

MINUTES OF THE House COMMITTEE ON JudiciaryThe meeting was called to order by Representative Joe Knopp at
Chairperson3:30 ~~a.m.~~p.m. on March 19, 1985 in room 526-S of the Capitol.

All members were present except:

Representatives Douville and Roy were excused.

Committee staff present:

Jerry Donaldson, Legislative Research Department
Mike Heim, Legislative Research Department
Mary Hack, Revisor of Statutes Office
Becca Conrad, Secretary

Conferees appearing before the committee:

Professor Kuether
Nancy Roush, President of Probate Real Estate Trust Section, Overland Park
Gerald Goodell, Representating Kansas Savings & Loan League
John Wachter, Federated Cash Management System
Kent Hatesohl, Trust Officer for First National Bank of Topeka
Donald Pearson, Lutheran Social Service in Wichita
Aileen Whitfill, Social and Rehabilitation Service
Mark KnackendoffelSB 40 - Concerning probate procedure; providing for procedures for informal administration of estates; relating to other procedures for administration of estates.

Randy Hearrell introduced Professor Kuether who spoke in favor of this bill with amendments. He explained the following changes: 1.) on page 11, Section 19, line 395, the word "gor" should be changed to "or"; 2.) Section 5, line 134 related to complete disclosure to all interested parties; 3.) Section 10, line 238, amends this back to original purpose to allow filing of a will in case assets are discovered; and at the same time, if the assets aren't discovered the will would never be probated; 4.) in Section 9, line 187, page 5, the amendment takes out the punitive nature and instead gives actual damages plus consequential damages for the cost of labor; 5.) shorten the time of the probate process from nine months to six months and shorten the time for creditors from six months to four months (this effects the following sections: 8, 9, 11, 13, 14, 19, 20, 23, 36, 37, 38, 41, 43, 45 and 57); 6.) simplify accounting for trusts in Section 6, page 15, line 573; 7.) repeal K.S.A. 59-2217 and 2218 which relates to contempt procedure in probate proceedings (Section 58); 8.) Section 44, page 24, line 31, relates to providing for both real and personal property; 9.) replace "representative" with "personal representative"; 10.) and delete all "his" and "hers" and replace with "executor"; 11.) stop splitting verbs; and 12.) eliminate all words such as "such", "said", and "said will", etc.

Ron Smith introduced Nancy Roush, President of Probate Real Estate Trust Section, Overland Park, who had amendments found in Section 1 and 5 of HB 2444. She said in Section K.S.A. 59-618(a), they think the statute should be changed to make it very clear that if you come in and file that will within the nine months period and perserve those records and give everybody notice, the person ought to be able to use the past property after the nine month period. She also suggested a change in Section 5 of HB 2250 that says if a will has been filed under K.S.A. 59-618(a) within that nine months period, then you can't use determination of descent. She said the only way this would effect SB 40 is that these two sections speak to a nine month period and SB 40 changes that to a six month period.

To clarify the changes, the Chairman pointed out that Section 41 of SB 40 would read the same as Section 5 of HB 2444. At the end of Section 41, a, b and c would be put in and delete the same language that is deleted in Section 5.

The Chairman announced that he would like to have these changes drawn up in a balloon so the committee can see them and take action on SB 40 tomorrow.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Judiciary,
room 526-S, Statehouse, at 3:30 ~~xxx~~/p.m. on March 19, 1985

SB 34 - Concerning corporate fiduciaries.

Gerald Goodell, representing the Kansas Savings & Loan League, said this is a clean-up bill which simply states that federal law authorizes savings and loan associations to meet certain conditions to have trust powers.

Representative Solbach made a motion to pass this bill favorably and it was seconded by Representative Vancrum. The motion carried.

SB 264 - Concerning fiduciaries; concerning powers with regard to certain investments.

John Wachter, Federated Cash Management System, spoke in favor of this bill as shown in Attachment No. 1.

Kent Hatesohl, Trust Officer for First National Bank of Topeka, spoke in favor of this bill for the Kansas Bankers Association Trust Division. He submitted Mark Knackendoffel's written testimony which is Attachment No. 2.

Representative Solbach made a motion to pass SB 264 favorably and it was seconded by Representative Buehler. The motion carried.

SB 69 - Concerning adoption; relating to procedures therefor.

Donald Pearson, Lutheran Social Service in Wichita, spoke in favor of this bill as shown in Attachment No. 3.

Representative Duncan made a motion to report this bill favorably and it was seconded by Representative Solbach. The motion carried.

SB 71 - Concerning the interstate compact on adoption and medical assistance.

Aileen Whitfill, Social and Rehabilitation Services, spoke in favor of this bill as shown in Attachment No. 4.

Representative Duncan made a motion to pass SB 71 favorably and it was seconded by Representative Solbach. The motion carried.

SB 222 - Concerning probate proceedings; relating to reopening of estates for certain purposes.

Mike Heim, Legislative Research, gave a brief explanation of this bill. He said it gave additional criteria for reopening an estate.

Representative Walker made a motion to report this bill favorably and it was seconded by Representative Adam. The motion carried.

SB 33 - Concerning children and minors; providing for court-ordered mediation of issues relating to child custody and visitation; concerning reporting of suspected child abuse.

The Chairman presented Attachment No. 5 which is proposed by John Peterson and Attachment No. 6 which show amendments concerning qualifications of a mediator and other technical amendments.

There was discussion on "Christian Science practitioners" being left out in lines 150 and 151. Representative Duncan made a motion to reinsert "Christian Science practitioners" and it was seconded by Representative Cloud. Upon vote, this motion failed by a count of four to seven.

Representative Solbach made a motion to insert Judge White's amendment which is shown on page 2 and labeled "(3)" (Attachment No. 7). It was seconded by Representative Whiteman.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Judiciary,
room 526-S, Statehouse, at 3:30 ~~a.m.~~/p.m. on March 19, 1985

Representative Wunsch made a substitute motion to adopt the amendment in Attachment No. 6, New Section 3. It was seconded by Representative O'Neal and the motion carried. Representative Solbach requested that he be recorded as voting "no" on this amendment.

Representative Wunsch made a motion to delete lines 106 and 107, New Section 5, and it was seconded By Representative Snowbarger.

Representative Cloud made a substitute motion to change line 106 to read "at any time after the third session, either party may terminate mediation ordered on Section 2". There was no second to this amendment.

A vote was taken on Representative Wunsch's motion to delete lines 106 and 107 and renumbering Section b and c to a and b. The motion carried seven to four. Representative Solbach requested to be recorded as voting "no" on this amendment.

Representative Cloud made a motion to insert after the word "visitation" in line 28 the following: "The mediator shall not consider issues of property division made with child support in connection with the mediation of issues of child custody and visitation except on the written approval of both parties for their counsel.

Representative Buehler made a motion to strike the period after "court", the words "The mediator" and "not", all of lines 116 and 117, and then insert after "court" the words "and shall". He said that would make it read "The mediator shall report the termination of mediation to the court and shall state the reason for termination." There was no second on this motion. The Chairman pointed out that to allow this amendment would destroy the mediation process. If people think a mediator is going to tell a judge what a client said which could be used against that client in court, then they would not feel free to open up to the mediator.

Representative Bideau made a motion to change paragraph 10(c) on page 3 to read as follows: "The mediator shall make a written summary of any understanding reached by the parties, which shall be signed by the mediator and the copies shall be provided to the parties of the attorney with the intent that any understanding reached by the parties as a result of the mediation shall not be binding upon the parties until reduced to a written stipulation and approved by the parties to the counsel and proof of the court." It was seconded by Representative O'Neal.

Representative Solbach made a friendly amendment to leave the provision for signing in there and then leaving the rest of the proposal the way Representative Bideau stated it so that it is not binding. Representative Cloud clarified the motion by restating that the agreement must be signed but will not be admissable or binding until it is reduced to writing by counsel and signed by them. Upon vote, this amendment carried.

Representative Walker made a motion to report SB 33 favorably as amended. It was seconded by Representative Wunsch and carried.

The minutes of March 18, 1985 were approved.

The meeting adjourned at 5:45 p.m.

**Testimony by John H. Wachter
for Federated Cash Management
Systems in favor of SB264**

**Kansas House Judiciary Committee
March 19, 1985**

SB 264 would amend K.S.A. 17-5005 to clarify Kansas law regarding a fiduciary's authority to utilize mutual fund type investments where the trust instrument directs a specific type of investment. The proposed legislation provides that whenever a trust instrument "directs, requires, authorizes or permits" investment in a certain class of securities, unless the instrument contains a specific prohibition, the fiduciary may invest in such obligations either directly or in the form of a registered mutual fund (a "Fund") which invests only in such obligations.

This legislation is similar to Senate Bill 524 passed by the 1984 Legislature amending K.S.A. 9-1101 authorizing banks to invest their own assets in a Fund the investments of which are limited to assets which a bank could otherwise hold directly.

SB 264 would permit a trustee to invest in a Fund which is registered under the Investment Company Act of 1940 and which invests only the same obligations a trust instrument directs or authorizes. The legislation is necessary to permit investments in Funds under these circumstances because Kansas law currently is unclear as to whether a direction or authorization to invest in specific obligations also may include authorization in a trust instrument to invest in a Fund which invests in such securities.

The proposed legislation will remove this uncertainty by making it clear that a provision which directs or authorizes investment in specific obligations also permits investment in such obligations through qualifying Funds. The legislation keeps intact the trustee's duty of care to act as a prudent investor.

This bill is supported by the Trust for U.S. Treasury Obligations (the "Trust") one of the Funds of Federated Cash Management Systems. The Trust is an open-end diversified investment company, registered with the Securities and Exchange Commission under the Investment Company Act of 1940, 15 U.S.C. §§80a-1 et seq., which invests only in short-term United States Government obligations.

There are significant advantages to be realized by trust beneficiaries in investing in Treasury obligations through the vehicle of a registered Fund. For example, where a trust account has available cash which is less than the minimum denomination of a U.S. Treasury Bill or Note, direct investment in U.S. government obligations may prove impracticable, and that cash will remain idle and not be invested. Other liquidity concerns (for instance, periodic cash needs) may impede or prevent direct investment, and even where direct investment is possible, the beneficiary may be seriously disadvantaged by fluctuations in

interest rates if it becomes necessary to sell the security prior to its maturity.

By means of a Fund like the trust, however, these obstacles to investment are removed. Because the minimum denomination for purchase of Trust shares on behalf of a beneficiary's account is one dollar (\$1), available cash effectively may be invested in U.S. Government securities in odd amounts and down to the last available dollar. In this way, no trust assets need remain uninvested and the settlor's intent to use assets to acquire U.S. Government securities may be more fully and efficiently realized. Both recurring and unexpected cash needs may be accommodated easily, because Trust shareholders enjoy true daily liquidity: their shares may be redeemed daily for cash without a redemption fee and the Trust declares dividends daily from net income accumulated on its portfolio securities. In addition, the maturity diversification of the portfolio ameliorates the impact of interest rate volatility.

The legislation would in no way change the intent or direction of a Trust instrument. It merely makes available a form of investment in the precise instruments the Trust directs.

For these reasons, we urge the adoption of SB 264.

SENATE BILL NO. 264

SUBJECT: Investment Powers of Fiduciaries

TESTIMONY OF: Mark Knackendoffel
Legislative Committee Chairman
Kansas Bankers Association - Trust Division
(Asst. Trust Officer - Commerce Bank & Trust, Topeka)

REPRESENTING: Trust Departments of Kansas Banks

POSITION: Supports S.B. No. 264

Nature of the Problem Addressed by S.B. 264

A document appointing the Trust Department of a Kansas bank as trustee or executor will frequently allow the trustee or executor to invest only in restricted types of securities, such as U.S. Treasury or Government obligations. Unfortunately, the account established by the document may provide only small dollar amounts or short time periods for investing available funds. Under these circumstances, it may be impractical or even impossible for the Trust Department to purchase these restricted types of investments.

S.B. 264, however, would enable the trustee or executor to invest the funds in a commercial investment fund or bank common trust fund that, in turn, purchased these restricted types of securities. Without S.B. 264, the trustee or executor would have to leave the funds uninvested, rather than violate the terms of the document.

Example:

A trusteeship for an Industrial Revenue Bond issue is perhaps the most common situation where the benefits of S.B. 264 would apply. During the course of an outstanding bond issue, the borrower is required to periodically deliver funds to the Trust Department (trustee). The Trust Department then uses the funds to pay interest to each of the bondholders.

The trust document, however, usually requires the borrower to deliver the funds to the trustee before the interest payment date, often from five to thirty days before such date. The trust document nearly always requires the trustee to invest the funds on behalf of the borrower in U.S. government securities during this period of five to thirty days. Unfortunately, it is difficult to obtain a competitive interest rate when investing a small dollar amount for a period of less than one month, particularly after considering transaction costs.

S.B. 264 would enable the trustee to invest these short term funds in a commercial money market fund or common trust fund that invests in the same type of securities authorized by the trust document, U.S. Government obligations. Our bank currently uses the Shearson Fed Fund (marketed by Shearson/American Express) for our accounts that expressly authorize the use of such a fund. This Fund allows daily deposits and withdrawals at no charge and is currently paying a rate of 8.4%. Thirty day Treasury Bills are currently paying 8.2%. Therefore, the borrower obtains liquidity, an attractive rate, and the security of indirectly investing in U.S. Government obligations.

SENATE BILL 69
TESTAMONY PROVIDED TO THE
HOUSE JUDICIARY COMMITTEE

by
DONALD V. PEARSON, DIRECTOR OF PROFESSIONAL SERVICES
LUTHERAN SOCIAL SERVICE, WICHITA, KS.

REPRESENTATIVE JOE KNOPP AND COMMITTEE MEMBERS:

We are in support of Senate Bill 69, with the amendments attached by the Senate Judiciary Committee. The bill relates to adoption procedures and amends current statutes.

(The testimony I am presenting today is based on the research done by Kansas Action for Children.)

The Kansas Adoption Planning Team, which Lutheran Social Service helped develop a few years ago, worked on legislation, in conjunction with SRS, that was presented to the 1984 Legislature. That bill failed.

Some of the features in that bill are contained in Senate Bill 69, which was requested by SRS. For many years SRS was required to assess for the court any proposed non-agency adoption. In 1983 the legislature relieved SRS of most of these assessments. A licensed social worker was to do the report unless none was available, in which case SRS would complete it.

Beginning in 1983, SRS no longer had any record of private adoptions. Not only did SRS not have the specific information about each adoption, it no longer could serve as a central clearing house for adoption information.

Senate Bill 69 would remedy the problem by requiring district courts to forward to SRS all adoption records since the 1983 change. SRS could then function as a central source for all adoptees seeking information about their adoption.

The bill also allows licensed child-placing agencies as well as social workers and SRS, to assess private adoptions.

As a private agency, we are concerned about the retention of records. It is Lutheran Social Service's policy to retain adoption records forever. This is important for medical and social history information about the birth parents. Senate Bill 69 restores this to include all adoptions, private and agency.

We urge committee passage of the bill and passage in to law.

Attachment No. 3
House Judiciary
March 19, 1985

State Department of Social and Rehabilitation Services

Statement Regarding S.B. 71

1. Title

Interstate Compact on Adoption and Medical Assistance

2. Purpose

The purpose of this legislation is to put in place a legal mechanism which will assure the continuation of federally funded adoption support medical assistance to children, adopted through the Kansas special needs adoption program, who are placed across state lines or who move with their adoptive families into another state.

3. Background

Currently Kansas adoption laws provide assistance for medical care and cash assistance to adoptive families who adopt certain special needs or "hard to place" children. This cash and/or medical assistance is provided even if the family leaves the state. The jurisdiction of the compact is limited to only those children who are determined eligible for the federally matched adoption support program. The reciprocity of the compact applies only to the medical assistance portion of adoption support. Of the 195 special needs children placed for adoption in FY-84 by SRS staff, thirty were eligible for coverage under the federally matched adoption support program. Presently 119 children are receiving adoption support through this program, and 23 of these children are living in other states. There are also 23 eligible children placed with adoptive families by other states now residing in Kansas. While these numbers will shift, it is anticipated the 50-50 ratio of children in and out of state will remain constant.

Adoptive families of special needs children who move to another state frequently have difficulty in obtaining medical providers willing to accept Kansas medicaid payments. As a consequence some adoptions are disrupted because children cannot receive necessary medical care in another state. Administrative time is spent by Central Office Medical Services staff and Youth Services staff on negotiating with families and out-of-state providers on establishing EDS federal eligibility, locating providers who will accept payment, and approval and payment of bills, etc.

4. Effect of Passage

Through the execution of the compact agreement, eligible children would receive the medical assistance and services from their state of residence, based only on verification that the child is currently receiving adoption assistance from the other state. Cash payments would continue to come from the sending state. This legislation will enable us to join with other states to assure a continuation of adoption assistance funds to special needs children when placed across state lines. The bill essentially provides assurance to families that payments will continue as long as there is a need and provides a mechanism for obtaining medical services for children placed in other states. In order for a state to adopt the Interstate Compact on Adoption and Medical Assistance, the state legislature must enact "The Suggested Act Authorizing an Adoption Assistance Compact and Procedures for Interstate Service Payments.

5. SRS Recommendation

SRS recommends passage of this bill.

Attachment No. 4
House Judiciary
March 19, 1985

Robert C. Harder
Office of the Secretary
Social and Rehabilitation Services
296-3271
March 19, 1985

PROPOSED AMENDMENT TO SENATE BILL 33

In line 48 by striking "either" and by striking all after "psychiatry". By striking all of lines 49, 50 and all of line 51 before the "." and by inserting therein, "a certified psychologist, a licensed clinical social worker, or such other person who, in the opinion of the Court, has the education and training to carry out the duties imposed herein".

Attachment No. 5
House Judiciary
March 19, 1985

SENATE BILL No. 33

By Committee on Judiciary

1-16

0018 AN ACT concerning actions for divorce, separate maintenance
0019 and annulment of marriage children and minors; providing for
0020 court-ordered mediation of issues relating to child custody
0021 and visitation; *concerning reporting of suspected child abuse*;
0022 amending K.S.A. 1984 Supp. 38-1522 and repealing the exist-
0023 ing section.

0024 *Be it enacted by the Legislature of the State of Kansas:*

0025 New Section 1. Mediation under this section is the process
0026 by which a neutral mediator appointed by the court assists the
0027 parties in reaching a mutually acceptable agreement as to issues
0028 of child custody and visitation. The role of the mediator is to aid
0029 the parties in identifying the issues, reducing misunderstand-
0030 ings, clarifying priorities, exploring areas of compromise and
0031 finding points of agreement. An agreement reached by the par-
0032 ties is to be based on the decisions of the parties and not the
0033 decisions of the mediator.

0034 New Sec. 2. ~~In any action for divorce, separate maintenance~~
0035 ~~or annulment,~~ The court may order mediation of any contested (a)
0036 issue of child custody or visitation at any time, ~~whether includ-~~
0037 ~~ing prior to or subsequent to an alteration of marital status,~~ upon
0038 the motion of a party or on the court's own motion. ~~The court~~
0039 ~~shall appoint a mediator who meets the minimum qualifications~~
0040 ~~required under section 3.~~

0041 ~~New Sec. 3. (a) If the court orders mediation under section 2,~~ (b)
0042 the mediator appointed by the court shall be a person who subsection (a)
0043 (1) ~~Has at least two years' experience as an attorney handling~~
0044 ~~domestic relations cases, such as divorce, annulment and, sepa-~~
0045 ~~rate maintenance and child custody; or~~
0046 (2) ~~has at least two years' experience as a counselor or psy-~~

Attachment No. 6
House Judiciary
March 19, 1985

0017 ~~therapist handling marriage and family relationships and~~
0018 ~~either is a physician specializing in psychiatry or has a master's~~
0019 ~~degree in psychology, social work, counseling or other behav-~~
0050 ~~ioral science substantially related to marriage and family rela-~~
0051 ~~tionships.~~

0052 ~~-(b) In appointing a mediator under section 2, the court shall~~
0053 ~~consider:~~

0054 (1) The nature and extent of any relationships the mediator
0055 may have with the parties and any personal, financial or other
0056 interests the mediator may have which could result in bias or a
0057 conflict of interest;

0058 (2) the mediator's knowledge of (A) the Kansas judicial sys-
0059 tem and the procedure used in domestic relations cases, (B) other
0060 resources in the community to which parties can be referred for
0061 assistance, (C) child development, (D) clinical issues relating to
0062 children, (E) the effects of divorce on children and (F) the
0063 psychology of families; and

0064 (3) the mediator's training and experience in the process and
0065 techniques of mediation.

0066 New Sec. 4. (a) A mediator appointed under section 2 shall:

0067 (1) Inform the parties of the costs of mediation;

0068 (2) advise the parties that the mediator does not represent
0069 either or both of the parties;

0070 (3) define and describe the process of mediation to the par-
0071 ties;

0072 (4) disclose the nature and extent of any relationships with
0073 the parties and any personal, financial or other interests which
0074 could result in bias or a conflict of interest;

0075 (5) advise each of the parties to obtain independent legal
0076 advice;

0077 (6) inform the parties of the right to terminate mediation at
0078 any time after the initial session;

0079 (7) allow only the parties to attend the mediation sessions;

0080 (8) disclose to the parties' attorneys any factual documenta-
0081 tion revealed during the mediation if at the end of the mediation
0082 process the disclosure is agreed to by the parties;

0083 (9) ensure that the parties consider fully the best interests of

shall be a person agreed upon by the two parties.
If the parties cannot agree, the court shall
appoint a mediator, taking into consideration the
following

SENATE BILL No. 33

By Committee on Judiciary

1-16

0018 AN ACT concerning ~~actions for divorce, separate maintenance~~
0019 ~~and annulment of marriage~~ *children and minors*; providing for
0020 court-ordered mediation of issues relating to child custody
0021 and visitation; *concerning reporting of suspected child abuse*;
0022 amending K.S.A. 1984 Supp. 38-1522 and repealing the exist-
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0026 by which a neutral mediator appointed by the court assists the
0027 parties in reaching a mutually acceptable agreement as to issues
0028 of child custody and visitation. The role of the mediator is to aid
0029 the parties in identifying the issues, reducing misunderstand-
0030 ings, clarifying priorities, exploring areas of compromise and
0031 finding points of agreement. An agreement reached by the par-
0032 ties is to be based on the decisions of the parties and not the
0033 decisions of the mediator.

0034 New Sec. 2. ~~In any action for divorce, separate maintenance~~
0035 ~~or annulment~~, The court may order mediation of any contested
0036 issue of child custody or visitation at any time, ~~whether includ-~~
0037 *ing* prior to or subsequent to an alteration of marital status, upon
0038 the motion of a party or on the court's own motion. The court
0039 shall appoint a mediator who meets the minimum qualifications
0040 required under section 3.

0041 New Sec. 3. (a) If the court orders mediation under section 2,
0042 the mediator appointed by the court shall be a person who:

0043 (1) Has at least two years' experience as an attorney handling
0044 domestic relations cases, such as divorce, annulment ~~and~~, sepa-
0045 rate maintenance *and child custody*; ~~or~~

0046 (2) has at least two years' experience as a counselor or psy-

0047 chotherapist handling marriage and family relationships and
 0048 either is a physician specializing in psychiatry or has a master's
 0049 degree in psychology, social work, counseling or other behav-
 0050 ioral science substantially related to marriage and family rela-
 0051 tionships;

0052 (b) In appointing a mediator under section 2, the court shall
 0053 consider:

0054 (1) The nature and extent of any relationships the mediator
 0055 may have with the parties and any personal, financial or other
 0056 interests the mediator may have which could result in bias or a
 0057 conflict of interest;

0058 (2) the mediator's knowledge of (A) the Kansas judicial sys-
 0059 tem and the procedure used in domestic relations cases, (B) other
 0060 resources in the community to which parties can be referred for
 0061 assistance, (C) child development, (D) clinical issues relating to
 0062 children, (E) the effects of divorce on children and (F) the
 0063 psychology of families; and

0064 (3) the mediator's training and experience in the process and
 0065 techniques of mediation.

0066 New Sec. 4. (a) A mediator appointed under section 2 shall:

0067 (1) Inform the parties of the costs of mediation;

0068 (2) advise the parties that the mediator does not represent
 0069 either or both of the parties;

0070 (3) define and describe the process of mediation to the par-
 0071 ties;

0072 (4) disclose the nature and extent of any relationships with
 0073 the parties and any personal, financial or other interests which
 0074 could result in bias or a conflict of interest;

0075 (5) advise each of the parties to obtain independent legal
 0076 advice;

0077 (6) inform the parties of the right to terminate mediation at
 0078 any time after the initial session;

0079 (7) allow only the parties to attend the mediation sessions;

0080 (8) disclose to the parties' attorneys any factual documenta-
 0081 tion revealed during the mediation if at the end of the mediation
 0082 process the disclosure is agreed to by the parties;

0083 (9) ensure that the parties consider fully the best interests of

; or (3) is acting in his or her official capacity as a court services officer and either has a master's or bachelor's degree in psychology, social work, counseling or other behavioral sciences substantially related to marriage and family relationships; or has been engaged in mediation under the direction of the district court prior to the effective date of this bill.

0121 such information except as necessary for the conduct of the
0122 mediation or as required by law.

0123 New Sec. 7. (a) A party ordered to participate in mediation
0124 under section 2 has a privilege in any action to refuse to disclose,
0125 and to prevent a witness from disclosing, any communication
0126 made in the course of the mediation. The privilege may be
0127 claimed by the party or anyone the party authorizes to claim the
0128 privilege. There is no privilege under this section as to a com-
0129 munication relevant to: (1) Information the mediator is required
0130 to report under K.S.A. 1984 Supp. 38-1522 and amendments
0131 thereto, (2) the commission of a crime during the mediation
0132 process or (3) an expressed intent to commit a crime in the future.

0133 (b) No person appointed as a mediator under section 2, nor
0134 that person's agent, may be subpoenaed or otherwise compelled
0135 to disclose any matters disclosed in the process of setting up or
0136 conducting the mediation except as to matters not privileged
0137 under subsection (a).

0138 New Sec. 8. The costs of any mediation ordered under sec-
0139 tion 2 shall be taxed to either or both parties as equity and justice
0140 require, unless the parties have reached a reasonable agreement
0141 as to payment of the costs. ✓

No costs shall be taxed if the mediator is a court services officer acting in his or her official capacity.

0142 Sec. 9. K.S.A. 1984 Supp. 38-1522 is hereby amended to read
0143 as follows: 38-1522. (a) When any of the following persons has
0144 reason to suspect that a child has been injured as a result of
0145 physical, mental or emotional abuse or neglect or sexual abuse,
0146 the person shall report the matter promptly as provided in
0147 subsection (c): Persons licensed to practice the healing arts or
0148 dentistry; persons licensed to practice optometry; persons en-
0149 gaged in postgraduate training programs approved by the state
0150 board of healing arts; certified psychologists; ~~Christian Science~~
0151 ~~practitioners~~; licensed professional or practical nurses examin-
0152 ing, attending or treating a child under the age of 18; teachers,
0153 school administrators or other employees of a school which the
0154 child is attending; chief administrative officers of medical care
0155 facilities; persons licensed by the secretary of health and envi-
0156 ronment to provide child care services or the employees of
0157 persons so licensed at the place where the child care services are