

Approved March 19, 1986

Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Robert Frey at
Chairperson

10:00 a.m. ~~pm~~ on March 17, 1986 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~: Senators Frey, Hoferer, Burke, Feleciano, Gaines, Langworthy, Parrish, Steineger, Talkington and Winter.

Committee staff present:

Mary Hack, Revisor of Statutes
Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

Representative Dorothy Nichols
Jim Robertson, Social and Rehabilitation Services
Steve Riley, Paola
Kay Billeaux, Office of Judicial Administration
Don Amrein, Johnson County Court Trustee
David Litwin, Kansas Chamber of Commerce and Industry

House Bill 2157 - Continuation of child support until high school completed.

Representative Dorothy Nichols, sponsor of the bill, appeared to explain the bill. She pointed out her handouts are from the House Judiciary Committee hearings (See Attachments I). She explained the bill provides that child support will continue until the child is 18 and has finished high school providing reasonable progress is being made. Committee discussion with her followed.

Jim Robertson, Social and Rehabilitation Services, testified the bill would be in the best interests of thousands of children in Kansas. Since the state of Kansas provides aid to dependent children assistance beyond the age of 18 to persons who will graduate from high school prior to their 19th birthday, it seems only proper that parents have a legal obligation to support their child until the end of the school year in which they turn eighteen. A copy of his testimony is attached (See Attachment II).

Steve Riley, Paola, testified this bill should not be retroactive because it would change all of the previous agreements handed down by the courts. He stated the law already provides that support payments can be continued beyond the age of majority if it is entered into the agreement at the time of divorce. Copies of his testimony and other material is attached (See Attachments III). During committee discussion with Mr. Riley, he responded it would be better to volunteer to pay the child support rather than the court telling them to pay.

House Bill 2658 - Child support enforcement; clarifying amendments.
Re Proposal No. 61.

Jim Robertson, Social and Rehabilitation Services, testified the main purpose of the bill is to amend certain provisions in Senate Bill 51 which was passed by the legislature last session. The recommended amendments are necessary to

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 17, 1986

House Bill 2658 continued

remedy conflicts and inconsistencies in verbage, incorporate a few relatively minor changes in the federal regulations which occurred after the end of the 1984-1985 legislative session and to generally clean up and make more workable the Kansas child support enforcement legislation which became effective July 1, 1985. Copies of his testimony and recommendations are attached (See Attachments IV). He explained the recommendations to the committee.

The chairman announced a meeting will be held in his office in the morning at 8:00 A.M. with SRS personnel and anyone who is interested is welcome.

Kay Billeaux, Office of Judicial Administration, appeared in support of the bill. She explained their recommendation to reinsert language that appears on the balloon handout (See Attachments V).

Don Amrein, Johnson County Court Trustee, stated Judge Walton sent his regrets he could not appear to present his views. Mr. Amrein testified he is in support of the language being reinserted in the bill that was recommended by the conferee before him. He stated judges find good cause if people ask for it. He said it could be a problem with record-keeping if it is paid individually. They charge 2% fee in Johnson County. He said the court order is amendable if it is coming from another state. Mr. Amrein stated Judge Walton is in support of the language in the balloon to be reinserted in the bill.

David Litwin, Kansas Chamber of Commerce and Industry, commented in favor of the bill. A copy of his testimony is attached (See Attachment VI).

The meeting adjourned.

Copy of the guest list is attached (See Attachment VII).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 3-17-86

| NAME (PLEASE PRINT) | ADDRESS | COMPANY/ORGANIZATION |
|---------------------------------|-----------|----------------------|
| Jim Robertson | Topeka | SRS |
| Shari Riley | Paola, KS | |
| Steve W. Kiley | Paola, KS | |
| Dud Jones | Topeka | KCCJ |
| Brett Whipple | Paola | Geo. Swets |
| John Hanna | Topeka | Assoc. Press |
| Don Amrein | Olathe | Govt. Trustee |
| Kay Ballaux | Topeka | OSA - Supreme Court |
| Roger Andrew Winkler | Olathe | State Superintendent |
| R. Anderson | Topeka | SRS |
| M. Hawer | " | CCH. Journals |
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3-17-86

STATE OF KANSAS

DOROTHY NICHOLS
REPRESENTATIVE, FOURTEENTH DISTRICT
229 1/2 S MAIN
OTTAWA, KANSAS 66067
(913) 242-3394



COMMITTEE ASSIGNMENTS
VICE CHAIRMAN LABOR AND INDUSTRY
MEMBER LOCAL GOVERNMENT
COMMERCIAL AND FINANCIAL
INSTITUTIONS

TOPEKA

HOUSE OF
REPRESENTATIVES

ROOM 182-W 296-7585

Thank you, Mr. Chairman and committee members, for allowing me to appear before you and to explain HB 2157 dealing with extension of child support.

Now, child support in a divorce action terminates at the age of eighteen. This bill would extend that support until graduation from high school.

Many young people turn eighteen during their senior, and most important, year of high school. Losing financial support at this crucial time can be devastating.

This has become more of a problem since the legislature mandated that the age of six must be attained by September 1 to enter first grade in Kansas schools.

Lines 229 through 235 are new language giving the court the authority to extend support payments until high school graduation. I urge you pass HB 2157 and favorably.

Some of my constituents who have this problem and have brought it to my attention are here to testify. Here, also, are letters from Judge Donald White, of the Fourth Judicial District, and Judge James Buchele of the Third Judicial District. in support of this bill.

Thank you, again, for your time.

S. Jud.
3/17/86
A-I

CROUCHER ABSTRACT & TITLE CO.

Box 534

120 West Third

Ottawa, Kansas 66067

Jeanette Croucher
Licensed Abstracter

913-242-3281

March 6, 1986

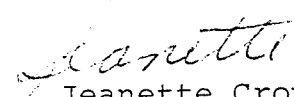
Representative Dorothy Nichols
Fourteenth District
House of Representatives
State Capitol,
Topeka, Kansas 66612

In re: House Bill No. 2157

Dear Dorothy:

In reference to the proposed amendment of the above-captioned House Bill, in the past upon reading in the divorce that the child support would terminate when the child reached the age of 18 years, if the parent paying the child support had paid to and including the date the child reached the age of 18 years, there would be no further requirement to be filed of record for the payment of said judgment. However, if the order was for child support to be paid until the end of the school year the child would complete his high school education, then I would require evidence placed of record in the District Court case ordering the child support, that all child support has been paid through the time the child had completed his high school education or a further order from the court that the child had not made reasonable progress toward the completion of his high school education and that all child support had been paid in full as ordered and no further child support was due under said order. If the court at this time, discovers that the child had been ill, or for some other reason, had been unable to complete his high school education, the court could order the child support continued covering the time it would require to complete the child's high school education.

Sincerely,


Jeanette Croucher

Fourth Judicial District of Kansas

MARGARET KNIGHT

CLERK OF THE DISTRICT COURT
P.O. BOX 549
LYNDON, KANSAS 66451
(913) 828-4713

DONALD L. WHITE
ASSOCIATE DISTRICT JUDGE
(913) 828-4632

January 22, 1986

LARRY L. COURSEN
DISTRICT MAGISTRATE JUDGE
(913) 828-4632

Honorable Dorothy N. Nichols
House of Representatives
State Capitol Bldg., 122 West
Topeka, KS 66612

Dear Representative Nichols:

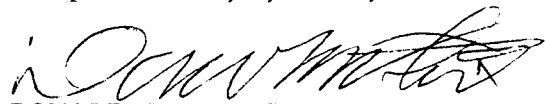
I am writing to you with concern of House Bill No. 2157. As a judge, I hear approximately 75 percent of the domestic cases filed in the Fourth Judicial District. There are cases where 18-year-old high school seniors with academic ability have been denied financial support by their parents for the reason that they had reached the age of majority. Most of these students are living on a low income from minimum wages earned by their working mothers.

It would definitely be in the best interest of children if our law would require parents to support their children through four years of high school, or at least through their eighteenth year.

Many of these kids have academic ability and want to go into high tech fields. In order for them to pursue such an interest in college, they must have the high school requisites. These classes usually take a lot of out-of-school time for study. A kid can't do that and earn enough to support himself at the same time. In one particular case that I know of, the young man finally gave it up and joined the Navy.

I urge you to support this bill.

Respectfully yours,


DONALD L. WHITE
Associate District Judge

jb

3-17-86

WESTMINSTER PRESBYTERIAN CHURCH

13th and Maple
Ottawa, Kansas 66067

Phone
913-242-1824



Henry A. Roberts, Jr.
Pastor

January 29, 1986

Representative Dorothy Nichols
House of Representatives
Room 182 - West
State Capital
Topeka, Kansas

Dear Dorothy:

I am writing to encourage the amendment of K.S.A. 60-1610 particularly as it pertains to minor child - child support/education. Because of a child's birthday, moving into the state from another state where beginning school has different qualifications, repeating a grade due to social or learning adjustments/difficulties, or for other reasons, a child may become 18 prior to graduation from high school. Under current law, child support would stop regardless of whether or not the child has completed high school. I believe this places an undue burden upon the custodian parent. Therefore, I recommend that this statute be amended to provide for such circumstances containing a provision that child support would continue to be paid to the custodian parent/guardian even if the child reaches 18 years of age until completion of high school assuming the minor child is in the care of the custodian parent and that the minor child is making satisfactory progress in school.

Sincerely

Henry A. Roberts, Jr.

har/r



A-I

January 30, 1986

I would like to speak in behalf of House Bill 2157. My name is Dottie McCrossen. I am an English teacher in U.S.D. #290, Ottawa, KS. I have been teaching at Ottawa High School for the past ten years. Last year OHS began requiring four years of English for all students, so because of this new requirement, I developed a senior English class for non-college-bound students, students who basically disliked English, and who, therefore, lacked many skills necessary for success on the job market.

In trying to motivate these students to care about their writing and reading skills, I found myself faced with a new problem: the teenager so tired from his/her job, that focusing upon a skill was nearly impossible.

It is true that many students hold part-time jobs, working ten or fifteen hours a week, earning money to help with car payments or to buy better clothes; these, however, are not the students who need our attention. I'm referring to students who work thirty and forty hours a week.

One student stocks shelves at a local grocery store from midnight to whenever he finishes -- often 6:00 or 7:00 a.m. He may sleep an hour before school. He always sleeps in my first hour class. After several discussions, I learned that he is the sole support for himself. His parents are divorced and he seems to be a pawn between the two, thus receiving no support from either.

Out of curiosity I handed out a questionnaire to all 58 of my students. Of those present, six are completely on their own. Five of them are eighteen; the other is nineteen. One girl is also responsible for her child, receiving no child support from the baby's father. These students live either by themselves or with friends. They are not problem

students as far as I can tell. Of course I have no way of knowing exactly what happens in the home.

Eleven students stated that they were partially responsible for themselves. They are provided with shelter, but that is all. They must furnish their own school materials, all clothing, and their own food. In each of these cases, the students have either one parent, or a natural parent, and a step-parent.

Because these students could have dropped out of school at age 16, unless their parents are receiving welfare, I believe that most of them earnestly desire an education. The fact that all of these students are working at least twenty-five hours a week, and most of them between thirty and forty, greatly interferes with their ability to do well in school. For most of these students high school will be their terminal educational influence. I urge you to take action in making parents responsible for their children. They must not be used as pawns in the struggle of divorced or divorcing adults.

1127 Maple
Ottawa, Kansas 66067
913-242-8845

January 29, 1986

Representative Dorothy Nichols
House of Representatives
Room 182-W
State Capitol
Topeka, Kansas

Re: H.B. #2157

Dear Dorothy:

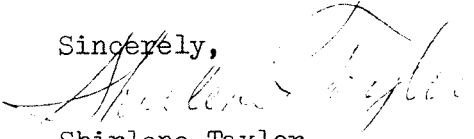
On behalf of the many custodial parents who will be forced to contribute full support, or make their high school age children go to work to support themselves, I would like to state the many reasons why K.S.A. 60-1610 should be amended to read "the child reaches 18 years of age before completing the child's high school education, in which case the support shall not terminate, unless otherwise ordered by the court, until the end of the school year during which the child became 18 years of age if the child is making normal progress toward the completion of the child's high school education."

Many of our high school seniors reach age 18 before graduation. The senior year of high school is one of the most expensive years of a child's life. It is an unfair burden for the custodial parent to carry all the expenses after a child turns 18 until graduation from high school. And it is even more unfair to expect an 18 year old who hasn't even been given the opportunity of a high school education to support himself, just because he happened to be unlucky enough to be born into a divorced family, and on a date which restricted him by state law from beginning kindergarten at age 5.

Even though law declares a child an adult at age 18, it is very difficult for that child to support himself and still be able to actively participate in high school academic and sport activities. There are very few jobs available for 18 year olds who can work full time, let alone those who have to structure their hours around academic and sport commitments. All children should be given the same opportunities to take advantage of the extra curricular activities offered by the schools, but current law states that upon turning 18, that child becomes an adult and takes on the responsibility for his own support; thus keeping a large majority from being able to participate in any school activities, and in some cases may even force that student to drop out of school to earn enough money to live on.

Therefore I recommend that this law be ammended to provide for the support of those children turning 18, until they have been given an equal opportunity to receive a high school education.

Sincerely,



Shirlene Taylor

TESTIMONY CONCERNING
H.B. 2157

Submitted by: Jim Robertson
CSE Senior Legal Counsel
Department of Social and
Rehabilitation Services
(913) 296-3410

The Department of Social and Rehabilitation Services supports this proposed amendment to K.S.A. 60-1610 as being in the best interests of thousands of Kansas children who turn 18 years of age at some point during their senior year in high school. Numerous children fall into this category because of birth date requirements established by schools concerning when a child may begin kindergarten or first grade, because of school transfers, or because of joint decisions by both parents to hold a child back one year.

Since the State of Kansas provides aid to dependent children assistance beyond the age of 18 to persons who will graduate from high school prior to their 19th birthday (ADC is paid until the person graduates), it seems only proper that parents have a legal obligation to support their child until the end of the school year in which they turn age 18. If taxpayers of this state provide public assistance to such persons, surely the parents should have a similar responsibility.

3-17-86

WE OPPOSE HOUSE BILL #2157 BECAUSE:

I. There has been little, if any media attention to this topic and subsequently the public awareness is nil. We found out only a couple of weeks ago by chance, and pursued it further to gain all of the details. We talked to several lawyers in Miami County and a few in Lyon county and none were aware of this bill. We have discussed the contents of this bill with several people we know that are divorced and pay child support. None of them knew about this-and it would directly affect them. Two of the men that we talked to were afraid to voice their opinion on this subject in fear that the custodial mother might not let them see their children.

We, the noncustodial parents and step-parents live from day to day wondering if the other parent is going to let us have these children when we are supposed to have them. Because we are the noncustodial parents, if the other won't let the child come, we have little if any recourse, especially after the children are 13 years of age.

II. We feel that this bill, if it becomes law, should not be retroactive. In it's present state, it would change all of the previous agreements handed down by the courts.

We feel that it is unfair to change the court orders of previous years. The courts have told the noncustodial parent who pays child support when it is to be paid, how much is to be paid, and for how long. If they don't pay, then the laws are such that they can garnishee wages, withhold income tax refunds, and put you in jail. If the parent who pays child support has to do what the agreement says, then it should be a legally binding contract in all areas.

Every divorce case is different, and the circumstances in each are different. The attorneys when these agreements are drawn up know all of the pertinent facts in each case. The judges take into consideration all of the pertinent facts at the time the divorce is granted with respect to the agreements entered before the court.

If this bill is passed, then it should govern only the divorce and subsequent agreements heard on and after it's effective date. Then everyone involved knows this when the agreements are drawn up.

III. The law, as it now reads, in portion A regarding child support, already provides that support payments can be continued beyond the age of majority if it is entered into the agreement at the time of divorce.

If you will notice the first divorce decree and agreement, it was agreed upon that the child support would not terminate until the age of 22 as long as the child was in a school of higher education beyond high school.

In the second case, it was agreed upon that both parties would share equally the cost of a college education for the child.

As you can see in the third case, our case, Steve was approached five years after his divorce for support to be continued past the 18th birthday of his son until he graduated from high school. He agreed to continue the support but then his ex-wife also decided that she needed an increase in child support also. As you can see by the two letters from our attorneys that he was willing to make an allowance, but his ex-wife would not. She wanted it to be an agreement that was exactly as she wanted. She knew what the laws were at the time she refused the offers, and what support she may lose after their son became 18. It is interesting to note that following this case, the first time Steve picked up his son, she told him at the time she was going to try to get the law changed.

This amendment really isn't necessary as it is already provided for in the law at the time the divorce is sought.

S. Jud.
3/17/86
A-III

IV. If the state of Kansas no longer considers an 18 year old a minor, then if they are going to order child support payments be mandatory after the age of 18 if he or she is still in high school, then at the age of 18, the payments should be made payable to the 18 year old.

If a child is drawing on Social Security or Railroad Retirement Benefits, when the age of 18 is reached, the checks are made payable to the 18 year old until their completion of high school at which time they cease.

rch 12, 1986

Mrs. Larry Grant
1108 3rd
Osawatomie, Ks 66064

Dear Senator,

I am writing to you in regards to House Bill # 2157 child support to be made mandatory past the child's 18th birthday as long as they are in high school.

My husband has been paying child support on his two children from a previous marriage since 1979. The court set payments of \$175.00 per child every month to be paid until the children reach the age of 18. He also pays all of their medical and life insurance, plus what ever we buy them through the year.

My husband and I have been married since 1979. We started our lives together paying off the bills from his first marriage plus child support and us trying to live on his income. We now have a daughter in school and it is still a struggle to live on our income. But we also try to treat all of the children equal. If anything, we give more for the first two children because we don't have them with us all the time.

We have made every child support payment even when we have the children at our home for visits and vacation.

Tony, my husbands oldest child, turned 18 last July but graduated from high school two months before. We continued to pay the support until his birthday even though he was working two jobs that summer. He is now in college and we continue to help him when he needs it.

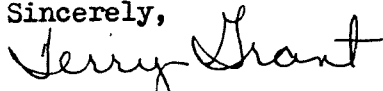
Tina is now 14 as of January 30. She will be 18 her senior year in high school. This bill would override what the court had agreed on at the time of their divorce and we would be paying for another four months. I believe that this is a matter that should have been brought up at the time of the divorce and not now.

I think it should be the decision of the father whether the child support should be continued as to the circumstances at that time.

I feel the laws are set up to protect the women and make it almost impossible for a man to start a new life or have another family. A divorce is not always the mans falt, each case is different. That is why I feel that each case should be handled by the court as to all the circumstances and the judgement made at that time.

I hope you will take this into consideration when you vote on this matter.

Sincerely,


Terry Grant

A-III

Dear Senator,

I am writing in regards to House Bill 2157 amending the length of time child support should be paid. My husband and I feel that this should be judged on an individual basis

I have two step children and we pay \$200.00 a month per child. We also have a child of our own and the expense of child support makes it difficult to pay our bills. I do feel that my husband's ex-wife is entitled

to child support up until the children reach 18 years of age. At this time, they are adults. They are able to ~~to~~ vote, work and move out on their own if they desire. Why should a man have to pay his ex-wife child support if the child is not living at home or is working and taking care of his own needs. That is why my husband and I feel that this bill should not be passed.

Also, the state government has

no right to change what the courts
 put into effect at the time the
 divorce was granted. If the
 children need help with finances
 after they ~~are~~ reach 18 we will
 do all we can to help them.

Please consider all aspects
 of this issue before voting. Thank
 you for your time and concern
 in this matter.

Sincerely,

Bob and Barbara Graham

I AM OPPOSED TO THE PROPOSED AMENDMENT REGARDING CHILD SUPPORT
 PAYMENTS TO BE MADE MANDATORY AFTER 18 YEARS OF AGE IF THE CHILD
 IS STILL IN HIGH SCHOOL-HOUSE BILL #2157.

| NAME | ADDRESS |
|--------------------|---|
| Charles H. Freeman | 1736 Parker - OSAWATOMIE, Ks 66064 |
| Lucy E. Freeman | RR #2 Osawatomie Ks |
| Joe & Marjorie | 339 Main OSAWATOMIE Ks |
| William H. Eddy | 126 Robert Hts Rt Osawatomie Ks 66064 |
| Terri McVay | 909 Cheri Lane, Osawatomie, Ks. |
| Ethan L. McVay | 909 Cheri Lane, Osawatomie Ks. |
| David W. Willey | 1010 South 6th, Osawatomie Ks |
| Deanna Miller | 1805 S. Homer #21 Pittsburg, Ks |
| Jonna M. Freeman | 1736 Parker, Osawatomie, Ks. |
| Buel W. Jolley | 1700 Main Osaw Ks |
| Terry Page | 8728 N. 1st O.P. Ks 66212 |
| A TAYLOR | 13300 MANCHESTER AV MO |
| J. E. Rando | RR #1 Box 3516 OSAWATOMIE Ks 66064 |
| C. B. Emult | 1604 W. Sheridan Olathe, Ks 66061 |
| L. C. Eckles | 604 E. Ottawa Paola, Ks, 66071 |
| K. G. Cuthbertson | 609 E. Peoria Paola Ks 66071 |
| M. L. Hoegen | 544 1/2 main St. Osawatomie, Ks 66064 |
| Paul T. Jolley | 2100 Jamestown Olathe, Ks. 66062 |
| Kate R. Hunt | 125 15th ST. OSAWATOMIE KANSAS 66064 |
| Ronald A. Hekentow | 719 Main, Osawatomie, Ks. |
| Earl R. Low | R3 Box 60 Paola, Ks. 66071 |
| W. C. Kohl | 706 Poplar Ridge Rt #2 Paola Ks 66071 |
| D. E. Retum | RR I Lane Ks 66042 |
| J. A. Anderson | 214 WEST WESTMINSTER, BLUE SPRINGS MO 64015 |
| D. H. Crowl | Rt. 5 Box 263 Paola, Ks. 66071 |
| Willis R. Graves | 316 Reed Osawatomie, Kans. 66064 |
| R. J. Minter | PO Box 47 Paola - Ks 66071 |
| Steve W. Kiley | RR 5 Box 65 Paola, Ks. 66071 |

FILED
NOV 14 1985
10.45 A.M.
VIVIAN L. McCREADY
CLERK OF DISTRICT COURT
MIAMI COUNTY, KANSAS

IN THE DISTRICT COURT OF MIAMI COUNTY, KANSAS

In the Matter of the Marriage of
JUDITH A. KLEIN and LOUIS E. KLEIN

Case No. 85 D 236

PROPERTY SETTLEMENT AGREEMENT

THIS AGREEMENT, made and entered into this 14 day of Nov.,
1985, by and between JUDITH A. KLEIN, hereinafter referred to as wife,
and LOUIS E. KLEIN, hereinafter referred to as husband.

WITNESSETH:

WHEREAS, the parties hereto were married on the 17th day of January,
1959, at Shawnee, Kansas, at have been since that time and are now husband
and wife; and

WHEREAS, there is one minor child of said marriage, to-wit: ERIC KLEIN;
and

Title to
real estate
involved

WHEREAS, irreconcilable differences have arisen between the parties making
it impossible for them to continue in the marriage relationship; and

WHEREAS, wife has filed a petition for divorce and other relief
on the 12th day of August, 1985; and

WHEREAS, it is the desire of the parties, by execution of this agreement,
to fully and for all time settle and determine all property rights of the
parties, all rights of wife and husband concerning support and maintenance,
all rights and claims arising out of the marriage relationship including
dower, curtesy, alimony, inheritance, and homestead, together with any
and all other rights existing between the parties or claims one against
the other, arising out of the marriage relationship or the termination
of the said relationship, or otherwise, and all matters of child support
and custody; and

WHEREAS, each party has counseled with his or her attorney relative
to the matters set forth and agreed upon in this agreement, having been
fully advised of the facts and circumstances.

NOW THEREFORE, each of the parties hereto for and in consideration
of the mutual promises, covenants and agreements herein made and contained,
and in further consideration of the acts to be performed hereunder, consent
and agree with one another as follows:

PETITIONER'S
EXHIBIT
1
SC 11-14-85

III

I. MAINTENANCE

The each party waives any right that he or she may now have or may have in the future to support, maintenance and alimony each from the other.

II. CHILDREN

1. Custody and Visitation. That each of the parents are fit and proper persons to have responsibility of the care and custody of the minor child. The parties agree that they shall have joint legal custody of the minor child with the primary residence of said child being with the wife, subject to the right of liberal visitation by husband; all subject to the continuing jurisdiction of the Court.

2. Notice of Visitation. That husband shall provide wife with reasonable notice of desired visitation with the parties' minor child.

3. Alienation of Affection. That neither party shall make verbal or non-verbal communication to the parties' child or say or do anything which might tend to derogate from the love and respect which the child would otherwise naturally have for the other parent.

4. Parents' Addresses and Telephone Numbers. That each parent will keep the other parent apprised of his or her current home address and telephone number and current place of employment and business telephone number.

5. Medical Insurance and Extraordinary Expenses. That husband shall continue to maintain the hospitalization and medical insurance presently in force with the parties' child as an insured party thereunder; that in the event husband is unable to continue to maintain the said insurance for any reason whatsoever, husband shall forthwith secure and maintain major medical insurance with the parties' child as an insured party thereunder; that husband shall provide wife with an identification card or other indicia of the insurance coverage necessary for her to receive prompt admission of the child to hospitals and other health services; that husband shall pay the required deductible and coinsurance required by said policy. For example, if said policy has a \$500.00 deductible and pays 80 percent of expenses up to \$5,000.00, the husband shall be required to pay the \$500.00 deductible and the \$1,000.00 not paid by insurance.

6. Life Insurance on Father's Life. That husband shall maintain insurance his life having a face value of not less than \$5,000.00 with the beneficiary

thereon being JUDITH A. KLEIN. Said insurance shall remain in force until the minor child reaches the age of 18.

7. Child Support. That child-support shall be paid by the husband to the wife in the amount of \$200.00 per month. The first payment due on the _____ day of _____, 1985, and shall continue in a like sum for successive periods and dates each and every month thereafter until the child-support obligation terminates. Said payments shall terminate upon the parties' child first experiencing one of the following contingencies: (1) death, (2) marriage, (3) becoming self-supporting, (4) ceasing to live with wife, or (5) attains the age of 18. All child-support payments shall be paid to the Clerk of the District Court of Miami County, Kansas, for proper transmittal.

100.00 on the 1st + 15th day of each month
JFK

One Hundred on 15th November 1985 and

JFK

8. Exemption. That husband shall have the right to declare the parties' child as an exemption on his federal and state income tax returns.

III. DIVISION OF PROPERTY

1. Wife's Property. That wife shall have as her sole and separate property, free and clear of any right, title or interest in husband:

- (a) The personal property presently in her possession, the parties having already agreed to its division;
- (b) The 1984 Ford Escort motor vehicle along with the encumbrance thereon which wife agrees to assume and pay;
- (c) Her personal papers, clothing and effects.

2. Husband's Property. That husband shall have as his sole and separate property, free and clear of any right, title or interest in wife:

- (a) The personal property presently in his possession, the parties having already agreed to its division;
- (b) The following motor vehicles and farm vehicles along with any encumbrance thereon which husband agrees to assume and pay:
1979 Chevrolet Impala
1967 GMC Truck Ford
WD Tractor
- (c) The insurance on his life unless otherwise assigned or referred to in this agreement;
- (d) His personal papers, clothing and effects.

3. Real Estate. The parties acknowledge that they presently own residential real estate in Miami County, Kansas, legally described as follows:

III

IN THE DISTRICT COURT OF MIAMI COUNTY, KANSAS

NANCY M. SHARP,
vs. Plaintiff,
ROBERT E. SHARP,
Defendant.

No. 80D289

FILED
AUG 5 1981
10:10 A.M.
VIVIAN L. McCREADY
CLERK OF DISTRICT COURT
MIAMI COUNTY, KANSAS

Jul 32
Page
707

JOURNAL ENTRY

Now on this 29th day of July, 1981, the above captioned matter comes regularly on for a re-hearing, pursuant to the Court's previous Order and Decree of Divorce on May 20th, 1981.

Plaintiff appears in person and by and through Craig S. Powell, of McQueary & Powell, her attorneys. Defendant appears in person and by and through Edwin A. Lee, of Bishop & Lee, his attorneys.

THEREUPON, counsel for the parties state to the Court that agreement has been reached with respect to all issues remaining in controversy.

THEREUPON, the Court is advised to said agreement and, upon being advised thereof, and after having considered the pleadings, evidence, testimony, and written reports of the State Department of Social and Rehabilitation Services, finds as follows:

(1) That plaintiff should be awarded custody of the parties' minor children, Tony Sharp and Tina Sharp.

(2) That the defendant shall have visitation privileges with said children every other weekend, with the first of such weekends being July 31, 1981. Said visitation shall be from 6:00 o'clock P.M. on Friday, and defendant shall return the children unto the plaintiff at 8:00 o'clock A.M. on the following Tuesday.

(3) That the defendant should be ordered and required to pay the sum of \$50.00 per month per child, as and for child support. Said payments shall be made \$50.00 on the first day of each month and \$50.00 on the fifteenth day of each month. Said payments shall commence August 1, 1981, shall be payable to and through the Clerk of the District Court of Miami County, Kansas, and shall continue during the period of the children's minority.

NORTH CAROLINA
CUMBERLAND COUNTY

85D390
SEPARATION AGREEMENT

THIS AGREEMENT, made this, the 20th day of November, 1985 by and between JEANETTE G. STOKES, hereinafter referred to as the Wife, and BILLY RAY STOKES, hereinafter referred to as the Husband;

WHEREAS, the parties were lawfully married to each other on January 14, 1983, and of this marriage one (1) child was born, namely, JEANETTE ELIZABETH STOKES, born September 12, 1983.

WHEREAS, in consequence of disputes and unhappy differences, the parties have been separated since November 1, 1985, with the intention not to resume their marital relationship for the balance of their lives; and

WHEREAS, the parties desire to confirm their agreement and make arrangements in connection therewith, including the settlement of their property rights, alimony provisions, child custody and support, and other rights and obligations growing out of the marriage relationship; and

WHEREAS, in order to be fully advised and informed in connection with negotiations for and the preparation of this agreement, the Wife has been represented by Attorney F. Thomas Holt, III of Fayetteville, North Carolina, and the Husband has not been represented by counsel, although he has been advised to retain same.

NOW, THEREFORE, IT IS AGREED:

BEAVER, THOMPSON,
HOLT &
RICHARDSON, P.A.
ATTORNEYS AT LAW
914 HAY STREET
P. O. BOX 53247
FAYETTEVILLE, NC 28305

FILED

DEC 30 1985
1:30 P.M. J.E.
VIVIAN L. McCREADY
Clerk of District Court
CUMBERLAND COUNTY, N.C.

III

1. CONSIDERATION. The consideration of this agreement is the mutual promises and agreements herein contained.

2. SEPARATION. It shall be lawful for each party at all times hereafter to live separate and apart from the other party at such place or places as he or she may from time to time choose or deem fit.

3. NO INTERFERENCE. Each party shall be free from interference, authority and control, direct or indirect, by the other, as fully as if he or she were single and unmarried. Neither shall molest the other, or compel or endeavor to compel the other to cohabit or dwell with him or her.

PROVISIONS FOR PROPERTY SETTLEMENT

4. DIVISION OF PROPERTY.

A. That the parties hereto have agreed that the Wife shall be the owner and shall have the possession, right, title and interest in and to the personal property hereinafter set forth; and by the signing of this agreement, the Husband conveys to the Wife all his right, title and interest in and to the personal property, the same being as follows:

(1) The Wife shall be the owner of all of her personal clothing, belongings and effects;

(2) The Wife shall be the owner of all those items of personal property listed on Exhibit "A" attached hereto.

B. That the parties hereto have agreed that the Husband shall be the owner and shall have the possession, right, title and interest in and to the personal property hereinafter set forth; and by the signing of this agreement, the Wife conveys to the

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FAYETTEVILLE, NC 28305

Husband all of her right, title and interest in and to the personal property described as follows:

(1) The Husband shall be the owner of all of his personal clothing, belongings and effects;

(2) The Husband shall be the owner of all those items of personal property listed on Exhibit "B" attached hereto.

(3) The Husband shall also be the owner of the dog and cat that were pets of the parties at the time of their separation for so long as he can take care of them. In the event that the Husband receives orders for overseas duty or if he is unable to care for same, said dog and cat shall become the property of the Wife.

C. The parties have also accumulated certain items of luggage, home decorations, dishes, appliances and books. The parties agree to each select one independent person to accompany them to the marital residence at which time the parties will physically separate and divide items of personal property and each shall be the sole owner of said property in their possession at that time.

5. ALIMONY. The Wife does hereby release the Husband of all duty and obligation to support the Wife, and specifically waives and releases any right that she might have to alimony, alimony pendente lite or support and maintenance by the Husband.

6. DEBTS AND OBLIGATIONS.

A. That the parties hereto have created indebtedness during the marriage and the Husband and Wife have agreed and do hereby agree to pay and satisfy the indebtedness so created up to

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314 HAY STREET
P. O. BOX 53247
YETTEVILLE, NC 28305

and including the date of this Deed of Separation as hereinafter set forth; each party will be responsible for the debts and obligations created in their own names after the date of this Deed of Separation.

(1) The Wife will be responsible for debts and obligations as follows:

(A) The indebtedness secured by the 1984 LTD automobile.

(B) Sears credit card.

(C) Montgomery Ward credit card.

(D) Visa credit card.

(E) Fingerhut Corporation.

(2) The Husband will be responsible for debts and obligations as follows:

(A) The indebtedness secured by the mobile home previously owned by the parties.

(B) Avco Finance.

(C) ITT Finance.

(D) Norwest Finance.

(D) Lot rent.

(E) All utilities.

B. From and after the 1st day of November 1985, each party shall be responsible for his or her own debts and obligations; and neither party shall be responsible for the bills and obligations of the other.

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HOLT &
RICHARDSON, P.A.
ATTORNEYS AT LAW
914 HAY STREET
P. O. BOX 53247
LYETTEVILLE, NC 28305

7. EQUITABLE DISTRIBUTION AND SEPARATE PROPERTY. The parties hereto agree that a mutually satisfactory division has

been made between them of all property heretofore acquired by them or either of them. Hereafter, each party shall own free of any claim by the other all items of property of every kind which are now held or which may hereafter be acquired by either of them, and each party shall be free to dispose of same as fully and effectively as if he or she were unmarried.

As evidenced by their signatures hereinafter appearing, the parties accept this arrangement in full and complete satisfaction of any and all claims against the other, including right of equitable distribution of property pursuant to N.C.G.S. 50-20.

8. EFFECT OF RECONCILIATION. In the event of a reconciliation and resumption of the marital relationship between the parties, the provisions of this agreement for the settlement of property rights shall nevertheless continue in full force and effect, without abatement of any term or provision thereof, except as otherwise provided by written agreement duly executed by each of the parties after the date of the reconciliation.

9. WAIVER OF CLAIMS AGAINST ESTATE. Except as herein otherwise provided, each party may dispose of his or her own property in any way, and each party hereby waives and relinquishes any and all rights he or she may now have or hereafter acquire, under the present or future laws of any jurisdiction, to share in the property or the estate of the other as a result of the marital relationship, including, without limitation, dower, courtesy, statutory allowance, widow's allowance, homestead rights, right to take in intestacy, right to take against the will of the other, and the right to act as administrator or executor of the other's

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estate; and each party will, at the request of the other, execute, acknowledge and deliver any and all instruments which may be necessary or advisable to carry into effect this mutual waiver and relinquishment of all such interest, rights and claims.

PROVISIONS FOR CUSTODY AND SUPPORT OF CHILDREN

10. CUSTODY. It is understood and agreed between the parties that the Wife shall have the full care, custody and control of the minor child born of the marriage and shall be responsible for her proper tuition and care.

11. VISITATION. It is understood and agreed between the parties that the Husband shall have reasonable visitation privileges with said minor child at any normal times, not inconsistent with the health and welfare of said minor child; the Husband shall give at least twenty-four (24) hours notice of his intention to visit with said minor child.

12. EMPLOYMENT. That the Husband is an able-bodied man, capable of making a substantial living, and is employed at the present time with the United States Army, having an income of approximately \$1,500.00 net per month.

13. SUPPORT. Husband agrees to pay to Wife for the support and maintenance of the minor child born of the marriage, the sum of Two Hundred Dollars (\$200.00) per month for the use and benefit of the minor child born of the marriage of the parties, the first such payment of Two Hundred Dollars (\$200.00) to become due and payable on or before the 1st day of December, 1985 and a like sum of Two Hundred Dollars (\$200.00) on or before the 1st day of each succeeding month thereafter until said child reaches the age of

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P. O. BOX 53247
FAYETTEVILLE, NC 28305

eighteen (18) or is otherwise emancipated, provided that such payments shall continue until the child reaches the age of twenty-two (22) so long as the child is enrolled as a full-time student in an institution of higher learning beyond high school. Further, the Husband shall immediately notify the proper agencies within the Department of the Army that he will not claim the bachelor allowance for quarters at the dependent rate, and that the Wife shall be allowed to receive the dependent rate BAQ from her military service.

MISCELLANEOUS PROVISIONS

14. TAX MATTERS. It is agreed by the parties that the Wife shall be entitled to the dependency exemption allowable under Section 151(e) of the Internal Revenue Code for the minor child born of the marriage.

15. ACCEPTANCE BY WIFE. The Wife and Husband acknowledge that the provisions of this agreement for them are fair, adequate and satisfactory to them, and in keeping with their accustomed standard of living and their reasonable requirements. The Wife, therefore, accepts these provisions in full and final settlement and satisfaction of all claims and demands for alimony or for other provisions for support and maintenance and fully discharges the Husband from all such claims and demands, except as provided in this agreement.

16. ADDITIONAL INSTRUMENTS. Each of the parties shall from time to time, at the request of the other, execute, acknowledge and deliver to the other party any and all further instruments

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AYETTEVILLE, NC 28305

that may be reasonably required to give full force and effect to the provisions of this agreement.

17. VOLUNTARY EXECUTION. The provisions of this agreement and their legal effect have been explained to the parties by their respective counsel, and each party acknowledges that the agreement is fair and equitable, and that it is being entered into voluntarily, and that it is not the result of any duress or undue influence. The Wife acknowledges that she has been furnished with all information relating to the financial affairs of the Husband which have been requested by his or her counsel.

18. ENTIRE AGREEMENT. This agreement contains the entire understanding of the parties, and there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.

19. MODIFICATION AND WAIVER. A modification or waiver of any of the provisions of this agreement shall be effective only if made in writing and executed with the same formality as this agreement. The failure of either party to insist upon strict performance of any of the provisions of this agreement shall not be construed as a waiver of any subsequent default of the same or similar nature.

20. SITUS. This agreement shall be construed and governed in accordance with the laws of the State of North Carolina.

21. PARTIAL INVALIDITY. If any provision of this agreement is held to be invalid or unenforceable, all other provisions shall nevertheless continue in full force and effect.

DAVER, THOMPSON,
HOLT &
RICHARDSON, P.A.
ATTORNEYS AT LAW
914 HAY STREET
P. O. BOX 53247
LETTEVILLE, NC 28305

FILED

OCT 23 1985

1:30 P.M. J.E.

CLERK DIST. COURT
MIAMI COUNTY, KS

Journal 43

pg. 86-95

IN THE DISTRICT COURT OF MIAMI COUNTY, KANSAS
CIVIL COURT DEPARTMENT

In the Matter of the Marriage of
JONI J. PFLUMM and
R. NICHOLAS PFLUMM.

Case No. 85-0203

Chapter 60

SEPARATION AND PROPERTY SETTLEMENT AGREEMENT

THIS AGREEMENT, made and entered into this 21st day of August, 1985, by and between JONI J. PFLUMM, hereinafter referred to as "wife," and R. NICHOLAS PFLUMM, hereinafter referred to as "husband."

WITNESSETH:

WHEREAS, the parties hereto were married on the 30th day of September, 1978, in Overland Park, Johnson County, Kansas, and have been since that time and are now lawfully husband and wife; and

WHEREAS, one child has been born of the marriage, whose name and birthdate are MATTHEW AMOS PFLUMM, born November 5, 1980 (age 4 years); and

WHEREAS, irreconcilable differences have arisen between the parties, making it impossible for them to continue in the marriage relationship; and

WHEREAS, there has been filed in the District Court of Miami County, Kansas, a petition for divorce, as above captioned; and

WHEREAS, it is the desire of the parties, by execution of this agreement, to fully and for all time settle and determine all property rights of the parties, all rights of the parties concerning support and maintenance, child support, all rights and claims arising out of the marriage relationship, including dower, curtesy, maintenance, inheritance, and homestead, together with any and all other rights existing between the parties or claims of one against the other, arising out of the marriage relationship or the termination of the relationship,

PETITIONER'S
EXHIBIT
1
SC 10-238

III

or otherwise, independent and regardless of the disposition, judicially or otherwise, of the marriage relationship; and

WHEREAS, each party has counseled with or had an opportunity to counsel with his or her attorney relative to the matters set forth and agreed upon in this agreement, having been fully advised of the facts and circumstances;

NOW, THEREFORE, each of the parties hereto, for and in consideration of the mutual promises, covenants, and agreements herein made and contained, and in further consideration of the acts to be performed hereunder, consents and agrees with one another as follows:

I.

CUSTODY AND CHILD SUPPORT

A. Custody. The parties agree that it is in the best interests of the minor child of the parties that the responsibility for his care, custody, and control be shared jointly. The parties understand that the term "joint custody" means that both parties have equal rights and responsibilities concerning their minor child and that neither party's rights are superior.

In accordance with their joint responsibilities, the parties shall consult and agree with each other with respect to the child's discipline, education, religious training, summer camp selection, medical care and treatment (except in emergencies), health, welfare, and other important matters affecting the welfare of the child.

B. Schedule of Residence. The primary residence of the child shall be with the wife in Johnson County, Kansas. The primary residence of the child when he is with either party shall not be changed to a location outside the greater Kansas City area without such parent advising the other parent of the intent to move at least sixty (60) days prior to the scheduled moving date.

C. Visitation. The parties agree that it is in the best

interests of the child that the party not in residence with the child have the right of reasonable visitation of the child, at reasonable times, upon the mutual agreement of parties. It shall be understood that "reasonable" visitation includes reasonable notice by the visiting party of his or her intent to exercise visitation rights, and the visiting party shall take into consideration the plans of the parent with whom the child resides. "Reasonable" visitation further implies that each party shall, without fail, follow through on any visitation agreed upon, but if circumstances beyond his or her control make planned visitation impossible, notice of cancellation of visitation shall be made with the same consideration for each other that is presumed in the initial arrangements for visitation.

Husband and wife shall alternate visitation of the minor child as follows: one parent shall have the child on Christmas Eve until 10:00 a.m. Christmas morning, and the other parent shall have the child for the duration of Christmas Day; further, the parties shall alternate visitation on the following holidays: New Year's Day, Easter, July 4th, Halloween, and Thanksgiving. The wife shall have the child on Mother's Day, and husband shall have the child on Father's Day.

D. Child Support. The husband shall pay to the wife, as and for child support, the sum of \$250.00 per month, on the first day of each and every month, commencing on September 1, 1985, and continuing on the first day of each and every month thereafter until further order of the Court. Such payments shall be made directly to the wife.

Child support shall cease upon the occurrence of the first of any of the following events: the child dies, becomes married, reaches the age of eighteen (18) years, or ceases to live with the wife.

E. Obligation to Continue Support Payments or Visitation. If a party fails to comply with a provision of the decree, the

obligation of the other party to make payments for support or to permit visitation is not suspended, but he or she may move the Court to grant the appropriate order.

If the parties mutually agree to change the provisions of their separation agreement or divorce decree, they shall be obligated to cause a journal entry to issue from the court which effectuates that change. In the event the parties do not obtain a court order effectuating the change, the court shall not be bound by the allegations of one party that there was a prior agreement between the parties to change the provisions of the separation agreement or divorce decree.

F. Insurance. The husband shall maintain a life insurance policy in the minimum amount of \$30,000.00 for the benefit of the minor child of the parties.

The husband shall maintain, for the benefit of the minor child of the parties, hospitalization and medical insurance. The parties shall share equally any medical or dental expenses of the child not covered by husband's insurance.

In the event the husband is unable to maintain such insurance, he shall immediately apply for and maintain substantially comparable insurance for the benefit of the child.

Husband shall provide wife with an identification card or other evidence of insurance coverage. Husband shall not be required to maintain insurance for the child when the child attains the age of eighteen (18) years.

G. College Education Expenses. The parties shall share equally the costs of college education for the parties' child.

H. Address and Telephone Number. Each party shall keep the other informed of his or her current home address, home telephone number, business address, and business telephone number.

I. Disclosure of Extended Absence. Each party shall inform the other of any plans for travel or prolonged absence from his or her residence affecting the child.

J. Illness. Each parent shall promptly notify the other in

the event of any illness or disability affecting the child residing with that parent.

K. Medical Information. Each parent shall be entitled to receive complete information from any physician attending the child and to be furnished copies of any reports given the other parent. This paragraph shall operate as a consent to the furnishing of such information.

L. Federal Income Tax Dependency Entitlement. The husband shall be entitled to claim the child as a dependent on his federal and state income tax returns, in accordance with the regulations promulgated by the Internal Revenue Service.

M. Alienation of Affection. Neither party shall, by verbal or non-verbal communication with the parties' minor child, say or do anything that might tend to derogate the love and respect the child would otherwise naturally have for the other parent.

N. Modifications. The parties recognize and agree that any provisions for the care, custody, and support of the minor child are subject to further order of the court and may be altered by any court of competent jurisdiction.

II.

SUPPORT AND MAINTENANCE

Neither the husband nor the wife shall be obligated to pay any sum to the other for support or maintenance, however designated, of the other party, and each waives any claim he or she may have against the other for any such payment.

III.

DIVISION OF REAL PROPERTY

The wife shall have as her sole and separate property, free and clear of any right, title, or interest of the husband, the real estate legally described as:

SHAWNEE CITY, Lots 8, 9, 10, 11, and 12, Block 18,
commonly known and numbered as 5803 Bluejacket,

A G R E E M E N T

THIS AGREEMENT Made and entered into this 17th day of February, 1978, by and between Nancy Shirlene Riley, Party of the First Part, of Emporia, Lyon County, Kansas, hereinafter referred to as "Wife", and Steve W. Riley, Party of the Second Part, of Osawatomie, Miami County, Kansas, hereinafter referred to as "Husband":

WITNESSETH:

WHEREAS, the parties hereto are presently husband and wife but are living separate and apart from each other;

AND WHEREAS, there has been born to the parties as the fruits of their marriage one (1) child, namely Trevor Wayne Riley, born October 13, 1968;

AND WHEREAS, the parties have acquired certain personal property during their marriage;

AND WHEREAS, the parties contemplate a divorce will be filed wherein Wife is plaintiff and Husband is defendant, and the parties desire to make and enter into an amicable agreement with respect to their rights in property and alimony;

NOW, THEREFORE, in consideration of the mutual covenants and agreement herein contained, the parties hereto agree as follows:

1. Wife shall have the care, custody and control of the minor child of the parties, Trevor Wayne Riley, subject to the right of reasonable visitation by the Husband, and further subject to approval and subsequent modification, if any, by any Court of competent jurisdiction. The parties hereto understand that this paragraph is but an expression of their desires and is in no way binding upon any Court of competent jurisdiction.

2. Husband shall pay to Wife through the Clerk of the District Court of Lyon County, Kansas, the sum of Two Hun-

dred Dollars (\$200.00) per month for and as child support for the minor child of the parties, subject to approval and subsequent modification, if any, by any Court of competent jurisdiction. The parties hereto understand that this paragraph is but an expression of their desires and is in no way binding upon any Court of competent jurisdiction. The first said payment pursuant to this agreement shall be due on the 1st day of March, 1978, and a like sum due on the 1st day of each month thereafter until changed, modified or amended by any Court of competent jurisdiction.

3. Wife shall have as her sole and separate property free and clear of any and all claims of the Husband the following items of property:

- A. all personal clothing, jewelry and effects now in her possession;
- B. the household goods and furnishings;
- C. the 1976 Vega automobile;
- D. the savings account at Garnett Savings & Loan in the approximate amount of \$1,600.00.

4. Husband shall have as his sole and separate property free and clear of any and all claims of the Wife the following items of property:

- A. all personal clothing, jewelry and effects now in his possession;
- B. the 1973 Chevrolet $\frac{1}{2}$ -ton pickup;
- C. 2 stud horses, 3 mares and 1 pony now in the possession of the Husband;
- D. all policies of life insurance on the Husband's life.

5. Husband agrees to assume and be responsible for the indebtedness of the parties, including but not limited to the following indebtednesses due the following creditors:

- A. First National Bank of Sedan, Kansas (secured by the 1973 Chevrolet pickup);
- B. General Motors Acceptance Corporation (secured by the 1976 Vega automobile);
- C. Sears Roebuck Company;
- D. Encyclopedia;
- E. APCO Oil Company.

6. Husband further agrees to assume and be responsible for attorneys fees for Wife's attorneys herein, GUY & HELBERT of Emporia, Kansas, and for the costs and disbursements of any action filed wherein Wife shall seek a divorce from Husband.

7. The parties hereto mutually covenant and agree to execute any and all documents necessary to effectuate the transfer of the vehicles or property as hereinabove set forth.

8. The parties hereto shall jointly inform any Court of competent jurisdiction having jurisdiction of divorce between the parties that in their opinion this agreement is fair and equitable in its division of the property between the parties.

9. This agreement shall extend to and be binding upon the heirs, executors, administrators and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

Nancy Shirlene Riley

WIFE

Steven W. Riley

HUSBAND

A C K N O W L E D G M E N T S

STATE OF KANSAS, COUNTY OF LYON, ss:

BE IT REMEMBERED, That on this _____ day of February, 1978, before me, the undersigned, a Notary Public in and for the County and State aforesaid, personally appeared Nancy Shirlene Riley, who is known to me to be the same person who executed the foregoing instrument, and such person duly acknowledged the execution of the same.

December 9, 1983

Mr. Robert L. Pinet
Attorney at Law
P.O. Box 306
Ottawa, Kansas 66067

In Re: Riley vs. Riley

Dear Bob:

This letter is intended to confirm our telephone conference the other day in the above regard. As indicated, our client has agreed, and will agree in writing, to continue the present child support until Trevor completes his senior year, even though this would be past his 18th birthday. Additionally, our client will voluntarily agree, and agree to put the same in writing, that he will pay to Trevor \$100.00 per month for an additional two years should Trevor remain in college. As you know, the Court has no statutory authority whereby it could order either of these voluntary concessions.

Also as indicated, due to financial circumstances, our client is unable to comply with your client's request for an increase in child support. Should she be insistent upon pursuing this matter, please consider the foregoing voluntary concessions as withdrawn.

Our client has indicated that he has been having difficulty in arranging satisfactory visitation with Trevor, especially upon major holidays. We would like to arrange some sort of structured visitation in the future.

Please advise.

Yours very truly,

McQUEARY & POWELL

By:

CSP:sac

cc: Mr. and Mrs. Steve Riley
Rural Route 5 Box 65
Paola, Kansas 66071

III

ATHERTON, SANDERSON & VANDER VELDE

ATTORNEYS AT LAW
304 CITIZENS BANK BUILDING
BOX 824
EMPORIA, KANSAS 66801

JOHN G. ATHERTON
JOHN O. SANDERSON
JAY W. VANDER VELDE

January 6, 1984

TELEPHONE
316-342-1277

Robert L. Pinet
Attorney at Law
P.O. Box 306
Ottawa, Kansas 66067

Re: Riley vs. Riley
Lyon County District Court
Case No. 78 D 47

Dear Mr. Pinet:

Craig Powell has referred Steve Riley to me to respond to plaintiff's motion for an increase in child support. I visited with Mr. Riley earlier this week and we make the following offer to settle the issue of child support:

1. Child support will be increased to \$225.00 per month;
2. Child support shall continue through May 1987, provided, of course, Trevor is a full time high school student. If this offer is agreeable, I will prepare a stipulation for the parties to sign and an order amending the current child support order.

Mr. Powell indicated in his letter dated December 9, 1983, that structured visitation was a desire of Steve Riley. I have enclosed a Motion requesting the court to establish specific visitation periods. I will also ask the court for a reduction in child support during the six-week period that Trevor is visiting his father. We will request that the reduction be \$75.00 for the months of July and \$37.50 for the August periods.

If the issues can be resolved by agreement of the parties, I offer to prepare the written agreement for presentation to the court for its approval.

Yours sincerely,

(S)

John O. Sanderson

JOS:d1
cc: Steve Riley

III

1876

ROBERT L. PINET
ATTORNEY AND COUNSELOR AT LAW
P. O. BOX 306
OTTAWA, KANSAS 66067
PHONE: 242-5353

January 16, 1984

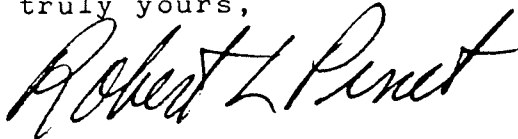
Mr. John O. Sanderson
Atherton, Sanderson & Vander Velde
Attorneys at Law
304 Citizens Bank Building
Box 624
Emporia, Kansas 66801

Dear Mr. Sanderson:

In re: Case No. 78D47 - Riley vs. Riley - Lyon County District Court

I have reviewed the contents of your letter of January 6th with my client, Shirlene Riley, and she found it not to be acceptable. It appears we will have to try this matter.

Very truly yours,



Robert L. Pinet

RLP/rdp

cc: Ms. Shirlene Riley
1037 North Mulberry
Ottawa, Kansas 66067

III

104 MAR -9 AM 10:16
LAW OFFICE

IN THE DISTRICT COURT OF LYON COUNTY, KANSAS

| | | |
|-----------------------|---|----------------|
| NANCY SHIRLENE RILEY, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. 78D47 |
| |) | |
| STEVEN W. RILEY, |) | |
| |) | |
| Defendant. |) | |

O R D E R

Now on this 17th day of February, 1984, this matter comes before the Court on the plaintiff's motion to increase child support and the defendant's motion to specify child visitation periods. The plaintiff, Nancy Shirlene Riley, appears in person and by her attorney, Robert L. Pinet; the defendant, Steven W. Riley, appears in person and by his attorney, John O. Sanderson of the firm of Atherton, Sanderson & Vander Velde.

The plaintiff presents evidence and rests.

The defendant presents evidence and rests.

The Court, having heard the evidence and statements of counsel and examining the files and records, makes the following findings and orders:

1. IT IS ORDERED, ADJUDGED AND DECREED that the child support payment made by the defendant shall increase from Two Hundred Dollars (\$200.00) per month to Two Hundred Seventy-Five Dollars (\$275.00) per month beginning March of 1984, and continuing thereafter until further order of the Court.

2. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all medical, dental, and eye glass expenses not covered by the defendant's insurance, other than normal office calls, be divided equally with the plaintiff and the defendant each responsible for one-half thereof.

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III

3. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiff shall have visitation of the minor child of the parties the following periods with the defendant having alternate, year periods:

Memorial Day Week-End - 1984;
Labor Day Week-End - 1984;
Christmas Day and the Three Day Period therefater;
One-Half of the Spring School Break, starting March 12;
Alternate Week-Ends subject to the minor child, Trevor's school activities.

4. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant shall have the following holidays with the minor child of the parties, with the plaintiff having alternate year holidays:

Easter Week-End - 1984;
Fourth of July Week-End - 1984;
Trevor's Birthday - 1984;
Thanksgiving Day and three days following - 1984;
Christmas Eve - 1984;
Balance of the Christmas Holiday after December 28, 1984;
Alternate Week-Ends subject to the minor child, Trevor's school activities.

5. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the minor child, Trevor Riley, shall spend Father's Day week-end each year with the defendant, and he shall spend Mother's Day week-end each year with the plaintiff.

6. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that wherever Trevor selects to play baseball, whether it be on the Osawatomie Team or the Ottawa Team, he shall spend that period of his summer visitation with the parent residing in that community. Trevor shall be responsible for notifying both of his parents of his decision regarding his summer baseball activities thirty days

242-3800
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III

prior to commencing practice. In the event Trevor spends the summer baseball period in Osawatomie, he shall reside with the defendant, and the child support shall be reduced to one-half of the normal monthly rate during this period of time. In the event Trevor decides to play baseball on the Ottawa Team, he shall reside with the plaintiff and there shall be no change in child support payments during this period of time. In the period after the baseball season and prior to beginning football practice, Trevor shall divide this time equally between his parents, spending one-half with the plaintiff and one-half with the defendant.

7. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant shall provide transportation during the periods of time he has Trevor and return him to the plaintiff's home.

8. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall be responsible for their own attorney fees.

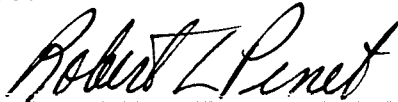
IT IS SO ORDERED BY THE COURT.



GARY W. RULON, District Court Judge

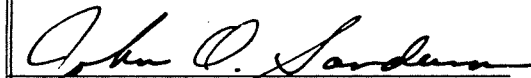
(seal)

APPROVED:



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TESTIMONY CONCERNING
H.B. 2658

Submitted by: Jim Robertson
CSE Senior Legal Counsel
Department of Social and
Rehabilitation Services
(913) 296-3410

The main purpose of H.B. 2658 is to amend certain provisions in S.B. 51 which was passed by the legislature last session. The recommended amendments are necessary to remedy conflicts and inconsistencies in verbage, incorporate a few relatively minor changes in the federal regulations which occurred after the end of the 1984-1985 legislative session and to generally "clean up" and make more workable the Kanas child support enforcement legislation which became effective July 1, 1985.

line 47 To make it clear that district magistrates have the authority to issue support orders even if the amount in controversy exceeds \$5,000.

line 74 To update statutory references and to allow magistrate judges to issue exparte orders of protective custody, orders of temporary custody and orders of disposition under the code for care of children.

Sections 2-8 Concern clean-up-type amendments to the Uniform Reciprocal Enforcement of Support Act.

line 232 adds a title to the income withholding legislation passed last year for ease of reference.

lines 248 and 250 as provided for in section 2(e) of the current income withholding law, K.S.A. 39-718a judgments may be enforced by income withholding. A K.S.A. 39-718a judgment is often-times a lump-sum amount which reimburses the state for the amount of the child's share of the public assistance received. The amendments are needed to make it clear that such judgments do satisfy the criteria necessary to establish an income withholding order.

lines 252 and 253 - These amendments are needed to make it clear that a notice of delinquency must be sent the obligor and an affidavit must be filed with the court regardless of whether a conditional income withholding order is contained in the order of support. These amendments insure due process for the obligor and resolve a conflict in the wording of the statute.

lines 255 and 256 - The amendment corrects an error by striking "such an order" which, if read in conjunction with the rest of the section, refers to a conditional order. The amendment makes it clear that the order referred to is a withholding order and not a conditional order.

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lines 263-266 - The amendment resolves wording conflict between various sections of the law by clarifying that the obligee must ask for a "specified amount" (rather than a percentage) to be withheld from the income of the debtor which would be applied to current support and the arrearage, if any. This amendment accurately expresses legislative intent of last year and simplifies the employer's role in computing the amount to be withheld.

lines 298-299 - the amendment resolves a conflict in existing statutory language between section 4(f) which does not refer to a 10 day grace period after a 30 day arrearage develops and section 4(a)(2) which does state that before a withholding order can be obtained, "all or part of at least one payment is more than 10 days overdue." To remedy the inconsistency, such language is inserted into subsection (f).

lines 336-337 - This amendment would add one question an employer or payor of income must answer if asked by a public office. In addition to the exclusive list of ten questions set forth in the current law, the employer could be asked "whether or not income is being withheld pursuant to this act."

The person planning to file an income withholding should be made aware of a potential multiple income withholding order situation so that payments sought may be appropriately adjusted. In certain cases, having knowledge that the obligor's income is subject to attachment by several withholding orders may prevent a needless filing.

line 345 This amendment gives the employer an extra ten days to forward the amount withheld to SRS (if there are multiple withholding orders which cannot be satisfied) or to the clerk of court.

lines 355, 356, and 362 - The amendment strikes references to the employer withholding a "percentage" rather than a definite dollar amount. The employer's responsibility in calculating the amount to be withheld is made easier by the elimination of any reference to withholding a percentage.

lines 384-388 - As required by federal regulation changes, existing provisions for dealing with multiple income withholding orders on a first-come-first-served basis are deleted. A more equitable method of distributing collections in multiple income withholding situations is provided for on lines 433-483.

lines 403 and 404 - Current law requires the payor to notify the clerk of court or court trustee if the obligor is terminated. The proposed amendment would require the same notice if the obligor is laid off. The person enforcing support should be made aware of the reason why support payments stop so that they may prepare other enforcement remedies.

lines 428-431 - The preference given to the collection of current support over arrearages is deleted here and incorporated into subsection (c) at line 436.

lines 436-486 - This amendment satisfies a late change in the federal regulations which requires the state, rather than the employer, to determine how to distribute the amount withheld in a multiple income withholding order situation. The language in this subsection was very carefully worked out by the interim committee this summer. Essentially, the amendment provides that if the payor can legally withhold enough income to satisfy all the income withholding orders, they should continue with normal disbursement as ordered. However, if the total amount required to be withheld in all the income withholding orders exceeds the amount which can legally be withheld according to the Consumer Credit Protection Act, the payor merely sends a form notice of multiple withholding orders and the total amount of income which can legally be withheld to SRS (the income withholding agency) within 10 days after the obligor is normally paid. SRS then sends copies of the notice to the clerk of each court issuing one of the orders and to each obligee.

The payor would have a continuing duty to notify SRS of any modification or termination of an income withholding order, of any other orders received or the termination of income payments to the obligor so that SRS could re-figure and adjust the amounts distributed to the obligees as determined by a statutorily prescribed formula.

If the obligor's income becomes subject to only one withholding order or if SRS gives notice that all the orders can be satisfied without exceeding CCPA limits, the payor would be required to send withheld amounts directly to the clerk of court or court trustee, as the court order specifies.

At line 359, SRS is given the authority to disburse the funds received from payors in multiple withholding situations. In determining how such funds should be divided, SRS must give priority to the payment of current support and use a formula.

The formula first compares the amount of current support asked for in each order with the total amount of support asked for in all orders to determine a ratio. (For example:)

Order "A" = \$100 (1/3 of \$300)

Order "B" = \$200 (2/3 of \$300)

Total asked for = \$300

This ratio is then compared to the total amount actually withheld for current support to determine the amount to be distributed. (For example, if the amount actually withheld is \$200, order "A" would receive 1/3 of \$200 and order "B" would receive 2/3 of \$200.)

Any withheld amount which exceeds the total amount of current support asked for would be distributed as arrearages by using the same formula as used for distribution of current support.

In summary, this amendment distributes amounts withheld in multiple withholding situations much more equitably among all the obligor's children than the current law while at the same time relieving employers of the burden of determining how funds should be distributed.

- line 487 - The amendments in section 13 are all related to elimination of the obligee's ability to ask a payor/employer to withhold a percentage of income. (The employer must be ordered to withhold a specific dollar amount.) Since the obligee has a legal right to collect from 50%-65% of the obligor's earnings, the obligee should have a clear statutory right to obtain a modification in the court's order if the obligor's income increases. The obligee must also have the flexibility to obtain a modification, if the obligor's income decreases or if, for example, a bankruptcy court issues an order staying collection action, since the obligee could be held liable for improper or over withholding.
- line 488 - The words "obligee or public office" are stricken from section (a) since a new subsection (b) concerning modification rights has been added.
- line 493 - This sentence has been shifted to a new subsection (d) for emphasis and clarification.
- lines 496-499 - Gives the obligee or public office the right to seek and obtain a modification in the amount of a withholding order so long as they have a legal right under the CCPA to collect the amount asked for.
- lines 521-523 Establishes SRS as the income withholding agency in non-IV-D cases where multiple income withholding orders cannot be fully satisfied. SRS would have the responsibility of notifying the parties and distributing the amount which was withheld in accordance with the procedures and formula discussed in section 6(c) in both IV-D and non-IV-D cases.
- lines 523-526 - An amendment is suggested to provide a more accurate citation.
- lines 536-537 - Establishes the title of "interstate income withholding act." for procedures which concern interstate income withholding activity.
- line 547 - Since, as the existing law provides, actual service of a notice of delinquency on the obligor cannot possibly be accomplished on the same date a support order is registered, the amendment requires that such service be made no later than 10 days after registration.
- lines 586-587 - Deletes a reference to the statute of limitations in K.S.A. 23-4,137 because of the need for an amendment to that statute.
- line 637 - Since, at the time the court issues an income withholding order, the other state cannot be notified precisely of when the actual withholding will begin, the reference requiring such notice is deleted.
- lines 639-663 - The amendments to section 19 are requested to satisfy a change in federal regulations concerning which state's statute of limitations applies in interstate income withholding cases. Current law states that the longest statute of limitations in the state requesting or the state establishing an income withholding order applies.

The recommended amendment provides that the law and procedures of the state where the obligor earns income will apply for all issues but when withholding must be implemented (which is controlled by the law of the state where the support order was entered). The recommended amendment is, in my opinion, preferable since the attorneys with the responsibility of establishing interstate income withholding orders need not be familiar with the varying law of all 50 states. (Kansas law would apply for all issues except for when the withholding should be established.)

lines 705-706 - Concerns the establishment of a lien on aircraft or vessels. The amendment was suggested by the Federal Aviation Administration so that sufficient information is provided to properly identify the obligor's property.

lines 719-726 - This amendment concerning the filing of liens was suggested by John Wine, Attorney for the Secretary of State. It provides guidance regarding how the lien should be processed.

lines 753-754 - Please see comments concerning lines 1175-1178

lines 883-904 - Federal law requires an amendment to K.S.A. 39-709 concerning the SRS responsibility to continue to provide support enforcement services free of any charge for a period of five months after an ADC case closes.

lines 1125-1131 - Amends K.S.A. 39-755 to correspond with the statute of limitations for establishing the parentage of a child as found in the Kansas Parentage Act.

lines 1175-1178 - SRS urges you to replace the language deleted by the House Judiciary Committee. There is a solid justifiable reason why K.S.A. 60-1610 was amended last year to require all support payments to be made through the court. For the Kansas automatic income withholding law to function soon after a 30 day arrearage develops, payments of support must be made to one place so that an official record can be maintained which can be relied upon to determine if past due support is owed. The management information system which SRS and the OJA are required to develop pursuant to K.S.A. 23-4,117 is totally dependent on such a record.

The requirement of payment through the court actually benefits and protects the interests of obligors who will have access to an official record which is positive proof of the actual payments made. SRS deals with hundreds of cases each year wherein the obligor insists that he made direct payments to the obligee, but cannot show evidence of payment to the court. Also, the statutory requirement that payments be made through the court is not a significant change from what was normally occurring by order of the court prior to the enactment of S.B. 51 last year. Most attorneys who represent either obligees or obligors who are concerned about their client's interests will advise payment through the court to establish an indisputable payment record.

~~more detailed discussion of this amendment is provided in attachment #2~~

A-IV

1156 minor children. The court may modify or change any prior order
 1157 when a material change in circumstances is shown, irrespective
 1158 of the present domicile of the child or the parents. Regardless of
 1159 the type of custodial arrangement ordered by the court, the court
 1160 may order the child support and education expenses to be paid
 1161 by either or both parents for any child less than 18 years of age, at
 1162 which age the support shall terminate unless the parent or
 1163 parents agree, by written agreement approved by the court, to
 1164 pay support beyond the time the child reaches 18 years of age. In
 1165 determining the amount to be paid for child support, the court
 1166 shall consider all relevant factors, without regard to marital
 1167 misconduct, including the financial resources and needs of both
 1168 parents, the financial resources and needs of the child and the
 1169 physical and emotional condition of the child. Until a child
 1170 reaches 18 years of age, the court may set apart any portion of
 1171 property of either the husband or wife, or both, that seems
 1172 necessary and proper for the support of the child. Every order
 1173 requiring payment of child support under this section shall
 1174 require that the support be paid through the clerk of the district
 1175 court or the court trustee.

Every order requiring payment of child support under this section shall require that the support be paid through the clerk of the district court or the court trustee.

1176 (2) *Child custody. (A) Changes.* Subject to the provisions of
 1177 the uniform child custody jurisdiction act (K.S.A. 38-1301 *et seq.*,
 1178 and amendments thereto), the court may change or modify any
 1179 prior order of custody when a material change of circumstances
 1180 is shown.

1181 (B) *Examination of parties.* The court may order physical or
 1182 mental examinations of the parties if requested pursuant to
 1183 K.S.A. 60-235 and amendments thereto.

1184 (3) *Child custody criteria.* The court shall determine custody
 1185 in accordance with the best interests of the child.

1186 (A) If the parties have a written agreement concerning the
 1187 custody of their minor child, it is presumed that the agreement is
 1188 in the best interests of the child. This presumption may be
 1189 overcome and the court may make a different order if the court
 1190 makes specific findings of fact stating why the agreement is not
 1191 in the best interests of the child.

1192 (B) In determining the issue of custody, the court shall con-

* Need similar amendment concerning maintenance on lines 1324-1327

* and for URESA orders at line 167 of H.B. 2658

* and for paternity orders on line 753 of H.B. 2658

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0416 subject to a civil penalty not exceeding \$500 and such other
0417 equitable relief as the court considers proper.

0418 Sec. 6 12. K.S.A. 1985 Supp. 23-4,109 is hereby amended to
0419 read as follows: 23-4,109. (a) An income withholding order is-
0420 sued under this act shall have priority over any other legal
0421 process under state law against the same income. Withholding of
0422 income under this section shall be made without regard to any
0423 prior or subsequent garnishments, attachments, wage assign-
0424 ments or other claims of creditors.

0425 (b) ~~Withholding of income under this section for an obligee~~
0426 ~~or a public office to enforce current support shall have priority~~
0427 ~~over the withholding of income for an obligee or public office~~
0428 ~~seeking to collect assigned arrearages only.~~

0429 (e) (b) Except as provided by this act, any state law which
0430 limits or exempts income from legal process or the amount or
0431 percentage of income that can be withheld shall not apply to
0432 withholding income under this act.

0433 (c) *If more than one order for withholding requires with-*
0434 *holding from the same source of income of a single obligor, the*
0435 *payor shall withhold and disperse as ordered the total amount*
0436 *required by all income withholding orders if such amount does*
0437 *not exceed the limits of subsection (g) of K.S.A. 1985 Supp.*
0438 *23-4,108 and amendments thereto, as shown in the withholding*
0439 *order which specifies the highest percentage of income allowed*
0440 *to be withheld. If the total amount required by all income*
0441 *withholding orders exceeds such limits, the payor shall send a*
0442 *notice of multiple withholding orders, together with the total*
0443 *funds permitted to be withheld under such limits, to the income*
0444 *withholding agency within 10 days after the obligor is normally*
0445 *paid. Copies of the notice of multiple withholding orders shall*
0446 *be sent by the income withholding agency to the clerk of each*
0447 *court issuing one of the orders and to each obligee under the*
0448 *orders.*

disburse

0449 *The payor shall have an ongoing duty to notify the income*
0450 *withholding agency of any modification or termination of an*
0451 *existing income withholding order, the receipt of any additional*
0452 *income withholding orders pertaining to the obligor or the*

A-V

0159 location of the obligor or ~~his property~~ *be the obligor's property.*
0160 *the prosecuting attorney shall so inform the initiating court.*

0161 Sec. 5. K.S.A. 1985 Supp. 23-473 is hereby amended to
0162 read as follows: 23-473. If the responding court finds a duty of
0163 support it may order the obligor to furnish support or reim-
0164 bursement therefor and subject the property of the obligor to the
0165 order. Any such support order shall be accompanied by the
0166 conditional order for withholding of income required by K.S.A.

0167 1985 Supp. 23-4,107 ~~and amendments thereto.~~ **Support orders**
0168 ~~made pursuant to this act shall require that payments be made to~~
0169 ~~the clerk of the court or court trustee of the responding state.~~

0170 The court and prosecuting attorney of any county in which the
0171 obligor is present or has property have the same powers and
0172 duties to enforce the order as have those of the county in which it
0173 was first issued. If enforcement is impossible or cannot be
0174 completed in the county in which the order was issued, the
0175 prosecuting attorney shall send a certified copy of the order to
0176 the prosecuting attorney of any county in which it appears that
0177 proceedings to enforce the order would be effective *and, if the*
0178 *action is brought pursuant to part D of title IV of the federal*
0179 *social security act (42 U.S.C. §651 et seq.), as amended, shall*
0180 *notify the proper official of this state and the initiating juris-*
0181 *diction of the activity requested.* The prosecuting attorney to
0182 whom the certified copy of the order is forwarded shall proceed
0183 with enforcement and report the results of the proceedings to the
0184 court first issuing the order.

0185 Sec. 6. K.S.A. 23-474 is hereby amended to read as follows:
0186 23-474. The responding court shall cause a copy of all support
0187 orders to be sent to the ~~initiating court~~ *proper official of the*
0188 *initiating jurisdiction.*

0189 Sec. 7. K.S.A. 23-482 is hereby amended to read as follows:
0190 23-482. This act applies if both the obligee and the obligor are in
0191 this state but in different counties. If the court of the county in
0192 which the petition is filed finds that the petition sets forth facts
0193 from which it may be determined that the obligor owes a duty of
0194 support and finds that a court of another county in this state may
0195 obtain jurisdiction over the obligor or ~~his~~ *the obligor's property.*

Support orders made pursuant to this act shall require that payments be made to the clerk of the court or the court trustee of the responding state except for good cause shown.

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0751 agree, by written agreement approved by the court, to pay
 0752 support beyond that time. The judgment shall specify the terms
 0753 of payment and shall require payment to be made through the
 0754 clerk of the district court or the court trustee. The judgment may
 0755 require the party to provide a bond with sureties to secure
 0756 payment. The court may at any time during the minority of the
 0757 child prospectively modify or change the order of support as
 0758 required by the best interest of the child. The court shall enter
 0759 such orders regarding custody and visitation as the court consid-
 0760 ers to be in the best interest of the child.

0761 (d) In entering an original order for support of a child under
 0762 this section, the court may include a requirement that an addi-
 0763 tional amount be paid to reimburse the expenses of support and
 0764 education of the child from the date of birth to the date the order
 0765 is entered and the necessary medical expenses incident to the
 0766 birth of the child.

0767 (e) In determining the amount to be paid by a parent for
 0768 support of the child and the period during which the duty of
 0769 support is owed, a court enforcing the obligation of support shall
 0770 consider all relevant facts including, but not limited to, the
 0771 following:

- 0772 (1) The needs of the child.
- 0773 (2) The standards of living and circumstances of the parents.
- 0774 (3) The relative financial means of the parents.
- 0775 (4) The earning ability of the parents.
- 0776 (5) The need and capacity of the child for education.
- 0777 (6) The age of the child.
- 0778 (7) The financial resources and the earning ability of the
 0779 child.
- 0780 (8) The responsibility of the parents for the support of others.
- 0781 (9) The value of services contributed by the custodial parent.
- 0782 (f) The provisions of K.S.A. 1985 Supp. 23-4,107 and amend-
 0783 ments thereto shall apply to all orders of support issued under
 0784 this section.

0785 Sec. 22. K.S.A. 1985 Supp. 39-709 is hereby amended to read
 0786 as follows: 39-709. (a) *General eligibility requirements for as-*
 0787 *sistance for which federal moneys are expended.* Subject to the

and shall require payment to be made through
 the clerk of the district court or the court
 trustee except for good cause shown.

A-V

1158 court shall make provisions for the support and education of the
 1159 minor children. The court may modify or change any prior order
 1160 when a material change in circumstances is shown, irrespective
 1161 of the present domicile of the child or the parents. Regardless of
 1162 the type of custodial arrangement ordered by the court, the court
 1163 may order the child support and education expenses to be paid
 1164 by either or both parents for any child less than 18 years of age, at
 1165 which age the support shall terminate unless the parent or
 1166 parents agree, by written agreement approved by the court, to
 1167 pay support beyond the time the child reaches 18 years of age. In
 1168 determining the amount to be paid for child support, the court
 1169 shall consider all relevant factors, without regard to marital
 1170 misconduct, including the financial resources and needs of both
 1171 parents, the financial resources and needs of the child and the
 1172 physical and emotional condition of the child. Until a child
 1173 reaches 18 years of age, the court may set apart any portion of
 1174 property of either the husband or wife, or both, that seems
 1175 necessary and proper for the support of the child. ~~Every order~~
 1176 requiring payment of child support under this section shall
 1177 require that the support be paid through the clerk of the district
 1178 court or the court trustee.

1179 (2) *Child custody.* (A) *Changes.* Subject to the provisions of
 1180 the uniform child custody jurisdiction act (K.S.A. 38-1301 *et seq.*,
 1181 and amendments thereto), the court may change or modify any
 1182 prior order of custody when a material change of circumstances
 1183 is shown.

1184 (B) *Examination of parties.* The court may order physical or
 1185 mental examinations of the parties if requested pursuant to
 1186 K.S.A. 60-235 and amendments thereto.

1187 (3) *Child custody criteria.* The court shall determine custody
 1188 in accordance with the best interests of the child.

1189 (A) If the parties have a written agreement concerning the
 1190 custody of their minor child, it is presumed that the agreement is
 1191 in the best interests of the child. This presumption may be
 1192 overcome and the court may make a different order if the court
 1193 makes specific findings of fact stating why the agreement is not
 1194 in the best interests of the child.

Every order requiring payment of child support under this section shall require that the support be paid through the clerk of the district court or the court trustee except for good cause shown.

1306 maintenance payments. Upon motion and hearing, the court may
 1307 reconstate the payments in whole or in part for a period of time,
 1308 conditioned upon any modifying or terminating circumstances
 1309 prescribed by the court, but the reinstatement shall be limited to
 1310 a period of time not exceeding 121 months. The recipient may
 1311 file subsequent motions for reinstatement of maintenance prior
 1312 to the expiration of subsequent periods of time for maintenance
 1313 payments to be made, but no single period of reinstatement
 1314 ordered by the court may exceed 121 months. Maintenance may
 1315 be in a lump sum, in periodic payments, on a percentage of
 1316 earnings or on any other basis. At any time, on a hearing with
 1317 reasonable notice to the party affected, the court may modify the
 1318 amounts or other conditions for the payment of any portion of the
 1319 maintenance originally awarded that has not already become
 1320 due, but no modification shall be made without the consent of
 1321 the party liable for the maintenance, if it has the effect of
 1322 increasing or accelerating the liability for the unpaid maintenance
 1323 beyond what was prescribed in the original decree.
 1324 Every order requiring payment of maintenance
 1325 under this section shall require that the maintenance
 1326 be paid through the clerk of the district
 1327 court or the court trustee.

Every order requiring payment of maintenance under this section shall require that the maintenance be paid through the clerk of the district court or the court trustee except for good cause shown.

1328 (3) *Separation agreement.* If the parties have entered into a
 1329 separation agreement which the court finds to be valid, just and
 1330 equitable, the agreement shall be incorporated in the decree.
 1331 The provisions of the agreement on all matters settled by it shall
 1332 be confirmed in the decree except that any provisions for the
 1333 custody, support or education of the minor children shall be
 1334 subject to the control of the court in accordance with all other
 1335 provisions of this article. Matters settled by an agreement incorporated
 1336 in the decree, other than matters pertaining to the
 1337 custody, support or education of the minor children, shall not be
 1338 subject to subsequent modification by the court except: (A) As
 1339 prescribed by the agreement or (B) as subsequently consented to
 1340 by the parties.
 1341 (4) *Costs and fees.* Costs and attorney fees may be awarded to
 1342 either party as justice and equity require. The court may order

LEGISLATIVE TESTIMONY



Kansas Chamber of Commerce and Industry

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A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

HB 2658

March 17, 1986

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the
Senate Judiciary Committee

by

David S. Litwin

Mr. Chairman, members of the committee. I am David Litwin, representing the Kansas Chamber of Commerce and Industry. I am also a member of the Kansas Commission on Child Support, where I am one of two representatives of the business community, but I appear today solely on behalf of KCCI. We appreciate the opportunity to comment in favor of HB 2658.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

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ny in the business community share the widespread concern that there is indeed a national crisis in the enforcement of child support orders, resulting in hardship for custodial parents and their children. On the other hand, since the employers who are called upon to fill out the various forms and do the actual withholding and forwarding of earnings, which is at the heart of the entire enforcement plan, are not in any sense responsible for the underlying problem of poor enforcement and do not stand to gain from enhanced enforcement any more than other members of the general public, our approach from the start has been to urge that employers be required to do the absolute minimum required by law and necessary to achieve adequate enforcement.

Moreover, in order to minimize legal risk to employers, we have also urged that their discretion be eliminated or minimized and that they be told precisely what to do. To the extent that a withholding employer must try to figure out what to do or make discretionary decisions concerning withholding and remitting of wages, he or she is exposed to potential legal risk if he makes a mistake, and in addition more time is taken up. This doesn't seem fair.

It is from this viewpoint that we approach HB 2658. We strongly endorse sections 10(b)(5) and 11(c), which would require withholding orders to specify a specific sum for both current support and satisfaction of arrearages, rather than the percentage of wages that an employer may be required under the current law to apply against the total wages subject to withholding.

Similarly, the proposed change in Section 11(b), which is permitted by a recent amendment to federal law, and which would give an employer 10 days from the obligor's pay day to remit, appears desirable in that it will allow some needed leeway. This would be particularly true with respect to the first withholding under an order, when an employer might legitimately need some additional time to gear up and implement withholding.

Finally, we endorse Sec. 12(c), which would address the situation where an employee is subject to more than one wage withholding order served on his employer and

the total to be withheld exceeds legal limits. Presently, the employer must in effect figure out just what to do, evidently at his peril if he should err. This seems completely unfair, for reasons stated earlier. Moreover, this situation requires a very complex and intimidating form to be served on all employers, even though it would apply in only a small percentage of withholdings. The amendment would have the employer in effect turn resolution of the problem over to the income withholding agency. The bill adds various conditions to this procedure, and it will be vital that the forms be amended so that an employer is very clearly put on notice as to precisely what he or she must do in this situation. I believe that we will be able to work out such forms.

The remaining proposed changes are either technical in nature or beyond the scope of the direct concern of the business community, so we do not state an opinion on those sections.

Thank you again for the opportunity to testify. If there are any questions, I will try to answer them.