Chairperson for Registered P.T.'s, said that for all the same reasons previously spoken here today, the group she represents oppose HB 3034 as well.

Mr. Jerry Slaughter, Ks. Medical Society spoke to HB 3034, in that this same proposed amendment was rejected last year, and things have not changed, the Ks. Medical Society is still in opposition to such a bill. We believe, he said, the key issue here isn't referral, but treatment. There is a place for the Chiropractic, yes, and there are some fine ones, but that is not the issue either. The key here is that the P.T.'s must work with them, consult with them, that is the key concept. Pointing to line 45 on page 2 of HB 3034, and lines 95 and 96 on page 3, he said if this legislation is approved, the bill would go on record saying that Chiropractics are physicians, and his group feels this is a substantial public policy question. He asked committee to oppose HB 3034.

Mr. Harold Riehm, Osteopathic Medicine Assoc. spoke to HB 3034, in that it sounds like a "turf" battle, but if you take away the turf problems in the end, his group says that in certain types of treatments, the consultation between the P.T. and physician as the law now stands is adequate. He then answered questions from committee. His Association opposes HB 3034.

Hearings closed on HB 3034.

HB. 3025:--

Mr. J.A. Robertson, Counsel for Dept. of SRS presented testimony, (see Attachment No. 6.), for details. He went through the bill section by section pointing out needed proposed changes, i.e., how the bill would help to eliminate problems of support monies going to the direct care of a child when in fact the child is no longer in the care of the parent who receives support checks; how arrearages would be handled; etc. Further, that if this amendment is enacted, collections of support in welfare and non-welfare cases would dramatically increase. He then answered questions from committee.

Ms. Evelyn Bowers, Ks. Assoc. Dist. Court Clerks offered an amendment to HB 3025, (see Attachment No. 7.), for details. Proposed changes in line 340, delete "court's payment ledger or other record", insert in lieu thereof, "appearance docket of the case and file the notification in the case file", line 341, delete "is", insert in lieu thereof, "may be". Further, she has problems with lines 306 through 332 and feels that it has worked in the past without this stipulation. It would work better for the courts if this language was not in the bill. Discussion, i.e., arrearages. etc.

Chairman then asked Mr. Robertson to respond to the section on page 9, lines 306 through 332 of HB 3025, and he stated it is a problem for many court clerks to separate these payments, tho he realizes some can but most cannot. Felt this section very necessary to the bill. He then commented on the proposed amendment of Ms. Bowers, Page 10, line 340 and line 341, and sees no problem with that and agrees it will help the bill.

Hearings closed on HB 3025.

Meeting adjourned.

Date: 2-28-84

GUEST REGISTER

HOUSE

PUBLIC HEALTH AND WELFARE

NAME	ORGANIZATION	ADDRESS
Jim Robertson	SRS	Topeka
Jan Schmitt	KMG	Topeka
Barb Power	K&WPC	"
Cvelyn A Bowers	KADCCA	Oshtemo
Norma J. Doty	KADCCA	Alma, Ks.
Jed C Woodhym		Topeka, Ks.
North Lullupell AM-C	KAPA	Mpherson, Ks.
Ethel May Miller	KARC	Topeka
Fiona Bailey	visiting with Sterling College	Sterling, Ks

Attn #1  
2-28-1984



Date: 2-28-84

GUEST REGISTER

HOUSE

PUBLIC HEALTH AND WELFARE

Please Print

NAME	ORGANIZATION	ADDRESS
Dorothy E. Funk Dorothy E. Funk		
Paul Johnson	P. A. C. K.	5624 Drury Lane Topeka
Evelyn Matthews	Kans. State Nurses Assoc.	1004 Highland Newton Ks 67114
Jean McBride	United Way of Topeka	820 Quincy Topeka
KETH R. LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	TOPEKA
Don Snodgrass	Walbee Enterprises Inc.	Topeka Ks
FRANCES Kastner	Physical Therapists	Topeka
Joanne Hill	KS P.T. ASSOCIATION	Topeka
Maerie Rowley	Ks PT Assoc	Manhattan, Ks
Bernie Reinart	KS. P.T. Assoc.	Wichita, KS
Susan Hanrahan	"	Topeka Ks
Jan Waide	S R S	Topeka Ks.
Michael Hinds	self	Topeka, Ks
Kathy Lewis	Board of Healing Arts	" "
Elizabeth Carlson	" " "	"
Kathy Wade Apps	Ks. Chiropractic Assn	Topeka
Sherman A. Parks, Jr	" " "	" "





*Attn # 2  
2-28-84*

# *Kansas Chiropractic*

ASSOCIATION

TESTIMONY BEFORE THE HOUSE  
PUBLIC HEALTH AND WELFARE COMMITTEE  
February 28, 1984  
House Bill Number 3034

Mr. Chairman, members of the Committee, my name is Sherman Parks, Jr., Executive Director of the Kansas Chiropractic Association, an organization representing approximately 85% of the licensed Doctors of Chiropractic in the State of Kansas. We appreciate the committee's introduction of this proposal and the opportunity to present testimony today in support of that bill. I have with me today Mr. Ed Counselman, a Doctor of Chiropractic from Topeka and former President of our Association who will also testify this afternoon. I will start off with a few brief comments, then Dr. Counselman will testify and I will make some brief concluding remarks. If you have questions - please do not hesitate to ask.

Last year this committee passed legislation which amended K.S.A. 1983 Supp. 65-2901 and 65-2912. The Physical Therapist Association testified last year that these two statutes needed to be amended to correct a problem that was occurring. They said that they had licensed Dentist and registered Podiatrist who were referring patients to Physical Therapist for treatment and needed this amendment to provide treatment legally.

This year the Kansas Chiropractic Association (K.C.A.) is requesting that a "simple little amendment" be attached to these two statutes in order to make the statutes complete.

*Attn. #2  
2-28-1984*



The addition of the language "... any branch of the healing arts..." in lines 46, 47 and 95 is a common sense approach to a problem you corrected last year. I have attached to my testimony a photograph of K.S.A. 65-2871 which is the "scope of practice statute" of a Kansas Doctor of Chiropractic. As you can see by that law, the licensed Doctor of Chiropractic has had the legal responsibility of diagnosis and treatment for many years. Kansas was the first state in the United States to license Doctors of Chiropractic. The State of Kansas has the highest standards of any other state pertaining to continuing education for Doctors of Chiropractic and the State of Kansas has always been a leader as it pertains to Chiropractic. Therefore it would only seem logical that if two branches of the healing arts, M.D.'s and D.O.'s, Dentist and Podiatrist can work with Physical Therapist, then Kansas Doctors of Chiropractic who having been authorized to perform physical therapy longer than P.T.'s have had a physical therapy law could also work and consult with registered Physical Therapist.

I see this bill not as a chiropractic bill but more as a consumer bill. The Physical Therapist have explained to me that if they wanted Doctors of Chiropractic in the bill last year they would have put us in. I feel the Physical Therapist should not see Doctors of Chiropractic as a threat to their health speciality. In fact, I would anticipate that if HB 3034 would pass, Kansas Doctors of Chiropractic could refer more patients to Physical Therapist than Dentist and Podiatrist combined.

This bill - if passed - would not cost the State of Kansas, the insurance companies or the citizens of Kansas any additional cost. The "bottom line" for this bill is that it will provide tools to all branches of the healing arts to perform quality health care and it will "open doors" to Physical Therapist that was not open before. The State of Florida has done it and the same could happen in Kansas.

I will stop at this point and introduce Dr. Ed Counselman who will provide some additional testimony and I request that the committee ask Dr. Counselman questions so you will have all or any your questions answered.



Mr. Chairman, members of the committee, thank you for listening to our testimony today. I hope we have shown you why House Bill 3034 is a good piece of legislation. If you have questions between now and Thursday when you are scheduled to take action on this bill, I am available, along with Kathy Apps of our office and Dr. Counselman to answer any questions or concerns you may have.

Thank-you, again.

**65-2871.** Persons deemed engaged in practice of chiropractic. For the purpose of this act the following persons shall be deemed to be engaged in the practice of chiropractic: (a) Persons who examine, analyze and diagnose the human living body, and its diseases by the use of any physical, thermal or manual method and use the X-ray diagnosis and analysis taught in any accredited chiropractic school or college and (b) persons who adjust any misplaced tissue of any kind or nature, manipulate or treat the human body by manual, mechanical, electrical or natural methods or by the use of physical means, physiotherapy (including light, heat, water or exercise), or by the use of foods, food concentrates, or food extract, or who apply first aid and hygiene, but chiropractors are expressly prohibited from prescribing or administering to any person medicine or drugs in materia medica, or from performing any surgery, as hereinabove stated, or from practicing obstetrics.

**History:** L. 1957, ch. 343, § 71; L. 1976, ch. 273, § 32; Feb. 13.

#### **Research and Practice Aids**

Physicians and Surgeons ← 6(1).

Hatcher's Digest, Physicians and Surgeons §§ 1, 2.  
C.J.S. Physicians and Surgeons §§ 10, 23.

#### **Law Review and Bar Journal References:**

Mentioned in "Legislative Review of Examining and Licensing Functions of State Boards and Commissions," Stanley D. Eloffson, 7 W.L.J. 307, 311 (1968).

#### **CASE ANNOTATIONS**

1. State recognizes practice of chiropractic as one of the healing arts. Taylor v. Maxwell, 197 K. 509, 511, 419 P.2d 822.

2. Acupuncture does not constitute surgery and is not prohibited in the practice of chiropractic. Acupuncture Society of Kansas v. Kansas Bd. of Healing Arts, 226 K. 639, 643, 645, 646, 647, 602 P.2d 1311.





# Kansas Chiropractic

ASSOCIATION

Attn #3  
2-28-84

TESTIMONY BEFORE THE HOUSE  
PUBLIC HEALTH AND WELFARE COMMITTEES

February 28, 1984

House Bill Number 3034

Mr. Chairman, members of the committee, my name is Dr. Ed Counselman, a Doctor of Chiropractic from Topeka, Kansas. I appear before you this afternoon to rise in support of HB 3034.

There are 506 licensed Doctors of Chiropractic in the State of Kansas and there are 436 registered Physical Therapist in Kansas. I feel there are no major reasons why Doctors of Chiropractic and Physical Therapist cannot work together in providing the best quality health care to Kansas patients.

HB 3034 does not mandate that physical therapist must work with D.C.'s but only allows the opportunity for that to occur. The State of Florida passed an identical type bill in 1983. Even though it is still early to see what the impact will be, the first impressions are very positive. We are seeing in some situations where Doctors of Chiropractic are hiring physical therapist and are making them part of their staffs so they together can provide a better service to their patients. There are a few D.C.'s in Florida who are referring all of their physical therapy to P.T.'s at no greater cost to the patient or insurance companies.

Attn #3  
2-28-1984



With the passage of HB 3034, I can see in some cities the potential elimination of duplication of equipment because a D.C. or P.T. would not have to have the same equipment since they are not barred from working together. Looking into the future, a young Doctor of Chiropractic or Physical Therapist could work with all health care providers in his or her community without investing large amounts of money in equipment in the early years of practice.

As an equal branch of the healing arts, the profession of Chiropractic should not be barred from having the opportunity to work with Physical Therapist as M.D.'s, D.O.'s, Dentist, and Podiatrists do. I could foresee, if given the opportunity, the Kansas Doctor of Chiropractic could have the potential of having one of the highest number of referrals between our two professions.

Many of you on this committee may have had telephone calls and communications from Physical Therapist and their Association and I would hope that you would ask me questions on their positions they have taken. One "viewpoint" I have heard for not passing this bill is that P.T.'s and Doctors of Chiropractic can not or will not work together. If this is one of their concerns, I see it as an artificial fear of the unknown rather than a legitimate concern.

In July of 1980, the American Medical Association revised its rules governing medical conduct to permit medical physicians to refer to Doctors of Chiropractic. While this was the first official recognition of Chiropractic by the A.M.A., many

individual medical doctors have had a close professional relationship with Doctors of Chiropractic for years, and in many instances using Doctors of Chiropractic for their own spinal health problem. Even here in Topeka, we have establish M.D.'s making request of the Kansas Chiropractic Association to be provided mailing list of Topeka Doctors of Chiropractic so that when they move, they can send the Topeka Doctors of Chiropractic notice of such moves.

When I first graduated from Chiropractic College, I could not had predicted the interworking with M.D.'s and D.O.'s that we have today. We still have a long way to go, but we have the opportunity to improve our interworkings. House Bill 3034 will grant us a similar opportunity with Physical Therapists.

Some people may view the policy question before you today as a "turf battle", however, since both of us can perform physical therapy, I don't feel threatened by the P.T.'s and they should not be threatened by us. We must look to the future.

I would hope that you will report HB 3034 out of this committee favorable and grant this needed opportunity for the citizens of Kansas.

Thank you Mr. Chairman and members of the committee. I will be happy to respond to any questions you may have.

*Attn #4*  
*2-28-84*

**Kansas Chapter**  
**AMERICAN PHYSICAL THERAPY ASSOCIATION**  
1237 Belle Terrace  
Topeka, KS 66604  
(913) 272-3024

TESTIMONY ON HB 3034

By Bernie Reinert  
President, Kansas Chapter  
American Physical Therapy Association  
7700 E 13th #36  
Wichita, KS 67206  
(316) 681-1394

I serve as President of the Kansas Chapter of the American Physical Therapy Association representing 400 Physical Therapists across the State or approximately 90% of all practicing Physical Therapists in Kansas. I am a Registered Physical Therapist on the administrative staff of Wesley Medical Center in Wichita. I appear before this committee today to speak in opposition to HB 3034.

Our intent today is not to say that one method of treatment is right or wrong, but it is imperative we stress the basic philosophical differences that exist between the practice of Physical Therapy and that of Chiropractic. While we realize both professions are governed by the Board of Healing Arts it must be emphasized that Physical Therapy education is based upon a medical, scientific model as opposed to the educational philosophy of the Chiropractor.

The Physical Therapists I represent have a great concern with obtaining direction and supervision from Chiropractors on neurologically involved disorders such as strokes, multiple sclerosis, Parkinsons and spinal cord injuries. Our approach to



these neurological patients requires a close working relationship with physicians who are licensed to practice medicine and surgery for coordination of a rehabilitation program that can be enhanced by the administration and monitoring of certain drugs and procedures. Techniques that we might utilize with these patients are in the areas of sensory integration, neuro-developmental sequencing, therapeutic exercise and utilization of adaptive devices. These are areas that would be foreign to the educational background of those in Chiropractic. As you can see by this example alone, how can a Physical Therapist rely on a Chiropractor for an appropriate referral or for input, direction and supervision for this type of patient.

In the area of orthopedic patients we are concerned as Physical Therapists because of the limitations that would be placed upon us by referral from Chiropractors. Under present policy, our patients enjoy the availability of a large battery of diagnostic procedures that would not be available under referral from Chiropractors. These procedures include EEG, EMG, myelograms, evoked potential, Cat scans and nuclear medicine. These diagnostic procedures are needed to protect health care consumers and rule out unnecessary or inappropriate treatment procedures that waste valuable health care dollars.

The Kansas Physical Therapy Association opposes HB 3034 and request that it not be passed.

*Attn #5*  
*2-28-4*

**Kansas Chapter**  
**AMERICAN PHYSICAL THERAPY ASSOCIATION**  
1237 Belle Terrace  
Topeka, KS 66604  
(913) 272-3024

TESTIMONY ON HB 3034

By Jackie Rawlings  
Director of Physical Therapy  
St Mary Hospital  
P.O. Box 1047  
Manhattan, KS 66502  
(913) 776-3322

My name is Jackie Rawlings. I am Director of Physical Therapy at St Mary Hospital in Manhattan, KS and have practiced Physical Therapy for the past 20 years. I had the pleasure of speaking to this committee last year on behalf of the revision of the Physical Therapy practice act. Today I am here to speak against House Bill 3034 which would allow Chiropractors to approve Physical Therapy treatment.

My reasons for opposing this bill are numerous. Basically I feel that my profession has philosophical differences in treatment procedures in relation to the chiropractic profession. I was educated to work with medical physicians who understand the benefits and procedures of Physical Therapy. Because of my educational background I would not feel comfortable with a chiropractor approving or disapproving my treatment program for a patient.

I would also like to point out that in my 20 years of practice I have received only one inquiry from a chiropractor regarding the benefits a Physical Therapy program might offer for his patient. Considering this past experience I would anticipate very few occasions when a chiropractor would be interested in

utilizing the expertise of the Physical Therapy profession. My concern is the motivation of the Chiropractic Association for desiring a relationship change at this point in time.

Many hospital based tests are available to assist in a comprehensive evaluation of the patient. These tests provide a tool for an appropriate diagnosis and plan of Physical Therapy treatment. I feel patients referred to me by chiropractors would not have this work up necessary to rule out medical conditions that might result in an incorrect diagnosis or inappropriate treatment. For instance, pain in the lower back can be caused by several conditions. Low back pain is a common symptom of bone cancer. Diagnosis of this condition requires sophisticated and varied testing procedures.

Medical research has provided us with state-of-the-art equipment that is available to provide early diagnosis and appropriate treatment. Physical Therapists work with physicians licensed to practice medicine and surgery to utilize this equipment effectively and provide quality care.

I am in opposition to HB 3034.

Thank you for giving me the opportunity to express my opinion. I am open for any questions you might have.



DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

*Attn. #1  
2-28-84*

RE: H.B. 3025

TESTIMONY by: J.A. Robertson  
CSE Senior Legal Counsel  
(913) 296-3410

Once again this bill concerns several different issues which are not interdependent. It is requested that any portion of the bill found to be unacceptable be stricken by amendment to allow for the approval of those issues viewed positively. The issues are as follows:

- I. The suggested amendment to the support assignment provision in K.S.A. 39-709(c) can be found at lines 77-86. The problem this section attempts to remedy occurs when a child's legal custodian (who is the payee under a court order for support) gives the physical custody of the child to a relative who then applies for and receives ADC assistance for the child. In such cases, as the law currently reads, the parent who has relinquished physical custody of the child may continue to receive court ordered support payments even though they are not used to support the child.

The purpose of the amendment is to establish an assignment of support rights to SRS by operation of law in cases where parents, who possess support rights, relinquish physical custody of a child to a relative who then receives ADC for the child. The act of relinquishing physical custody and the child's receipt of ADC would make effective the automatic assignment by operation of law. Not only would this amendment avoid the injustice of a parent who no longer supports the child continuing to receive child support payments while the taxpayers support the child, it would also save the state the great expense of using attorney and court time to modify such orders.

The remainder of the minor amendments through line 110 merely clean up the existing assignment verbage to make it applicable in the above referenced cases.

This suggested change is similar to existing law in Missouri.

- II. The next amendment is found on page 6 at lines 196-201. As the law currently exists, persons convicted of welfare fraud pursuant to K.S.A. 39-720(d) or the law of any other state become ineligible for general assistance for the rest of their lives. This is viewed by SRS an unduly harsh penalty especially if the conviction is the person's first. Further, the penalty may be delayed for several years until a person becomes ineligible for a federal program (like ADC when the child turns 18 and the parent is no longer eligible).

The suggested amendment would amend the penalty provision so that a first time offender would be ineligible for a period of one year; the life time prohibition would not come into being until the second

*Attn. #6  
2-28-1984*

conviction. SRS has obtained 758 welfare fraud related convictions since July 1, 1978, (ADC-680, GA-64, other-14). Only three percent or 24 of the persons convicted were second-time offenders. SRS feels this proposal would be equitable while at the same time retaining the deterrent aspects of the original legislation.

- III. Section 2 at page 7, lines 244-260 would amend K.S.A. 39-718a by clearing up some ambiguities in the existing statute. As amended the law would make it obvious that SRS has the right to sue an absent parent for reimbursement of the child's share of ADC if the parent was absent from the home where the child lives. Some courts have found this section inapplicable if the mother and child leave the marital home. The proposed amendment would also make it clear that SRS cannot sue for reimbursement if the absent parent is in full compliance with a court-ordered support order where the issue of support has been considered by the court.
- IV. Section 3 on page 7 and 8 would amend K.S.A. 39-754(b) on lines 270-271 and lines 292-293 to specifically state that SRS need not send a copy of the notice of assignment of support rights or notice of partial termination of support rights to the obligee or the obligor. In our opinion, this clarifies what the current law says. 39-754(b) and (d) states that SRS is to file notices of assignment with the court, period. Since the notice does not have any effect whatsoever concerning the amount of support to be paid or where it is to be paid by the obligor, we view the notices as unnecessary and expensive in terms of clerical time and mailing expense. The obligee receives notice of the assignment when ADC is applied for. The obligor will be notified when legally necessary (i.e., when payments are not made through the court).

The mailing of notices of assignment cause two other problems: (1) It confuses the person ordered to pay support concerning his/her obligation to pay. Often, when the ADC case closes and SRS files a notice of partial termination of assignment, the payor/obligor sees the word "termination" and feels this is a court order excusing him/her from the payment of support (despite wording to the contrary in the notice).

- (2) CSE is bound by strict federal and state confidentiality standards concerning the information we disclose about the ADC recipient or the absent parent. The effect of mailing copies of notices of assignment to the obligor is to divulge at least the county of residence of the ADC recipient and, often, his/her current address. In many cases strict confidentiality of the whereabouts of the custodial parent and child is necessary to prevent physical harrassment or injury to the parties who are drawing or have drawn ADC.
- V. The next substantive amendment is found at new subsection (e) on lines 306-322. As the law is currently written it states "Upon receipt of said notice (of partial termination) and without the requirement of a hearing or order, the court shall forward all payments made to satisfy support arrearages due and owing as of the date the assignment of support rights to (SRS) until the court receives notification of the termination of the assignment."

The suggested amendment does not require the courts to do anything they are not already mandated to do by law. It does provide a mechanism for carrying out the existing law by placing the burden of separating payments into current support and arrearages on SRS and not the courts.

After an ADC case closes, the ex-recipient has the right to receive current support from the date of closure. However, SRS retains the right to receive any arrearage which was due as of the date the ADC case closed. In these cases, the state is losing an estimated one-two million dollars per year because the courts either cannot or will not comply with the existing law. For example, a clerk of court does not have the authority to endorse a check made out to the obligee if it includes a current support payment and an arrearage payment. Therefore, the entire payment is sent to the obligee.

To remedy this problem, the amendment beginning at the end of line 306 is suggested. In a case where the ADC case is closed and a notice of partial termination of assignment is on file with the court, the amendment would require the court to determine if the support payment exceeds the amount of the court order. If it does, the court will forward the entire payment to SRS. SRS would then use its power of attorney to endorse the check and forward the amount of current support to the obligee and retain the excess to apply on the assigned arrearage. If the amount of support is less than or equal to the current support order, the court will forward the entire payment to the obligee.

This bill would require the clerks of court or the trustee to (1) be aware of the SRS notice, and (2) know the amount of the current support order. Both bits of information are in the court's record and could be placed on the payment ledger so that reference to the case file need not slow the process.

- IV. K.S.A. 39-754 is amended in another place concerning another issue in new subsection (g) at lines 333-342.

The purpose of this amendment is to protect the integrity of the court's record of payments in support cases by insuring that the person ordered to pay support is credited with all payments or collections of support made. SRS receives payments directly in three instances: (1) The Kansas debt setoff program (K.S.A. 75-6201 et seq), (2) the federal income tax refund program (Title IV-D, Social Security Act 464), and (3) pursuant to K.S.A. 44-718 for offset of unemployment compensation.

Since by statute these collections go directly to SRS rather than the courts, it is necessary to ensure that the courts which have required the payment of support through their systems have notice of and record the payments received. If courts do not note the payments, it would appear from the record that judgment liens against property exist when in reality they may not. Also, unless the payment ledger is accurately maintained, the obligor may be subjected to wrongful garnishment at some point in the future. The majority of courts have declined to accept SRS notices of collections as good reason to adjust their payment ledger.



VII. Section 4 of the bill on page 10 at lines 351-353 provides clear language to provide what is already the law in the view of SRS. In addition to allowing SRS to bring a civil action in the name of the State of Kansas (current law) the amendment would state in no uncertain terms that SRS may also enforce arrearages on the basis of any support order or file motions to modify such orders if support rights are assigned. We are currently filing such actions based on the assignment and power of attorney provisions in K.S.A. 39-709. However, from time-to-time judges question our authority to be involved in such litigation. The suggested amendment will clarify legislative intent.

VIII. An amendment to K.S.A. 39-758 is suggested at lines 376-378.

This change would expand the entities required to cooperate with SRS in locating absent parents to include private corporations, partnerships, associations, or organizations doing business in the State of Kansas. Private business would be required to assist SRS in locating absent parents and providing employment information for the purpose of support enforcement. The information received pursuant to this statute is mandated as highly confidential in K.S.A. 39-759.

Many businesses freely cooperate with SRS on a voluntary basis. However, many other businesses are unwilling to do so without statutory direction. Finding an absent parent and his or her resources is about 90% of the battle to enforce support. If this amendment were enacted, collections of support in welfare and non-welfare cases would dramatically increase.

This suggested law is similar to laws in several other states which require private businesses to cooperate, in the public interest and as a part of doing business in the state, with the support enforcement effort.

Alt # 7

2-28-84

0340 ~~rehabilitation services in the court's payment ledger or other~~  
0341 ~~record to insure that the obligor is~~ credited for the amounts  
0342 collected.

appearance docket of the case and file the notification  
in the case file

0343 Sec. 4. K.S.A. 39-755 is hereby amended to read as follows:  
0344 39-755. (a) In cases where the secretary of social and rehabilita-  
0345 tion services is deemed to have an assignment of support rights  
0346 from a person applying for or receiving aid to families with  
0347 dependent children in accordance with the provisions of K.S.A.  
0348 39-709 and amendments thereto, the secretary is authorized to  
0349 bring a civil action in the name of the state of Kansas to enforce  
0350 such support rights and, when appropriate or necessary, to es-  
0351 tablish the paternity of a child. *The secretary may also enforce*  
0352 *arrearages on the basis of any support order or file a motion to*  
0353 *modify any such order.*

may be

0354 (b) The secretary of social and rehabilitation services and the  
0355 attorney representing the secretary or an attorney with whom the  
0356 secretary has entered into a contract or agreement for such  
0357 services under this act shall be deemed to represent the interests  
0358 of all persons, officials and agencies having an interest in the  
0359 assignment. The court shall determine, in accordance with ap-  
0360 plicable provisions of law, the parties necessary to the proceed-  
0361 ing and whether independent counsel should be appointed to  
0362 represent any party to the assignment or any other person having  
0363 an interest in the support right.

0364 (c) Any support order made by the court in such a proceeding  
0365 shall direct that payments be made to the secretary of social and  
0366 rehabilitation services so long as there is in effect an assignment  
0367 of support rights to the secretary and, upon notification by the  
0368 secretary to the court that the assignment is terminated, that  
0369 payments be made to the person or family.

0370 (d) The provisions of this section shall also apply to cases  
0371 brought in accordance with the provisions of this act involving  
0372 persons who are not applicants for or recipients of aid to families  
0373 with dependent children.

0374 Sec. 5. K.S.A. 1983 Supp. 39-758 is hereby amended to read  
0375 as follows: 39-758. (a) State, county and local units of govern-  
0376 ment, their officers and employees, *as well as all corporations,*