

Approved 4/25/85  
Date

MINUTES OF THE House COMMITTEE ON Judiciary

The meeting was called to order by Representative Joe Knopp at  
Chairperson

12:00 NOON ~~xxxx/xxxx~~ on March 28, 1985 in room 526-S of the Capitol.

All members were present except:

Representative Harper was excused.

Committee staff present:

Jerry Donaldson, Legislative Research Department

Mike Heim, Legislative Research Department

Mary Ann Torrence, Revisor of Statutes Office

Mary Hack, Revisor of Statutes Office

Becca Conrad, Secretary

Conferees appearing before the committee:

SB 40 - Concerning probate procedure; providing for procedures for informal administration of estates; relating to other procedures for administration of estates.

The Chairman reviewed the proposed amendments that were previously presented as shown in Attachment No. 1.

Representative Walker made a motion to adopt the amendments as shown in the balloon (Attachment No. 1). Representative Wunsch seconded the motion and it carried.

Representative Wunsch made a motion to amend New Section 3 to allow waiver of notice regardless of the type of property a person has. It was seconded by Representative O'Neal and carried.

Representative Wunsch made a motion to pass the bill favorably with amendments and it was seconded by Representative Walker. The motion carried.

SB 37 - Concerning civil procedure; relating to subpoena of certain records.

Representative Bideau made a motion to adopt language in this bill concerning worker compensation cases. Representative O'Neal seconded this motion.

Upon discussion, it was clarified that it would not be necessary for the "keeper of the records" to accompany the records when there is a subpoena of these records but they could still accompany the records and testify in court when desired. It was decided that this was an acceptable bill and rather than tie it up, Representative Bideau withdrew his motion.

Representative Shriver made a motion to adopt the amendments proposed by Marjorie Van Buren. It includes the following: page 2, line 67, where they will require the copies to be returned, they require the name and address of the witness as well as notification of whether return of the copy is desired, and that language is incorporated at other places to make it consistent. It was seconded by Representative Luzzati and carried.

Representative Luzzati made a motion to pass SB 37 favorably as amended and it was seconded by Representative Vancrum. The motion carried.

SB 153 - Concerning courts; relating to qualifications of justices and judges.

Representative Duncan made a motion to pass this bill out favorably.

There was discussion on the following: why a judge should be limited when the purpose of election is for the people to choose; Section 15, article 3 concerning whether a judge can rehabilitate himself or herself sufficient to be qualified to run for office again; the high expectations of a judge and what determines whether a judge should be removed; and a second chance given to judges in situations that they can correct, such as alcoholism.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Judiciary,  
room 526-S, Statehouse, at 12:00 NOON ~~a.m./p.m.~~ on March 28, 1985.

The motion was seconded by Representative Shriver and it carried by a vote of twelve to six. Representative Douville requested that he be recorded as voting "no".

SB 51 - Concerning support of certain persons; relating to orders for child support or maintenance; providing for enforcement thereof.

Representative Wagon was the chairman of the subcommittee assigned on this bill which consisted also of Representatives Vancrum, O'Neal and Whiteman.

Representative Wagon said the subcommittee worked for several hours on this and said the major areas they worked on are as follows: 1.) they tried to reconcile the opinions and concerns expressed by the business community concerning the automatic wage withholding; 2.) concern on part of Divorced Dads of Topeka that visitation rights also be addressed; and 3.) a number of technical changes. She explained these amendments which are shown on Attachment No. 2.

There was further discussion on firing employees who have garnishments on their wages, an expedited judicial process versus an expedited administrative process, contempt citations, and whether the district magistrate judges should be hearing the child support/visitation issues.

The Chairman announced that they will continue this on Monday and also take up SB 51, SB 72 and SB 267. He also reminded the committee of the regular meeting at 3:30 p.m. today.

The meeting adjourned at 1:00 p.m.

0196 will and are without knowledge thereof and access thereto. Said  
0197 of it and access to it. Such will may be admitted to probate as to  
0198 any innocent beneficiary on petition for probate by any such  
0199 beneficiary, if such petition is filed within ~~ninety (90)~~ 90 days  
0200 after such beneficiary has knowledge of such will and access  
0201 thereto and within five years after the death of the testator to it,  
0202 except that the title of any purchaser in good faith, without  
0203 knowledge of such will, to any property derived from the fidu-  
0204 ciary, heirs, devisees, or legatees of the decedent, shall not be  
0205 defeated by the production of the will of such decedent and the  
0206 petition for probate thereof of the will after the expiration of nine  
0207 ~~(9)~~ six months from the death of the decedent.

0208 Sec. 10. On and after January 1, 1986, K.S.A. 1984 Supp.  
0209 59-618a is hereby amended to read as follows: 59-618a. (a)  
0210 ~~Whenever a decedent dies testate,~~ Any person possessing the a  
0211 decedent's will may file in the district court of the county of the  
0212 decedent's last residence the decedent's will and an affidavit  
0213 which complies with subsection (b) *if the decedent's estate*  
0214 *contains no real property and the value of the decedent's estate*  
0215 *is less than the total of all demands enumerated in K.S.A.*  
0216 *59-1301 and amendments thereto.*

0217 (b) An affidavit filed pursuant to this section shall state: (1)  
0218 *The name, residence address and date and place of death of the*  
0219 *decedent;* (2) the names, addresses and ~~relationship~~ relation-  
0220 *ships* of all the decedent's heirs, legatees and devisees which are  
0221 known to the affiant after a diligent search and inquiry; ~~(2)~~ (3) the  
0222 name and address of any trustee of any trust established under  
0223 the will; ~~(3)~~ (4) the property left by the decedent and its approx-  
0224 imate valuation; ~~(4)~~ (5) the approximate amount and nature of any  
0225 demands enumerated in K.S.A. 59-1301 and amendments thereto  
0226 which were outstanding against the decedent's estate upon the  
0227 decedent's death; ~~and (5)~~ (6) that the will is being filed with the  
0228 district court for the purpose of preserving it for record in the  
0229 event that ~~formal~~ probate proceedings are later required; and (7)  
0230 *that a copy of the affidavit and will has been mailed to each*  
0231 *heir, legatee and devisee named in the affidavit.*

0232 (c) The fee for filing a will and affidavit pursuant to this

0233 section shall be \$35.

0234 (d) Upon receipt of a will and affidavit filed pursuant to this  
 0235 section, the court shall file the will and affidavit in its records  
 0236 and shall give notice thereof to all heirs, legatees, devisees and  
 0237 trustees named in the affidavit.

0238 (e) If, within nine months after the filing of a will and  
 0239 affidavit pursuant to this section, no person has petitioned for the  
 0240 probate of the will, the heirs, legatees and devisees named in the  
 0241 will and any trustee of any trust established under the will may  
 0242 by unanimous written agreement declare the will void. In such  
 0243 case the court shall distribute the assets of the estate under the  
 0244 terms of a settlement agreement or by proceedings to determine  
 0245 descent as provided in K.S.A. 59-2250 and amendments thereto.

0246 Sec. 11. K.S.A. 59-803 is hereby amended to read as follows:  
 0247 59-803. The title of any purchaser in good faith, without knowl-  
 0248 edge of a will, to any real estate situated in this state, derived  
 0249 from the heirs of any person not domiciled in this state at the  
 0250 time of his or her *the person's* death, shall not be defeated by the  
 0251 production of the will of ~~such~~ *the* decedent unless a petition  
 0252 shall be made for the probate of such will in this state *is filed*  
 0253 within nine (9) *six* months from the death of the testator.

0254 Sec. 12. K.S.A. 59-808 is hereby amended to read as follows:  
 0255 59-808. (a) The personal representative of a nonresident dece-  
 0256 dent appointed by a court of this state is entitled to possession of  
 0257 all real and personal property of the decedent within the juris-  
 0258 diction of this state and, subject to the laws of this state and the  
 0259 orders of such court, is entitled to all the rights the decedent had  
 0260 therein *in that property*.

0261 (b) The personal representative shall:

0262 (1) Marshal all ~~such the decedent's~~ personal property and  
 0263 shall within one (1) year from the date of death take possession  
 0264 thereof, ~~the same of it~~, to be held, administered and finally  
 0265 distributed as provided by law. He or she shall; (2) pay the taxes  
 0266 and collect the rents and earnings ~~thereon~~ *on the property* until  
 0267 the estate is settled or until delivered by order of the court to the  
 0268 heirs, devisees, and legatees. He or she shall; and (3) keep in  
 0269 tenable repair the buildings and fixtures under his or her *the*

(d) Any will filed pursuant to this section within a period of six months after the death of the testator may be admitted to probate after such six-month period.

0233 legatees entitled to the estate and assign ~~the same~~ it to them by  
0234 its decree, *pursuant to the terms of the will, the laws of intestate*  
0235 *succession in effect on the date of the decedent's death or a valid*  
0236 *settlement agreement.* The decree shall name the heirs, devi-  
0237 sees; and legatees; describe the property; and state the propor-  
0238 tion or part thereof to which each is entitled. ~~Said~~ The decree  
0239 shall be binding as to all the estate of the decedent, whether  
0240 specifically described in the proceedings or not. In the estate of a  
0241 testate decedent, no heirs need be named in the decree unless  
0242 they have, as such, an interest in the estate.

0243 No final decree shall be entered until after the determination  
0244 and payment of inheritance taxes. When the final decree in-  
0245 cludes real estate, such decree, or a certified copy ~~thereof~~ of it,  
0246 may be entered on the transfer record of the county clerk of the  
0247 proper county; and. When any such decree which includes real  
0248 estate shall become final, it shall be the duty of the court to  
0249 transmit a certified copy ~~thereof~~ of it to the county clerk and the  
0250 county clerk shall enter ~~the same~~ it on the transfer record in ~~said~~  
0251 the clerk's office.

0252 ~~In the event that~~ If any person entitled to receive a distributive  
0253 share of an estate pursuant to a decree hereunder is the defend-  
0254 ant in a garnishment action or proceeding ~~wherein~~ in which the  
0255 executor or administrator of the estate is the garnishee, ~~said~~ the  
0256 person's distributive share shall be subject to the order of gar-  
0257 nishment served upon the executor or administrator, and no  
0258 property or funds of the estate shall be delivered or paid over to  
0259 ~~said~~ the person until further order of the court from which the  
0260 order of garnishment was issued.

0261 Sec. 41. K.S.A. 59-2250 is hereby amended to read as fol-  
0262 lows: 59-2250. Whenever any person has been dead for more  
0263 than ~~nine (9)~~ six months and has left property; or any interest  
0264 ~~therein, in property~~ and no petition has been filed for the  
0265 probate of a will nor administration commenced in this state, or  
0266 in which administration has been had without a determination of  
0267 the descent of such property, any person interested in the estate,  
0268 or claiming an interest in such property, may petition the district  
0269 court of the county of the decedent's residence, or of any county

where

0270 ~~wherein~~ real estate of the decedent is situated, to determine its  
 0271 descent *under the laws of intestate succession or under the*  
 0272 *terms of a valid settlement agreement.*

0273 Sec. 42. K.S.A. 59-2251 is hereby amended to read as fol-  
 0274 lows: 59-2251. Upon the filing of such petition, the court shall fix  
 0275 the time and place for the hearing thereof, notice of which shall  
 0276 be given pursuant to K.S.A. 59-2209 *and amendments thereto.*  
 0277 Upon proof of the petition, the court shall allow ~~the same~~ *it* and  
 0278 enter ~~its~~ *the court's* decree assigning the property to the persons  
 0279 entitled thereto at the time of the decedent's death pursuant to  
 0280 the law of intestate succession ~~then in force~~ *in effect on the date*  
 0281 *of the decedent's death or a valid settlement agreement.* Unless  
 0282 the death of the decedent has occurred more than ~~ten~~ *(10) 10*  
 0283 years prior to the decree of descent, no decree shall be entered  
 0284 until after the determination and payment of inheritance taxes.

0285 Sec. 43. K.S.A. 59-2252 is hereby amended to read as fol-  
 0286 lows: 59-2252. A party against whom a judgment or decree has  
 0287 been rendered in proceedings to determine the persons entitled  
 0288 to the real property of a decedent, without other service than  
 0289 publication in a newspaper, may at any time within one year  
 0290 after the date of the judgment or decree have ~~the same~~ *it* opened  
 0291 or set aside and be let in to defend. Before such judgment or  
 0292 decree ~~shall be~~ *is* opened or set aside, the respondent shall: (1)  
 0293 Give notice to the adverse party of ~~his or her~~ *the respondent's*  
 0294 intention to make such application; ~~and shall~~; (2) file a full  
 0295 answer to the petition or other pleadings; (3) pay all costs of such  
 0296 proceeding if the court ~~require~~ *requires* them to be paid; ~~and~~  
 0297 ~~shall~~; *and* (4) make it appear to the satisfaction of the court, by  
 0298 affidavit, that during the pendency of the proceeding ~~he or she~~  
 0299 *the respondent* had no actual notice ~~thereof~~ *of it* in time to  
 0300 appear in court and make ~~his or her~~ *the respondent's* defense;  
 0301 ~~but~~. The title to any property; *which is* the subject of the  
 0302 judgment or decree sought to be opened or set aside; *and* which  
 0303 in consequence of ~~said~~ *the* judgment or decree ~~shall have~~ *has*  
 0304 passed to a purchaser in good faith; shall not; ~~after the expiration~~  
 0305 ~~of six months~~; be affected by any proceedings under this section.  
 0306 The adverse party, on the hearing of an application to open or set

if:

(a) No will has been filed under K.S.A. 59-618a and amend-  
 ments thereto within six months after death;

(b) no petition has been filed for the probate of a will in  
 this state; and

(c) no petition for administration has been filed in this  
 state or administration has been had without a determination  
 of the descent of the property.

SENATE BILL No. 51

By Senators Ehrlich, Allen, Arasmith, Burke, Gordon,  
Harder, Hoferer, D. Kerr, F. Kerr, Langworthy, Montgomery,  
Morris, Salisbury, Talkington, Thiessen, Vidricksen,  
Walker, Werts and Winter

1-23

0024 AN ACT concerning support ~~of certain persons; relating to~~  
0025 ~~orders for child support or maintenance; providing for en-~~  
0026 ~~forcement thereof; amending K.S.A. 23-452, 23-473, 23-475,~~  
0027 ~~38-1104 23-494, 23-496, 23-497, 23-499, 38-1103, 38-1104, 38-~~  
0028 ~~1106, 39-718a, 39-755, 60-1610, 60-1612, 60-1613, 60-2310 and~~  
0029 ~~75-6202 and K.S.A. 1984 Supp. 20-302b, 23-493, 38-1512,~~  
0030 ~~38-1616, 39-709, 39-754 and 44-718 and repealing the existing~~  
0031 sections.

0032 *Be it enacted by the Legislature of the State of Kansas:*

0033 *New Section 1. The purpose of sections 1 through 14 is to*  
0034 *enhance the enforcement of all support obligations by providing*  
0035 *a quick and effective procedure for withholding income to*  
0036 *enforce orders of support.*

0037 *New Section 2. As used in sections 1 through 14:*

0038 (a) "Arrearage" means the total amount of unpaid support  
0039 which is due and unpaid under an order of support, based upon  
0040 the due date specified in the order for support or, if no specific  
0041 date is stated in the order, the last day of the month in which the  
0042 payment is to be made.

0043 (b) "Income" means any form of periodic payment to an  
0044 individual, regardless of source, including but not limited to  
0045 wages, salary, trust, royalty, commission, bonus, compensation as  
0046 an independent contractor, workers' compensation, disability,  
0047 annuity and retirement benefits and any other payments made  
0048 by any person, private entity or federal, state or local government

and visitation

, maintenance and child visitation; concerning

, 44-718 and 60-2403



0049 or any agency or instrumentality thereof. "Income" does not  
 0050 include: (1) Any amounts required by law to be withheld, other  
 0051 than creditor claims, including but not limited to federal and  
 0052 state taxes, social security tax and other retirement and disability  
 0053 contributions; (2) any amounts exempted by federal law; (3)  
 0054 public assistance payments; and (4) unemployment insurance  
 0055 benefits except to the extent otherwise provided by law. Any  
 0056 other state or local laws which limit or exempt income or the  
 0057 amount or percentage of income that can be withheld shall not  
 0058 apply.

0059 (c) "Obligee" means the ~~individual~~ *person or entity* to whom  
 0060 a duty of support is owed.

0061 (d) "Obligor" means ~~the individual~~ *any person* who owes a  
 0062 duty to make payments under an order for support.

0063 (e) "Order for support" means any order of a court ~~or, or of an~~  
 0064 administrative agency *of another jurisdiction*, authorized by law  
 0065 to issue such an order, which provides for payment of funds for  
 0066 the support of a child ~~or maintenance of a spouse or ex-spouse~~,  
 0067 and includes such an order which provides for modification or  
 0068 resumption of a previously existing order; payment of an ar-  
 0069 rearage accrued under a previously existing order; a reimburse-  
 0070 ment order, including but not limited to an order established  
 0071 pursuant to K.S.A. 39-718a and amendments thereto; or an order  
 0072 established pursuant to K.S.A. ~~23-475~~ *23-451 et seq.* and amend-  
 0073 ments thereto.

0074 (f) "Payor" means any ~~payor of income to an person or entity~~  
 0075 *owing income to an obligor or any self-employed* obligor.

0076 (g) "Public office" means any elected or appointed official of  
 0077 the state; or any political subdivision or agency *of the state, or*  
 0078 *any subcontractor* thereof, who is or may become responsible by  
 0079 law for enforcement of, or who is or may become authorized to  
 0080 enforce, an order for support, including but not limited to the  
 0081 department of social and rehabilitation services, court trustees  
 0082 ~~and~~, county or district attorneys *and other subcontractors*.

0083 (h) "Title IV-D cases" means those cases required by part D  
 0084 of title IV of the federal social security act (42 U.S.C. § 651 *et*  
 0085 *seq.*), as amended, to be processed by the department of social

, or for maintenance of a spouse or ex-spouse living  
 with a child for whom an order of support is also  
 being enforced,



0086 and rehabilitation services under the state's plan for support  
0087 enforcement.

0088 New Sec. 2 3. (a) ~~Upon entry of~~ Any new or modified order  
0089 for support *entered* on or after January 1, 1986, ~~the court shall~~  
0090 ~~issue a separate order requiring~~ *shall include a provision for* the  
0091 withholding of income to enforce the order of support. Unless  
0092 the order provides that it shall *income withholding will* take  
0093 effect immediately, ~~the order withholding~~ shall take effect only  
0094 upon: (1) Development of an arrearage in an amount equal to or  
0095 greater than the amount of support payable for ~~one month~~ *30*  
0096 *days*; and (2) compliance with the requirements of this section.

0097 (b) In any proceeding in which the court has issued an order  
0098 for support but has not issued a conditional order requiring  
0099 income withholding as provided by subsection (a), the obligee or  
0100 a public office may apply for such an order by filing with the  
0101 court an affidavit stating: (1) That an arrearage exists in an  
0102 amount equal to or greater than the amount of support payable  
0103 for one month; (2) that a notice of delinquency has been served  
0104 on the obligor in accordance with subsection (f) and the date and  
0105 type of service; (3) that the obligor has not filed a motion to stay  
0106 service of the income withholding order; and (4) a percentage of  
0107 the income or support order which shall be withheld by the  
0108 payor to be applied toward liquidation of arrearages. Upon the  
0109 filing of the affidavit, the court shall issue an order requiring the  
0110 withholding of income without the requirement of a hearing,  
0111 amendment of the support order or further notice to the obligor.

0112 ~~The court shall not be relieved of its duty under this subsec-~~  
0113 ~~tion to issue an income withholding order if the obligor pays the~~  
0114 ~~arrears subsequent to receiving the notice of delinquency.~~

0115 For purposes of this subsection, an arrearage shall be com-  
0116 puted on the basis of support payments due and unpaid on the  
0117 date the notice of delinquency was served on the obligor.

0118 (c) An order issued under this section shall be directed to any  
0119 payor of the obligor and shall require the payor to withhold from  
0120 any income due, or to become due, to the ~~obligee~~ *obligor* a  
0121 specified amount sufficient to satisfy the order of support and to  
0122 defray any arrearage, subject to the limitations set forth in section

0123 4 5. The order shall include notice of and direction to comply  
0124 with the provisions of sections ~~3 and 4~~ 4 and 5.

0125 (d) An order issued under this section shall be served on the  
0126 payor and returned by the officer making service in the same  
0127 manner as an order of attachment.

0128 (e) An income withholding order issued under this section  
0129 shall be binding on any existing or future payor on whom a copy  
0130 of the order is served and shall require the continued withhold-  
0131 ing of income from each periodic payment of income until  
0132 further order of the court. If the obligor changes employment or  
0133 has a new source of income after an income withholding order is  
0134 issued by the court, the new employer or income source, if  
0135 known, must be served a copy of the income withholding order  
0136 without the requirement of prior notice to the obligor.

0137 (f) No sworn affidavit shall be filed with the court issuing the  
0138 support order pursuant to subsection (b) unless it contains a  
0139 declaration that the obligee or public office has served the  
0140 obligor a written notice of delinquency because an arrearage  
0141 exists in an amount equal to or greater than the amount of  
0142 support payable for one month and that the notice was served on  
0143 the obligor by certified mail, return receipt ~~requested~~ *signed by*  
0144 *the obligor*, or in the manner for service of a summons pursuant  
0145 to article 3 of chapter 60 of the Kansas Statutes Annotated at least  
0146 ~~40~~ *seven* days before the date the affidavit is filed. If service is by  
0147 certified mail, a copy of the return receipt shall be attached to the  
0148 affidavit. The notice of delinquency served on the obligor must  
0149 state: (1) The terms of the support order and the total arrearage as  
0150 of the date the notice of delinquency was prepared; (2) the  
0151 amount of income that will be withheld; (3) that the provision for  
0152 withholding applies to any current or subsequent payors; (4) the  
0153 procedures available for contesting the withholding and that the  
0154 only basis for contesting the withholding is a mistake of fact  
0155 concerning the amount of the support order, the amount of the  
0156 arrearage, the amount of income to be withheld or the proper  
0157 identity of the obligor; (5) the period within which the obligor  
0158 must file a motion to stay service of the income withholding  
0159 order and that failure to ~~file such motion~~ *take such action* within

0160 the specified time will result in payors' being ordered to begin  
0161 withholding; and (6) the action which will be taken if the obligor  
0162 contests the withholding.

0163 In addition to any other penalty provided by law, the filing of  
0164 an affidavit with knowledge of falsity of the declaration of notice  
0165 is punishable as a contempt. The obligor may, at any time, waive  
0166 in writing the notice required by this subsection.

0167 (g) On request, an obligor may establish a withholding order  
0168 which shall be honored by a payor regardless of whether there is  
0169 an arrearage.

0170 New Sec. 3 4. (a) *It shall be the affirmative duty of any*  
0171 *payor to respond within seven days to written requests for*  
0172 *information presented by the obligee or public office concern-*  
0173 *ing: (1) The full name of the obligor; (2) the current address of*  
0174 *the obligor; (3) the obligor's social security number; (4) the*  
0175 *obligor's work location; (5) the number of the obligor's claimed*  
0176 *dependents; (6) the obligor's gross income; (7) the obligor's net*  
0177 *income; (8) an itemized statement of deductions from the obli-*  
0178 *gor's income; (9) the obligor's pay schedule; and (10) the obli-*  
0179 *gor's health insurance coverage. This list is exemplary and not*  
0180 *exclusive of the type of information the payor must provide.*

0181 (b) It shall be the duty of any payor who has been served an  
0182 order for withholding under this act to deduct and pay over  
0183 income as provided in this section. The payor shall deduct the  
0184 amount designated in the order for withholding beginning with  
0185 the next payment of income ~~which is payable to due~~ the obligor  
0186 after ~~10 or seven~~ days following service of the order on the payor. At  
0187 the time the obligor is normally paid, the payor shall pay the  
0188 amount withheld to the ~~obligee, public office or clerk of court or~~  
0189 *court trustee* as directed by the order for withholding and in  
0190 accordance with any subsequent notification received from the  
0191 public office redirecting payments.

0192 ~~(b)~~ (c) If the withholding is to collect current support and an  
0193 arrearage, the payor shall be required to withhold an amount of  
0194 income equal to the order for support plus an additional sum, set  
0195 out in the affidavit provided for in subsection (b) of section 2 3 as  
0196 a percentage of the amount of the ~~support order,~~ to be applied

14

income owed the obligor

0197 towards liquidation of arrearages. *The payor shall withhold and*  
0198 *pay over an amount sufficient to pay the current periodic*  
0199 *support obligation. The additional amount to be applied toward*  
0200 *liquidation of arrearages shall be withheld from each pay*  
0201 *period. If the withholding is to collect an arrearage only, the*  
0202 *payor shall be required to withhold an amount of income equal*  
0203 *to a percentage of income set out in the affidavit provided for in*  
0204 *subsection (b) of section 2 3.*

0205 (e) (d) The payor shall continue to withhold income to be  
0206 applied toward liquidation of arrearages ~~until the amount of the~~  
0207 ~~arrearsage stated in the income withholding order has been paid~~  
0208 ~~in full or~~ until notice to discontinue that portion of the with-  
0209 holding attributable to arrearages is received from the obligee,  
0210 public office or the court. After arrearages are paid in full, a  
0211 withholding order requiring withholding for current support  
0212 shall continue in the amount of the support order until further  
0213 order of the court.

delete

0214 (d) (e) From income due the obligor, the payor may withhold  
0215 and retain to defray the payor's costs a cost recovery fee of \$2 for  
0216 each withholding of income which shall be in addition to the  
0217 amount withheld as support.

0218 (e) (f) Any payor subject to withholding orders for more than  
0219 one obligor may combine the withheld amounts in a single  
0220 payment to each clerk of court or public office court trustee  
0221 requesting the withholdings if the payor separately identifies the  
0222 portion of the single payment which is attributable to each  
0223 individual obligor.

, as follows: (1) For withholding requested by an obligor under subsection (g) of section 3, \$5; and (2) for any other withholding under this act, \$2

0224 (f) (g) If more than one order for withholding requires with-  
0225 holding from the same source of income of a single obligor, the  
0226 payor must comply on a first-come-first-served basis and must  
0227 honor all withholding orders, subject to subsection (g).

the consumer credit protection act limitations as provided by subsection (h)

0228 (g) (h) The entire sum withheld by the payor, including the  
0229 cost recovery fee, shall not exceed the limits provided for under  
0230 section 303(b) of the consumer credit protection act (15 U.S.C.  
0231 1673(b)).

An income withholding order issued pursuant to this act shall not be considered a wage garnishment as defined in subsection (b) of K.S.A. 60-2310 and amendments there-to. If amounts of earnings required to be withheld in accordance with this act are less than the maximum amount of earnings which could be withheld according to the consumer credit protection act, the payor shall honor garnishments filed by other creditors to the extent that the total amount taken from earnings does not exceed consumer credit protection act limitations.

0232 (h) (i) The payor shall promptly notify the obligee, or public  
0233 office initiating the withholding order of the termination of the  
party

0234 obligor's employment or other source of income and provide the  
 0235 obligor's last known address and the name and address of the  
 0236 individual's current employer, if known.

0237 (i) ~~Any payor of income to an obligor shall cooperate with and~~  
 0238 ~~provide relevant employment information to an obligee or public~~  
 0239 ~~office seeking to use the provisions of this act to establish,~~  
 0240 ~~maintain or reestablish an incoming withholding order.~~

0241 (j) Payment as required by an order for withholding issued  
 0242 under this act shall be a complete defense by the payor against  
 0243 any claims of the obligor or the obligor's creditors as to the sums  
 0244 paid.

0245 (k) ~~If a payor fails to withhold and pay over income as~~  
 0246 ~~required by a withholding order issued under any payor inten-~~  
 0247 ~~tionally violates the provisions of this act, the court shall enter a~~  
 0248 judgment against the payor for the total amount which should  
 0249 have been withheld and paid over and may enter judgment  
 0250 against the payor to the extent of the total arrearage owed.

0251 (l) Any payor who *intentionally* discharges, refuses to em- <sup>solely</sup>  
 0252 ploy or takes disciplinary action against an obligor <sup>because of a</sup>  
 0253 withholding order issued under this act shall be guilty of a class <sup>\$2,500</sup>  
 0254 ~~A misdemeanor subject to a civil penalty not exceeding \$5,000~~  
 0255 *and such other equitable relief as the court considers proper.*

0256 New Sec. 45. (a) An income withholding order issued under  
 0257 this act shall have priority over any other legal process under  
 0258 state law against the same income. Withholding of income under  
 0259 this section shall be made without regard to any prior or sub-  
 0260 sequent garnishments, attachments, wage assignments or other  
 0261 claims of creditors.

0262 (b) Withholding of income under this section for an obligee  
 0263 or for the department of social and rehabilitation services acting  
 0264 on behalf of an obligee pursuant to K.S.A. 30-756 and amend-  
 0265 ments thereto or enforcing an assignment of current support  
 0266 rights pursuant to K.S.A. 30-709 and amendments thereto shall  
 0267 have priority over the withholding of income for a public office  
 0268 to enforce current support shall have priority over the with-  
 0269 holding of income for an obligee or public office seeking to  
 0270 collect assigned arrearages only.

0271 (c) Except as provided by this act, any state law which limits  
0272 or exempts income from legal process or the amount or percent-  
0273 age of income that can be withheld shall not apply to withhold-  
0274 ing income under this act.

0275 New Sec. 5 6. (a) An obligor may prevent an income with-  
0276 holding order issued under this section from being served on the  
0277 payor by filing with the court a motion to stay service of the  
0278 withholding order and serving a copy of the motion on the  
0279 obligee or public office filing the notice of delinquency within  
0280 ~~10~~ *seven* days after being served with the notice of delinquency.  
0281 The grounds for obtaining the stay shall be limited to a showing  
0282 of a mistake of fact in the notice of delinquency concerning the  
0283 amount of the order for support, the amount of the arrearage, the  
0284 amount of income to be withheld or the proper identity of the  
0285 obligor. If the obligor files a motion to stay service of the income  
0286 withholding order, the obligor shall specify the mistake of fact  
0287 alleged to be the basis for the motion. If the amount of the order  
0288 for support or the amount of the arrearage is challenged, the  
0289 obligor shall specify the amount of the order for support or the  
0290 arrearage which is uncontested.

0291 (b) If the obligor files a motion to stay service of the with-  
0292 holding order, the court, upon notice of the date, time and place  
0293 of hearing to the obligor and the obligee or public office that  
0294 filed the affidavit, shall hear the matter within ~~45~~ *14* days after  
0295 the obligor's motion is filed with the court. The court shall enter  
0296 an order granting or denying relief, amending the notice of  
0297 delinquency or otherwise resolving the matter. If the court finds  
0298 that an arrearage existed when the notice of delinquency was  
0299 served in an amount at least equal to one month's support  
0300 obligation, the court shall order immediate service of the order  
0301 for withholding. If the court cannot promptly resolve any dispute  
0302 over the total amount of the arrearage, the court shall order  
0303 immediate service of the order for withholding if the undisputed  
0304 arrearage is at least equal to the amount of one month's support  
0305 obligation and may continue the hearing on ~~other disputed~~  
0306 ~~amounts~~ *the disputed arrearage*. In any case, the court, within 45  
0307 ~~days~~, must notify the obligor and the obligee or public office of

0308 whether or not the withholding is to occur within 45 days of the  
0309 date the obligor was served the notice of delinquency. If the  
0310 court upholds the issuance of a withholding order in a contested  
0311 case, the court must include in its order notice of the time within  
0312 which the withholding will begin and the information given to  
0313 the payor as required in sections ~~3 and 4~~ *4 and 5*.

0314 New Sec. ~~6~~ *7*. (a) At any time, an obligor, obligee or public  
0315 office may petition the court to: (1) Modify; ~~suspend~~ or terminate  
0316 the order for withholding because of a modification; ~~suspension~~  
0317 or termination of the underlying order for support; ~~or~~ (2) modify  
0318 the amount of income withheld to reflect payment in full of the  
0319 arrearage by income withholding or otherwise; ~~or~~ (3) ~~suspend~~  
0320 the order for withholding because of the inability to deliver  
0321 income withheld to the obligee or children for a period of three  
0322 months due to the obligee's failure to provide a mailing address  
0323 or other means of delivery. If the withholding is suspended  
0324 because payment is undeliverable, all undeliverable payments  
0325 shall be returned to the obligor. *If support payments are un-*  
0326 *deliverable to the obligee, any such payments shall be held in*  
0327 *trust by the court until the payments can be delivered.*

0328 (b) The obligor may petition the court to terminate the with-  
0329 holding of income because payments pursuant to the order for  
0330 withholding have been made for at least ~~three years~~ *[12 months]*  
0331 and all arrearages have been paid. Upon receipt of a petition  
0332 under this subsection, the court may suspend the order for  
0333 withholding unless it finds good cause for denying the petition  
0334 because of the obligor's payment history or otherwise. If a  
0335 withholding order is terminated for any reason and the obligor  
0336 subsequently becomes delinquent in the payment of the order  
0337 for support, the obligee or public office may obtain another order  
0338 for withholding by complying with all requirements for notice  
0339 and service pursuant to this act.

0340 (c) The clerk of court shall ~~serve cause to be served~~ on the  
0341 payor a copy of any order entered pursuant to this section that  
0342 affects the duties of the payor.

0343 New Sec. ~~7~~ *8*. If the court determines that income has been  
0344 improperly withheld, the court may order the ~~payor; the obligee;~~



0345 the clerk of court or the public office, depending on *person o*  
 0346 *public office* who has possession of the income or who ultimate  
 0347 received it, to promptly refund the improperly withheld amount  
 0348 to the obligor or, *in the case of the obligee, to credit the amount*  
 0349 *against the next regular support payment.*

0350 New Sec. 8 9. (a) If an obligee is receiving income with  
 0351 holding payments under this act, the obligee shall give written  
 0352 notice of any change of address, within seven days after the  
 0353 change to the payor, if the obligee receives the payments directl  
 0354 from the payor or the public office or clerk of the district cour  
 0355 through which the obligee receives the payments.

0356 (b) ~~An obligee who is or has been a recipient of aid t~~  
 0357 ~~dependent children assistance or whose child is or has been in~~  
 0358 ~~the custody of the secretary of social and rehabilitation service~~  
 0359 ~~pursuant to K.S.A. 49-1501 et seq. or 38-1601 et seq.~~  
 0360 ~~and amendments thereto; If support rights are assigned to th~~  
 0361 ~~secretary of social and rehabilitation services pursuant to K.S.A~~  
 0362 ~~39-709 and amendments thereto, the obligee shall serve a copy c~~  
 0363 any notice of delinquency filed pursuant to this act on th  
 0364 secretary of social and rehabilitation services. If current suppor  
 0365 or all or a part of the arrearage remains assigned to the secretar  
 0366 of social and rehabilitation services pursuant to K.S.A. 39-70  
 0367 and amendments thereto *and subject to K.S.A. 60-2403 an*  
 0368 *amendments thereto* and the secretary has on file with the court  
 0369 notice of assignment as provided for in K.S.A. 39-754 an  
 0370 amendments thereto, payments from the payor shall be dis  
 0371 bursed as the notice of assignment directs. When the secretary c  
 0372 social and rehabilitation services is no longer authorized t  
 0373 receive payments for the obligee, the secretary shall provid  
 0374 written notice to the payor, or the clerk of the court disbursin  
 0375 the payments, to redirect all or part of the payments to th  
 0376 obligee.

0377 (c) The obligee or public office shall provide written notice  
 0378 to the ~~payor and~~ clerk of the court of any other support payment court trustee or  
 0379 made, including but not limited to a setoff under federal or stat  
 0380 law, a collection of unemployment compensation pursuant to  
 0381 K.S.A. 44-718 *and amendments thereto* or a direct payment from

0382 the obligor. The clerk of the court issuing the support order or  
0383 other designated person shall record the amounts reported in  
0384 such notices ~~as if the payment had been made through the court.~~

0385 (d) Any public office and clerk of court which collects, dis-  
0386 burse or receives payments pursuant to orders for withholding  
0387 shall maintain complete, accurate and clear records of all pay-  
0388 ments and their disbursement. Certified copies of payment rec-  
0389 ords maintained by a public office or clerk of court shall, without  
0390 further proof, be admitted into evidence in any legal proceedings  
0391 ~~under this act~~ *which concern the issue of support.*

0392 New Sec. ~~9~~ 10. An obligor whose income is being withheld  
0393 or who has been served with a notice of delinquency under this  
0394 act shall provide written notice to the obligee, the public office,  
0395 or the clerk of court of any new payor or change of address,  
0396 within seven days of the change.

0397 New Sec. ~~10~~ 11. If an obligor derives income from self-  
0398 employment, receives income from some source not subject to  
0399 the jurisdiction of the court or receives income by any other  
0400 method which makes the application of this act impracticable,  
0401 the court may require the obligor to post security or bond or give  
0402 some other guarantee to secure the payment of current and  
0403 overdue support. *If the obligor fails to pay support as ordered,*  
0404 *the court may collect on the bond or may declare a forfeiture of*  
0405 *all or a portion of the security or other guarantee and apply the*  
0406 *amounts collected as payment on the support arrearage. An*  
0407 *obligor who derives income from self-employment shall be sub-*  
0408 *ject to the provisions of this act as a payor of income to the*  
0409 *obligor's self.*

0410 New Sec. ~~11~~ 12. (a) Nothing in this act shall limit the au-  
0411 thority of an obligee or public office to use any and all civil and  
0412 criminal remedies in addition to withholding to enforce an order  
0413 for support including but not limited to the setoff provisions of  
0414 K.S.A. 75-6201 *et seq.*, and amendments thereto, and section 46-1  
0415 of part D of title IV of the federal social security act.

0416 (b) Nothing in this act shall limit the filing of any action to  
0417 modify the support order by the obligor.

0418 (c) The rights, remedies, duties and penalties created by this

0419 act are in addition to and not in substitution for any other rights,  
0420 remedies, duties and penalties created by any other law.

0421 (d) Nothing in this act shall be construed as invalidating any  
0422 assignment of income executed prior to January 1, 1986, despite  
0423 the priority status given to withholding orders under this act.

0424 New Sec. ~~12~~ 13. (a) The judicial administrator and the sec-  
0425 retary of social and rehabilitation services shall cooperate to  
0426 design suggested legal forms and informational materials which  
0427 describe procedures and remedies under this act for distribution  
0428 to all parties in support actions.

0429 (b) *The judicial administrator of the courts and the secretary*  
0430 *of social and rehabilitation services shall enter into a contract to*  
0431 *develop and maintain an automated management information*  
0432 *system which will monitor support payments, maintain accurate*  
0433 *records of support payments and permit prompt notice of ar-*  
0434 *rearages in support payments. District courts, including court*  
0435 *trustees, shall be subcontractors in the management information*  
0436 *system and payments for their services shall be disbursed as*  
0437 *directed by the judicial administrator. Unless good cause is*  
0438 *shown, the secretary of social and rehabilitation services shall*  
0439 *contract with court trustees for enforcement services. Subcon-*  
0440 *tractor employees determined necessary to the performance of*  
0441 *the contract by the judicial administrator shall be state em-*  
0442 *ployees paid by county general funds. The provisions of K.S.A.*  
0443 *20-358 and 20-359, and amendments thereto, shall apply.*  
0444 *County expenditures for compensation of subcontractor em-*  
0445 *ployees may be paid during any budget year even though the*  
0446 *expenditures were not included in the budget for that year.*  
0447 *County general funds shall be promptly reimbursed for subcon-*  
0448 *tractor employee compensation cost from the subcontractor's*  
0449 *payment plus a reasonable administrative fee for the county for*  
0450 *acting as fiscal and reporting agent as determined necessary by*  
0451 *the judicial administrator. The provisions of the Kansas court*  
0452 *personnel rules, except for pay and classification plans, shall*  
0453 *apply to subcontractor employees.*

0454 New Sec. ~~13~~ 14. The department of social and rehabilitation  
0455 services is designated as the state income withholding agency for

0456 the purpose of keeping adequate records to document, track and  
0457 monitor support payments in title IV-D cases and to initiate the  
0458 income withholding process in such cases in title IV-D cases.  
0459 *For the purpose of keeping adequate records to document, track*  
0460 *and monitor support payments in title IV-D cases and for the*  
0461 *purpose of initiating the income withholding process in such*  
0462 *cases, the department may contract for the performance of all or*  
0463 *a portion of the withholding agency function with existing title*  
0464 *IV-D contractors or any newly created entity capable of pro-*  
0465 *viding such services.*

0466 New Sec. 44 15. The purpose of sections 44 through 26 15  
0467 through 27 is to enhance the enforcement of support obligations  
0468 in cases being processed pursuant to title IV, part D, of the  
0469 federal social security act (42 U.S.C. § 651 *et seq.*, as amended,  
0470 by providing a quick and effective procedure for the withholding  
0471 of income derived in this jurisdiction to enforce support orders of  
0472 other jurisdictions and by requiring that income withholding to  
0473 enforce the support orders of this jurisdiction be sought in other  
0474 jurisdictions. Sections 44 through 26 shall be construed liberally  
0475 to effect that purpose.

0476 New Sec. 45 16. As used in sections 44 through 26 15  
0477 through 27:

0478 (a) "Agency" means the state department of social and reha-  
0479 bilitation services or its contractors and, when the context re-  
0480 quires, either the court or agency of any other jurisdiction with  
0481 functions similar to those defined in sections 44 through 26 15  
0482 through 27, including the issuance and enforcement of support  
0483 orders.

0484 (b) "Child" means any child, whether older or younger than  
0485 the age of majority, with respect to whom a support order exists.

0486 (c) "Court" means the district court of this state and, when  
0487 the context requires, either the court or agency of any other  
0488 jurisdiction with functions similar to those defined in sections 44  
0489 through 26 15 through 27, including the issuance and enforce-  
0490 ment of support orders.

0491 (d) "Income" means income as defined in section 4 2.

0492 (e) "Income derived in this jurisdiction" means any income,

0826 person designated by the secretary shall be filed with the notice  
0827 and shall state that there is an arrearage in an amount equal to or  
0828 greater than the amount of support payable for one month and  
0829 that a copy of the notice of lien has been sent by first-class mail to  
0830 the obligor at the obligor's last known address.

0831 Upon the filing of the notice of lien in accordance with this  
0832 subsection (a)(2) and payment of a fee of \$5, the notice of lien  
0833 shall be retained by the office where filed and may be enforced  
0834 and foreclosed in the same manner as a security agreement  
0835 under the provisions of the uniform commercial code.

0836 (b) As used in this section:

0837 (1) "Aircraft" has the meaning provided by K.S.A. 3-201 and  
0838 amendments thereto.

0839 (2) "Vehicle" has the meaning provided by K.S.A. 8-126 and  
0840 amendments thereto.

0841 (3) "Vessel" has the meaning provided by K.S.A. 82a-801 and  
0842 amendments thereto.

0843 (4) "Arrearage," "obligee," "obligor" and "order for support"  
0844 have the meanings provided by section 4 2.

0845 *Sec. 30. K.S.A. 1984 Supp. 20-302b is hereby amended to*  
0846 *read as follows: 20-302b. (a) A district magistrate judge shall*  
0847 *have the jurisdiction, power and duty, in any case in which a*  
0848 *violation of the laws of the state is charged, to conduct the trial*  
0849 *of traffic infractions or misdemeanor charges and the prelimi-*  
0850 *nary examination of felony charges. In civil cases, a district*  
0851 *magistrate judge shall have concurrent jurisdiction, powers and*  
0852 *duties with a district judge, except that, unless otherwise spe-*  
0853 *cifically provided in subsection (b), a district magistrate judge*  
0854 *shall not have jurisdiction or cognizance over the following*  
0855 *actions:*

0856 (1) *Any action in which the amount in controversy, exclusive*  
0857 *of interests and costs, exceeds \$5,000, except that in actions of*  
0858 *replevin, the affidavit in replevin or the verified petition fixing*  
0859 *the value of the property shall govern the jurisdiction; nothing*  
0860 *in this paragraph shall be construed as limiting the power of a*  
0861 *district magistrate judge to hear any action pursuant to the*  
0862 *Kansas probate code;*

0863 (2) actions against any officers of the state, or any subdivi-  
 0864 sions thereof, for misconduct in office;  
 0865 (3) actions for specific performance of contracts for real  
 0866 estate;  
 0867 (4) actions in which title to real estate is sought to be re-  
 0868 covered or in which an interest in real estate, either legal or  
 0869 equitable, is sought to be established, except that nothing in this  
 0870 paragraph shall be construed as limiting the right to bring an  
 0871 action for forcible detainer as provided in the acts contained in  
 0872 article 23 of chapter 61 of the Kansas Statutes Annotated, and  
 0873 any acts amendatory thereof or supplemental thereto; and  
 0874 nothing in this paragraph shall be construed as limiting the  
 0875 power of a district magistrate judge to hear any action pursuant  
 0876 to the Kansas probate code;  
 0877 (5) actions to foreclose real estate mortgages or to establish  
 0878 and foreclose liens on real estate as provided in the acts con-  
 0879 tained in article 11 of chapter 60 of the Kansas Statutes Anno-  
 0880 tated, and any acts amendatory thereof or supplemental thereto;  
 0881 (6) actions for divorce, separate maintenance or custody of  
 0882 minor children, except that nothing in this paragraph shall be  
 0883 construed as limiting the power of a district magistrate judge to  
 0884 (A) hear any action pursuant to the Kansas code for care of  
 0885 children or the Kansas juvenile offenders code or (B) establish  
 0886 ~~enforce or modify support obligations under K.S.A. 23-451 et~~  
 0887 ~~seq., 38-1101 et seq., 39-718a, 39-755 or 60-1610, K.S.A. 1984~~  
 0888 ~~Supp. 38-1542, 38-1543 or 38-1563 or sections 1 through 27, and~~  
 0889 ~~amendments thereto;~~  
 0890 (7) habeas corpus;  
 0891 (8) receiverships;  
 0892 (9) change of name;  
 0893 (10) declaratory judgments;  
 0894 (11) mandamus and quo warranto;  
 0895 (12) injunctions;  
 0896 (13) class actions;  
 0897 (14) rights of majority; and  
 0898 (15) actions pursuant to the protection from abuse act.  
 0899 (b) Notwithstanding the provisions of subsection (a), in th

; (B) establish support orders pursuant to K.S.A. 38-1101 et seq., 39-718a or 39-755 or K.S.A. 1984 Supp. 38-1542, 38-1543 or 38-1563, and amendments thereto; (C) enforce any child support or maintenance order; (D) modify any child support order; (E) establish and enforce support orders in interstate cases pursuant to K.S.A. 23-451 et seq. and sections 15 through 27, and amendments thereto; or (F) enforce orders granting a parent visitation rights to the parent's child

0900 *absence, disability or disqualification of a district judge or associate*  
0901 *district judge, a district magistrate judge may:*

0902 (1) *Grant a restraining order, as provided in K.S.A. 60-902*  
0903 *and amendments thereto;*

0904 (2) *appoint a receiver, as provided in K.S.A. 60-1301 and*  
0905 *amendments thereto;*

0906 (3) *make any order authorized by K.S.A. 60-1607 and*  
0907 *amendments thereto; and*

0908 (4) *grant any order authorized by the protection from abuse*  
0909 *act.*

0910 (c) *In accordance with the limitations and procedures pre-*  
0911 *scribed by law, and subject to any rules of the supreme court*  
0912 *relating thereto, any appeal permitted to be taken from an order*  
0913 *or final decision of a district magistrate judge shall be tried and*  
0914 *determined de novo by a district judge or an associate district*  
0915 *judge, except that in civil cases where a record was made of the*  
0916 *action or proceeding before the district magistrate judge, the*  
0917 *appeal shall be tried and determined on the record by a district*  
0918 *judge or an associate district judge.*

0919 Sec. 29 31. K.S.A. 23-452 is hereby amended to read as  
0920 follows: 23-452. (a) "Court" means the district court of this state  
0921 and when the context requires means the court of any other state  
0922 as defined in a substantially similar reciprocal law.

0923 (b) "Duty of support" means a duty of support whether  
0924 imposed or imposable by law or by order, decree, or judgment of  
0925 any court, whether interlocutory or final or whether incidental to  
0926 an action for divorce, separation, separate maintenance, annul-  
0927 ment, adoption or custody and includes the duty to pay ar-  
0928 rearages of support past due and unpaid from the date of the  
0929 order of support entered in the responding state *as well as*  
0930 *arrearages which have accrued on the basis of another state's*  
0931 *support order.*

0932 (c) "Governor" includes any person performing the functions  
0933 of governor or the executive authority of any state covered by this  
0934 act.

0935 (d) "Initiating state" means a state in which a proceeding  
0936 pursuant to this or a substantially similar reciprocal law is com-



0787 porated in the decree, other than matters pertaining to the  
 0788 custody, support or education of the minor children, shall not be  
 0789 subject to subsequent modification by the court except: (A) As  
 0790 prescribed by the agreement or (B) as subsequently consented to  
 0791 by the parties.

0792 (4) *Costs and fees.* Costs and attorney fees may be awarded to  
 0793 either party as justice and equity require. The court may order  
 0794 that the amount be paid directly to the attorney, who may enforce  
 0795 the order in the attorney's name in the same case.

0796 (c) *Miscellaneous matters.* (1) *Restoration of name.* Upon the  
 0797 request of a spouse, the court shall order the restoration of that  
 0798 spouse's maiden or former name.

0799 (2) *Effective date as to remarriage.* Any marriage contracted  
 0800 by a party, within or outside this state, with any other person  
 0801 before a judgment of divorce becomes final shall be voidable  
 0802 until the decree of divorce becomes final. An agreement which  
 0803 waives the right of appeal from the granting of the divorce and  
 0804 which is incorporated into the decree or signed by the parties  
 0805 and filed in the case shall be effective to shorten the period of  
 0806 time during which the remarriage is voidable.

0807 ~~[(d) The supreme court shall establish by rule an expedited~~  
 0808 ~~judicial process which shall be used in the establishment of~~  
 0809 ~~support orders pursuant to K.S.A. 38-1101 et seq., 39-718a or~~  
 0810 ~~39-755 or K.S.A. 1984 Supp. 38-1512, 38-1513 or 38-1563, and~~  
 0811 ~~amendments thereto; the enforcement of any child support and~~  
 0812 ~~maintenance order; the modification of any child support order;~~  
 0813 ~~and the establishment and enforcement of support orders in~~  
 0814 ~~interstate cases pursuant to K.S.A. 23-451 et seq. and section 15~~  
 0815 ~~through 27, and amendments thereto.]~~

- delete

0816 *Sec. 50.* K.S.A. 60-1612 is hereby amended to read as fol-  
 0817 lows: 60-1612. (a) If a party fails to comply with a provision of a  
 0818 decree, temporary order or injunction issued under this article  
 0819 K.S.A. 60-1601 et seq., the obligation of the other party to make  
 0820 payments for support or maintenance or to permit visitation is  
 0821 not suspended, but the other party may request by motion that  
 0822 the court grant an appropriate order.

0823 (b) *Motions to modify visitation or custody in proceedings*

0972 through final setoff against a debtor's earnings, refund or other  
0973 payment due from the state or any state agency minus any  
0974 collection assistance fee charged by the director of accounts and  
0975 reports of the department of administration.

0976 (e) "State agency" means any state office, officer, depart-  
0977 ment, board, commission, institution, bureau, agency or author-  
0978 ity or any division or unit thereof.

0979 (f) "Person" means an individual, proprietorship, partner-  
0980 ship, limited partnership, association, trust, estate, business  
0981 trust, corporation, other entity or a governmental agency, unit or  
0982 subdivision.

0983 (g) "Director" means the director of accounts and reports of  
0984 the department of administration.

Insert §§ 54-56, attached

0985 ~~Sec. 44-54~~ K.S.A. 23-452, 23-473, 23-475, ~~38-1104 23-494~~, 57

0986 ~~23-496, 23-497, 23-499, 38-1103, 38-1104, 38-1106, 39-718a, 39-~~  
0987 ~~755, 60-1610, 60-1612, 60-1613, 60-2310 and 75-6202 and K.S.A.~~

, 44-718 and 60-2403

0988 ~~1984 Supp. 20-302b, 23-493, 38-1512, 38-1616, 39-709, 39-754~~  
0989 ~~and 44-718~~ are hereby repealed. 58

0990 ~~Sec. 45-55~~ This act shall take effect and be in force from and  
0991 after its publication in the statute book.

New Sec. 54. (a) The supreme court shall establish by rule an expedited judicial process which shall be used in the establishment of support orders pursuant to K.S.A. 38-1101 et seq., 39-718a or 39-755 or K.S.A. 1984 Supp. 38-1542, 38-1543 or 38-1563, and amendments thereto; the enforcement of any child support and maintenance order; the modification of any child support order; and the establishment and enforcement of support orders in interstate cases pursuant to K.S.A. 23-451 et seq. and sections 15 through 27, and amendments thereto.

(b) The supreme court shall establish by rule an expedited judicial process for the enforcement of court orders granting a parent visitation rights to the parent's child.

Sec. 55. K.S.A. 1984 Supp. 60-2403 is hereby amended to read as follows: 60-2403. If execution, including any garnishment proceeding ~~and any~~, income withholding proceeding or proceeding in aid of execution, is not issued within five years from the date of any judgment rendered in any court of record in this state, including judgments in favor of the state or any municipality in the state, or within five years from the date of any order reviving such judgment or, if five years have intervened between the date of the last execution issued on such judgment and the time of issuing another writ of execution on it, such judgment, including court costs and fees therein shall become dormant, and shall cease to operate as a lien on the estate of the judgment debtor. When a judgment becomes and remains dormant for a period of two years, it shall be the duty of the clerk of the court to release the judgment of record when requested to do so.

New Sec. 56. (a) The secretary of social and rehabilitation

services is hereby directed to establish a system for disseminating information and advice to and making referrals of persons seeking to enforce child support orders, whether or not the person or child is receiving public assistance. The system shall be designed to permit any person in the state at any time to place a toll-free call into the system and receive information, advice and referrals relating to enforcement of child support orders.

(b) The secretary of social and rehabilitation services is directed to publicize the system throughout the state.

(c) Notice of the existence of the system established pursuant to this section shall be displayed prominently in the office of each clerk of the district court of this state.