

Approved 4-30-92
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Rep. John M. Solbach at
Chairperson

12:15 a.m./p.m. on April 2, 1992 in room 313-S of the Capitol.

All members were present except:

Representatives Carmody, Heinemann, Hochhauser, Lawrence, Parkinson & Vancrum
who were excused.

Committee staff present:

Jerry Donaldson, Legislative Research
Jill Wolters, Revisor of Statutes
Judy Goeden, Committee Secretary

Conferees appearing before the committee:

Marvin Stottlemire
Jim Clark, Ks. Assn of District & County Attorneys

The chairman called the meeting to order.
Rep. Douville moved to take SB 588 off the table for discussion, amendment & action.
Rep. Macy seconded the motion. Motion carried.

Rep. Pauls reviewed proposed amendments to SB 588 as proposed by SRS. (Attachment #1)

Rep. Pauls moved to amend SB 588 by adopting the amendments proposed by SRS. Rep. Macy seconded the motion. Motion carried.

Rep. Pauls moved to recommend SB 588 as amended favorably for passage. Rep. Everhart seconded the motion. Motion carried.

Rep. Pauls said that SB 287 was needed to retain between \$600-\$800,000 of Federal funds annually. Discussion followed.

Rep. Pauls moved to amend SB 287 by adopting proposed amendments in the balloon. (Attachment #2) Rep. Snowbarger seconded the motion.

Marvin Stottlemire, Ks Dept. of Health & Environment, answered committee members questions concerning SB 287.

Rep. Garner made a substitute motion to recommend SB 287 favorably for passage. Rep. Rock seconded the motion. Motion carried.

After discussion, Rep. Gomez moved to reconsider committee action on SB 287. Rep. Scott seconded the motion. Motion carried.

Rep. Pauls renewed her original motion to accept amendments. Motion failed.

Rep. Snowbarger moved to amend SB 287 on line 35 and make the penalty a Class E felony. Rep. Hamilton seconded the motion. Motion carried.

Rep. Snowbarger moved to recommend SB 287 as amended favorably for passage. Rep. Pauls seconded the motion. Motion carried.

The chairman asked for discussion on SB 698.

Jim Clark, Ks Assn. of County & District Attorneys, testified in favor of SB 698. Discussion followed.

Rep. Pauls moved to recommend SB 698 favorably for passage. Rep. Hamilton seconded the motion. Motion failed.

The meeting adjourned at 1:35 P.M.

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

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Child Support Enforcement Program

Proposed changes to

Senate Bill 588

(As amended by Senate Committee)

1. Modify the reference to child support in the notices and summonses served on the parents. This eliminates language suggesting support will be set before adjudication and insures that parental income and money matters are not over-emphasized. The remaining language should be sufficient to meet due process requirements.
Changes are at: Page 5, lines 27-28 *
Page 6, lines 23-24
Page 7, lines 33-35
Page 18, line 43 and page 19, line 1
Page 20, lines 8-9
Page 21, lines 3-5
Page 23, lines 11-12
Page 24, lines 6-7
2. Delete the references to enforcement by contempt in the juvenile proceedings. The juvenile court has inherent power to enforce its orders, but taking out the reference clarifies that enforcement is intended to occur in the Chapter 60 (registration) case rather than in the juvenile case.
Changes are at: Page 11, lines 2-4 *
Page 30, lines 20-22
3. Insert criteria that allow the county/district attorney to stipulate to a support amount to avoid a contested hearing on support. This is a compromise between the bill's original wording, which had support set using presumptions unless evidence were presented, and the current wording which emphasizes the use of evidence. Clear authority to stipulate for the purpose of avoiding contested hearings would tend to decrease the burden for juvenile courts and for county/district attorneys. The language to be included in the support order is intended to meet federal requirements for deviating from the guidelines. To protect SRS from grossly inappropriate orders, the district court could modify an order under such a stipulation without proof of a change in circumstances, but only within the first three months after registration.
Changes inserted: Page 12, line 8 *
Page 13, line 40 *
Page 32, line 26
Page 34, line 14
4. Delete section 30 (duration of the support obligation) to avoid the potential conflict with HB 2102 (optional extension of support for 19-year-olds in high school) and renumber the remaining sections. It is likely the current practice of treating that all child support obligations the same would continue.
Changes are at: Page 37, lines 21-25 *
Page 37, line 26
Page 39; lines 16, 20, and 24

* - attached

HJC
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1086

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#88
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3

1 *are to provide this notice shall not affect the validity of the child*
2 *support order. ~~Until a child support order issued under this sub~~*
3 *~~section is registered pursuant to section 12 and amendments thereto,~~*
4 *~~it may be enforced by proceedings for contempt of court.~~*

delete

5 Sec. 9. K.S.A. 38-1564 is hereby amended to read as follows:
6 38-1564. (a) After the entry of any dispositional order, the court may
7 rehear the matter on its own motion or the motion of any interested
8 party. Upon notice to all interested parties and after the rehearing,
9 the court may enter any dispositional order authorized by this code,
10 *except that a child support order which has been registered under*
11 *section 12 and amendments thereto may only be modified pursuant*
12 *to section 12 and amendments thereto.*

13 (b) Before entering an order placing the child in the custody of
14 a person other than the child's parent, the court shall require notice
15 of the time and place of the rehearing to be given to all the child's
16 grandparents at their last known addresses or, if no grandparent is
17 living or if no living grandparent's address is known, to the closest
18 relative of each of the child's parents whose address is known. Such
19 notice shall be given by restricted mail not less than 10 business
20 days before the rehearing. The provisions of this subsection shall
21 not require additional notice to any person otherwise receiving notice
22 of the rehearing pursuant to K.S.A. 38-1536 and amendments
23 thereto.

24 New Sec. 10. (a) In determining the amount of a child support
25 order under the Kansas code for care of children, the court shall
26 apply the Kansas child support guidelines adopted pursuant to K.S.A.
27 20-165 and amendments thereto. ~~Except as provided in subsection~~
28 ~~(b), the court shall presume in initially applying the guidelines~~
29 ~~to~~

30 (b) *If the appropriate amount of support under the Kansas child*
31 *support guidelines cannot be determined because any necessary fact*
32 *is not proven by evidence or by stipulation of the appropriate parties,*
33 *the court shall apply one or more of the following presumptions:*

- 34 (1) Both parents have only gross earned income equal to 40 hours
35 per week at the federal minimum wage then in effect;
- 36 (2) neither parent's income is subject to adjustment for any
37 reason;
- 38 (3) the number of children is as alleged in the petition;
- 39 (4) the age of each child is as alleged in the petition or, if un-
40 der 7, is between seven and 15 years;
- 41 (5) no adjustment for child care, health or dental insurance or
42 income tax exemption is appropriate; and or
- 43 (6) neither parent is entitled to any other credit or adjustment.

Handwritten notes: "Yes", "A-2-4", "4-18-18"

'b) A presumption in subsection (a)(1), (a)(2), (a)(5) or (a)(6) may be overcome by stipulation of the parties or by a preponderance of evidence showing that use of the presumption in applying the guidelines would result in economic hardship and that the party cannot be adequately protected by section 12 and amendments thereto. A presumption in subsection (a)(3) or (a)(4) may be overcome by stipulation of the parties or by a preponderance of evidence.

New Sec. 11. When child support is ordered pursuant to the Kansas code for care of children, a separate journal entry or judgment form shall be made for each parent ordered to pay child support. The journal entry or judgment form shall be entitled:

In the matter of _____ and _____ ..
(obligee's name) (obligor's name)

and shall contain no reference to the privileged official file or social file in the case except the facts necessary to establish personal jurisdiction over the parent, the name and date of birth of each child, and findings of fact and conclusions of law directly related to the child support obligation. If the court issues an income withholding order for the parent, it shall be captioned in the same manner.

New Sec. 12. (a) A party entitled to receive child support under an order issued pursuant to the Kansas code for care of children may file with the clerk of the district court in the county in which the judgment was rendered the original child support order and the original income withholding order, if any. If the original child support or income withholding order is unavailable for any reason, a certified or authenticated copy of the order may be substituted. The clerk of the district court shall number the child support order as a case filed under chapter 60 of the Kansas Statutes Annotated and enter the numbering of the case on the appearance docket of the case. Registration of a child support order under this section shall be without cost or docket fee.

(b) If the number assigned to a case under the Kansas code for care of children appears in the caption of a document filed pursuant to this section, the clerk of the district court may obliterate that number and replace it with the new case number assigned pursuant to this section.

(c) The filing of the child support order shall constitute registration under this section. Upon registration of the child support order, all matters related to that order, including but not limited to modification of the order, shall proceed under the new case number. Registration of a child support order under this section does not confer jurisdiction in the registration case for custody or visitation

(c) If the county or district attorney determines that: (1) a parent will contest the amount of support resulting from application of the guidelines, (2) the parent is or may be entitled to an adjustment pursuant to the guidelines, and (3) it is in the child's best interests to resolve the support issue promptly and with minimal hostility, the county or district attorney may enter into a stipulation with the parent as to the amount of child support for that parent. The amount of support may be based upon one or more of the presumptions in subsection (b). Except for good cause or as otherwise provided in section 12, a stipulation under this subsection shall be binding upon the court and all parties. The criteria for application of this subsection shall be incorporated into the journal entry or judgment form.

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1 issues.

(d) The party registering a child support order shall serve a copy of the registered child support order and income withholding order, if any, upon the interested parties by first-class mail. The party registering the child support order shall file, in the privileged official file for each child affected, either a copy of the registered order showing the new case number or a statement that includes the caption, new case number and date of registration of the child support order.

(e) If the secretary of social and rehabilitation services is entitled to receive payment under an order which may be registered under this section, the county or district attorney shall take the actions permitted or required in subsections (a) and (d) on behalf of the secretary, unless otherwise requested by the secretary.

(f) A child support order registered pursuant to this section shall have the same force and effect as an original child support order entered under chapter 60 of the Kansas Statutes Annotated including, but not limited to:

(1) The registered order shall become a lien on the real estate of the judgment debtor in the county from the date of registration;

(2) execution or other action to enforce the registered order may be had from the date of registration;

(3) the registered order may itself be registered pursuant to any law, including but not limited to the revised uniform reciprocal enforcement of support act (1968);

(4) if any installment of support due under the registered order becomes a dormant judgment, it may be revived pursuant to K.S.A. 60-2404 and amendments thereto; and

(5) the court shall have continuing jurisdiction over the parties and subject matter and, except as otherwise provided in subsection (g), may modify any prior support order when a material change in circumstances is shown irrespective of the present domicile of the child or parents. The court may make a modification of child support retroactive to a date at least one month after the date that the motion to modify was filed with the court.

(g) If a motion to modify the child support order is filed within three months after the date of registration pursuant to this section and, if no motion to modify the order has previously been heard and if the moving party shows that the support order was based on one or more of the presumptions provided in section 10, the

court shall apply the Kansas child support guidelines adopted pursuant to K.S.A. 20-165 and amendments thereto without requiring any party to show that a material change of circumstances has oc-

or upon a stipulation pursuant to subsection (c) of section 10

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H. J. ...
4-2-91
6

1 half of the minor. This limited power of attorney shall remain in
2 effect until the assignment of support rights has been terminated in
3 full. For any minor who is a patient of a state institution on the
4 effective date of this act and whose past, present and future support
5 rights are not assigned to the secretary of social and rehabilitation
6 services, the assignment of support rights and limited power of at-
7 torney shall be effective on the effective date of this act if notice of
8 the assignment is sent to the person otherwise entitled to receive
9 support payments for the minor.

10 The assignment of support rights provided in this section shall
11 remain in full force and effect until the minor is no longer a patient
12 of a state institution. When the minor is no longer a patient of a
13 state institution, the assignment shall remain in effect as to unpaid
14 support obligations due and owing as of the last day of the month
15 in which the minor ceases to be a patient, until the claim of the
16 secretary of social and rehabilitation services for the maintenance,
17 care and treatment of the minor is satisfied. Nothing in this section
18 shall affect or limit the rights of the secretary of social and reha-
19 bilitation services under any assignment pursuant to K.S.A. 39-709
20 and amendments thereto.

21 ~~New Sec. 30. Except as otherwise provided by law, a parent's~~
22 ~~duty to support a child extends until the later of:~~
23 ~~(a) The date the child becomes 18 years of age; or~~
24 ~~(b) June 1 of the school year during which the child becomes~~
25 ~~18 years of age if the child is attending high school.~~

Handwritten: delete
30

26 ~~Sec. 31:~~ K.S.A. 1991 Supp. 20-302b is hereby amended to read
27 as follows: 20-302b. (a) A district magistrate judge shall have the
28 jurisdiction, power and duty, in any case in which a violation of
29 the laws of the state is charged, to conduct the trial of traffic
30 infractions or misdemeanor charges and the preliminary examination
31 of felony charges. In civil cases, a district magistrate judge shall
32 have concurrent jurisdiction, powers and duties with a district judge,
33 except that, unless otherwise specifically provided in subsection (b),
34 a district magistrate judge shall not have jurisdiction or cognizance
35 over the following actions:

36 (1) Any action, other than an action seeking judgment for an
37 unsecured debt not sounding in tort and arising out of a contract
38 for the provision of goods, services or money, in which the amount
39 in controversy, exclusive of interests and costs, exceeds \$10,000,
0 except that in actions of replevin, the affidavit in replevin or the
1 verified petition fixing the value of the property shall govern the
2 jurisdiction; nothing in this paragraph shall be construed as limiting
3 the power of a district magistrate judge to hear any action pursuant

SENATE BILL No. 287

By Committee on Public Health and Welfare

2-22

9 AN ACT making it unlawful for individuals infected with human
10 immunodeficiency virus ~~[a life threatening communicable disease]~~ human immunodeficiency virus
11 to engage in certain activities; providing penalties for violations.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. (a) It is unlawful for an individual who knows oneself
15 to be infected with human immunodeficiency virus (HIV) ~~[a life-~~
16 ~~threatening communicable disease]~~ knowingly:

17 (1) To engage in sexual intercourse or sodomy with another in- human immunodeficiency virus (HIV)
18 dividual without first informing with the intent to expose that
19 individual of the human immunodeficiency virus (HIV) infection
20 to ~~[that life threatening communicable disease]~~

21 (2) to sell or donate one's own blood, blood products, semen, the human immunodeficiency virus (HIV) infection
22 tissue, organs or other body fluids with the intent to expose the
23 recipient to ~~[a life threatening communicable disease]~~

24 (3) to share with another individual a hypodermic needle, sy-
25 ringe, or both, for the introduction of drugs or any other substance
26 into, or for the withdrawal of blood or body fluids from, the other
27 individual's body without first informing that individual that the
28 needle or syringe, or both, have been used by someone infected
29 with human immunodeficiency virus (HIV) with the intent to
30 expose another person to ~~[a life threatening communicable disease]~~

31 (b) As used in this section, the term "sexual intercourse" shall
32 not include penetration by any object other than the male sex organ;
33 the term "sodomy" shall not include the penetration of the anal
34 opening by any object other than the male sex organ.

35 (c) Violation of this section is a class ~~[A]~~ misdemeanor. B

36 Sec. 2. This act shall take effect and be in force from and after
37 its publication in the statute book.

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