

Approved: 4-5-96
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Tim Emert at 10:00 a.m. on March 27, 1996 in Room 514-S of the Capitol.

All members were present except:

Committee staff present: Michael Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Revisor of Statutes
Janice Brasher, Committee Secretary

Conferees appearing before the committee: Onan Burnett, USD 501
Mark Gleeson, Intake Specialist, OJA
Gene Johnson, ADSAP
Tom Wilder, Insurance Commissioner's Office

Others attending: See attached list

The Chair called the meeting to order at 9:15 a.m.

HB 2900--Kansas juvenile justice reform act.

Staff Briefing:

The staff referred to the House Committee amendment memo and briefly discussed those amendments.

The Chair stated that there were several floor amendments placed on this bill.

The staff then explained the amendments placed on **HB 2900** by the House Committee of the Whole. The staff member related that sections 155 through 160 were added by the House floor amendments. The Staff related that those sections concerned: disclosure of immunization information; amending K.S.A. 21-4619 pertaining to the expungement of records; providing for the retention of employee benefits in the transfer of SRS employees, and requiring background screening; maintaining parental rights as primary; and sun-setting of the provisions in this bill.

A motion was made by Senator Parkinson, seconded by Senator Petty to delete the House floor amendments, section 155 through 160. The motion carried.

The Chair related that there was an amendment requested by Representative Akins to establish a truancy board to address the issue of truancy. The Chair stated that **SB 576** provided for the establishment of school attendance review boards in school districts, but that bill was not passed out of the Education Committee. The Committee members discussed replacing "shall establish" with "may establish." A Committee member questioned if this bill would apply to home schools.

A motion was made by Senator Petty, seconded by Senator Bond to amend **SB 576** to change "shall" to "may" and add the provisions in **SB 576** to **HB 2900**. The motion carried.

Staff discussed provisions in **HB 2900** referring to SRS and child support issues and the meeting of federal requirements. The Committee discussed removing four sections dealing with those issues, and flagging those sections to be studied and considered for future legislation.

A motion was made by Senator Petty, seconded by Senator Vancrum to amend **HB 2900** to take out four sections concerning SRS child support collection. The motion carried.

A Committee member referred to section 32 of **HB 2900** and suggested broadening that section to include all intake and assessment workers licensed under BSRB in the exemption, so that records may be provided to those persons.

CONTINUATION SHEET

2

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 514-S Statehouse, at 10:00 a.m. on March 27, 1996.

A motion was made by Senator Vancrum, seconded by Senator Petty to amend HB 2900 to include all professionals licensed by BSRB. The motion carried.

The Committee members discussed with staff a recommendation of the House Judiciary to change the age applicable to the designation as an extended jurisdiction juvenile prosecution to ages ten through seventeen.

A motion was made by Senator Vancrum, seconded by Bond to amend HB 2900 by extending the age applicable to extended jurisdiction juvenile prosecution to ages 10-17. The motion carried.

Onan Burnett, USD 501, testified expressing concern with the provision in the bill that would raise the mandatory school attendance requirement to age eighteen, unless there is a parental waiver.

The Committee members discussed parental responsibility and the expression by parents that increasing the mandatory attendance age to eighteen would be a helpful tool. The Chair related that both the KOCH Crime Commission and the Youth Authority had included this provision in their recommendations.

The Chair presented an amendment requested by Mr. Burnett concerning a requirement that those under eighteen who have been adjudicated should be making reasonable progress toward graduation.

The Committee members discussed that requirement and determined that amendment could be considered during conference committee.

Written testimony from Patricia Baker, Associate Executive Director/General Counsel Kansas Association of School Boards was considered regarding concerns in Section 80 and New Section 7. (Attachment 1)

A member of the staff stated that in Section 80 makes nomenclature changes.

The Committee members and staff discussed the sharing of information by educational officials and the implications of the Federal Education Rights and Privacy Act on certain provisions in **HB 2900**.

A motion was made by Senator Vancrum, seconded by Senator Bond to conceptually amend **HB 2900** to insert "subject to requirements of law" in the relevant provisions. The motion carried.

Mark Gleeson, Juvenile Intake Specialist, OJA testified concerning the need for Community Correction programs to have access to intake and assessment records for children and youth under their immediate supervision. (Attachment 2)

A motion was made by Senator Bond, seconded by Senator Petty to amend **HB 2900** to include Community Corrections in the sharing of information provisions. The motion carried.

Mr. Gleeson discussed another issue of updating criteria for detaining youth to include the sentencing guidelines.

It was the consensus of the Committee that this issue be considered during conference committee meetings.

Gene Johnson, ADSAP, testified concerning including the provisions of **SB 498** into **HB 2900**. Mr. Johnson stated that **SB 498** was a bill that proposed some cleanup language.

The Committee recommended that the provisions of **SB 498** be placed in **HB 2603** during conference committee meeting.

Tom Wilder, Insurance Commissioner's Office related that there are some policy issues concerning Insurance coverage for those juveniles confined under this act. Mr. Wilder stated that treatment on site creates an insurance coverage problem, particularly with HMOs. Mr. Wilder stated that Mr. Sneed may have some language to tighten up this issue.

The Chair adjourned the meeting at 10:00 a.m.

The next meeting is scheduled for March 27, 1996- -on recess of the Senate.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3-27-96

NAME	REPRESENTING
Tom Wilder	Kansas hs. Dept
Bill Joyce	NEAA
Jenise Johnson	HMAA
Paul Shelby	OJA
Mark Gleeson	OJA
Dore Waterworth	Division of the Budget
Ron Miller	SRS/170AS
Steve Johnson	Ks A.S.A.P. Assn
Chris Durrant	USD 50 #
Michael Dannon	Kansas Bar Assn.
Mark Callman	KTS/
Anne Spiess	Ks. Assoc. of Counties
Jim Uhl	KCPAA
Rebecca Workman	KS Sent. Comm.
BABEHA TOMBS	KS Sent. Comm.
Brian Jazewski	SRS
Shannon Gronowicz	SRS O/S
Teresa Markowitz	SRS



TO: Senate Judiciary Committee

FROM: Patricia Baker, Associate Executive Director/General Counsel
Kansas Association of School Boards

DATE: March 27, 1996

RE: House Bill 2900

Mr. Chairman and Committee Members:

We have attempted to list some concerns we still have regarding the language in House Bill 2900. Please note that we wholeheartedly endorse the basic philosophy and public policy which gave rise to this legislation. We also appreciate the work of the subcommittee in addressing many of our concerns in their deliberations.

Section 80, p. 96, lines 25-38. This section causes us concern in that it is unclear whether additional assessments of student needs would be required. Is such an assessment subject to modification by the court and if so, do school officials have the opportunity for further input?

New Section 7, (d), p. 7, line 22. Once again the limitations of federal and state law on the ability of education officials to share educational records outside the school poses a problem. With parental consent there is no difficulty here, but the issue continues to be one of concern for educators. Without parental consent, a court order or specific authority under the Federal Educational Rights and Privacy Act, schools face the dilemma of violating the law or being uncooperative with juvenile authorities.

We ask your consideration, also, of two other issues: The fiscal note for extending the compulsory attendance age from 16 to 18 and the potential litigation arising from the addition of New Section 159, p. 191.

Thank you for your attention. Please feel free to contact our staff if you have any questions.

Sen. Jud
3-27-96
Attach 1

~~SENATE BILL No. 702~~ H. B. 2012

By Committee on Judiciary

2-14

9 AN ACT concerning courts; relating to collection of debts owed thereto;
10 attorney general; amending K.S.A. 21-4603d and 60-2310 and K.S.A.
11 1995 Supp. ~~60-4302~~ and 75-6202 and repealing the existing sections.

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

14 New Section 1. (a) The attorney general is authorized to enter into
15 contracts in accordance with this section for collection services for debts
16 owed to courts or restitution owed under an order of restitution.

17 (b) As used in this section:

18 (1) "Beneficiary under an order of restitution" means the victim or
19 victims of a crime to whom a district court has ordered restitution be
20 paid;

21 (2) "contracting agent" means a person, firm, agency or other entity
22 who contracts hereunder to provide collection services;

23 (3) "cost of collection" means the fee specified in contracts hereunder
24 to be paid to or retained by a contracting agent for collection services.
25 "Cost of collection" also includes any filing fee required under K.S.A. 60-
26 4303 and amendments thereto; ~~and~~

27 (4) "debts owed to courts" means any assessment of court costs, fines,
28 fees or other charges which a district court judgment has ordered to be
29 paid to the court, and which remain unpaid in whole or in part, and
30 includes any interest or penalties on such unpaid amounts as provided
31 for in the judgment or by law. "Debts owed to courts" also includes the
32 cost of collection assessed when collection services of a contracting agent
33 hereunder are utilized.

34 (c) (1) Contracts authorized by this section may be entered into with
35 state or federal agencies or political subdivisions of the state of Kansas,
36 including contracts for participation in the collection program authorized
37 by K.S.A. 75-6201 *et seq.* and amendments thereto. Such contracts also
38 may be entered into with private firms or individuals selected by a pro-
39 curement negotiation committee in accordance with K.S.A. 75-37,102
40 and amendments thereto, ~~and~~ the attorney general shall designate a rep-
41 resentative to serve as the chief administrative officer member of such
committee; →

(2) The attorney general may adopt rules and regulations as deemed

or administrative costs prescribed by the attorney
general pursuant to rules and regulations; and

except that

and that the other two members of such committee shall
be designated by the director of purchases and the
judicial administrator.

Senate Judiciary
3-20-96
Attach. 2

2-2

1 appropriate for the administration of this section, including procedures
2 to be used in the negotiation and execution of contracts pursuant to this
3 section and procedures to be followed by those who utilize collection
4 services under such contracts.

5 (3) For purposes of this section, the agencies, firms or individuals
6 with whom contracts are entered under this section shall be known as
7 contracting agents. The attorney general shall publish a list of the con-
8 tracting agents for use by courts or beneficiaries under orders of resti-
9 tution who desire to utilize the collection services of such agents.

10 (4) Each contract entered pursuant to this section shall provide for a
11 fee to be paid to or retained by the contracting agent for collection serv-
12 ices. Such fee shall be designated as the cost of collection hereunder, and
13 shall not exceed ~~33%~~ of the amount of the debt to be collected.

shall not exceed 40% of the amount of the debt to be
collected.

14 (d) Judicial districts of the state of Kansas are authorized to utilize
15 the collection services of contracting agents pursuant to this section for
16 the purpose of collecting all outstanding debts owed to courts. Subject to
17 rules and orders of the Kansas supreme court, each judicial district may
18 establish by local rule guidelines for the compromise of court costs, fines,
19 attorney fees and other charges assessed in district court cases.

20 (e) Any beneficiary under an order of restitution entered by a court
21 after this section takes effect is authorized to utilize the collection services
22 of contracting agents pursuant to this section for the purpose of collecting
23 all outstanding amounts owed under such order of restitution.

24 (f) Contracts entered hereunder shall provide for the payment of any
25 amounts collected to the clerk of the district court for the court in which
26 the debt being collected originated. In accounting for amounts collected
27 from any person pursuant to this section, the district court clerk shall not
28 reduce the amount owed by any person by that portion of any payment
29 which constitutes the cost of collection pursuant to this section. Such costs
30 of collection pursuant to this section which do not reduce the amounts
31 owed shall:

32 (1) In the case of collection services utilized by courts for collection
33 of debts owed to courts, be deemed and assessed against the debtor as
34 additional court costs for failure to pay the debts being collected, and
35 shall be added to the amount owed and collected as a part of the out-
36 standing debt; or

37 (2) in the case of collection services utilized for the collection of
38 court-ordered restitution, be deemed a part of the original sentence im-
39 posed by the court at the time restitution was ordered, pursuant to sub-
40 section (a) of K.S.A. 21-4603d and amendments thereto.

41 (g) With the appropriate cost of collection paid to the contracting
42 agent as agreed upon in the contract hereunder, the clerk shall then
distribute amounts collected hereunder as follows:

1 (1) When collection services are utilized pursuant to subsection (d),
2 all amounts shall be applied against the debts owed to the court as spec-
3 ified in the original judgment creating the debt;

4 (2) when collection services are utilized pursuant to subsection (e),
5 all amounts shall be paid to the beneficiary under the order of restitution
6 designated to receive such restitution, except where that beneficiary has
7 received recovery from the Kansas crime victims compensation board and
8 such board has subrogation rights pursuant to K.S.A. 74-7312 and amend-
9 ments thereto, in which case all amounts shall be paid to the board until
10 its subrogation lien is satisfied.

11 (h) Whenever collection services are being utilized against the same
12 debtor pursuant to both subsections (d) and (e), any amounts collected
13 by a contracting agent shall be first applied to satisfy subsection (e) debts,
14 debts pursuant to an order of restitution. Upon satisfaction of all such
15 debts, amounts received from the same debtor shall then be applied to
16 satisfy subsection (d) debts, debts owed to courts.

17 Sec. 2. K.S.A. 21-4603d is hereby amended to read as follows: 21-
18 4603d. (a) Whenever any person has been found guilty of a crime, the
19 court may adjudge any of the following:

20 (1) Commit the defendant to the custody of the secretary of correc-
21 tions if the current crime of conviction is a felony and the sentence pre-
22 sumes imprisonment, or the sentence imposed is a dispositional departure
23 to imprisonment; or, if confinement is for a misdemeanor, to jail for the
24 term provided by law;

25 (2) impose the fine applicable to the offense;

26 (3) release the defendant on probation if the current crime of con-
27 viction and criminal history fall within a presumptive nonprison category
28 or through a departure for substantial and compelling reasons subject to
29 such conditions as the court may deem appropriate. In felony cases except
30 for violations of K.S.A. 8-1567 and amendments thereto, the court may
31 include confinement in a county jail not to exceed 30 days, which need
32 not be served consecutively, as a condition of probation or community
33 corrections placement;

34 (4) assign the defendant to a community correctional services pro-
35 gram in presumptive nonprison cases or through a departure for substan-
36 tial and compelling reasons subject to such conditions as the court may
37 deem appropriate, including orders requiring full or partial restitution;

38 (5) assign the defendant to a conservation camp for a period not to
39 exceed 180 days as a condition of probation followed by a 180-day period
40 of follow-up through adult intensive supervision by a community correc-
41 tional services program, if the offender successfully completes the con-
42 servation camp program. If the defendant was classified in grid blocks 3-
43 G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, the court

2-3

may impose a nonprison sanction on the condition that the offender complete the program at the Labette correctional conservation camp. Such a placement decision shall not be considered a departure and shall not be subject to appeal;

(6) assign the defendant to a house arrest program pursuant to K.S.A. 21-4603b and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by subsection (3) of K.S.A. 21-4502 and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension or conviction of the defendant; or repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation which leads to the defendant's conviction. Such repayment of the amount of any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the law enforcement agency;

(9) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7) and (8); or

(10) suspend imposition of sentence in misdemeanor cases.

In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime, unless the court finds compelling circumstances which would render a plan of restitution unworkable. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

If the court orders restitution, the restitution, along with the costs of collection thereof, shall be a judgment against the defendant which may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of restitution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 60-4301 et seq. and amendments thereto, the court shall assign an agent procured by the attorney general pursuant to section 1 and amendments thereto to collect the restitution, together with the cost of collection thereof, on behalf of the victim. The administrative judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by subsection (4) of K.S.A. 21-4502

2-4

1 and amendments thereto.

2 In imposing a fine the court may authorize the payment thereof in
3 installments. In releasing a defendant on probation, the court shall direct
4 that the defendant be under the supervision of a court services officer. If
5 the court commits the defendant to the custody of the secretary of cor-
6 rections or to jail, the court may specify in its order the amount of res-
7 titution to be paid and the person to whom it shall be paid if restitution
8 is later ordered as a condition of parole or conditional release.

9 When a new felony is committed while the offender is incarcerated
10 and serving a sentence for a felony or while the offender is on probation,
11 assignment to a community correctional services program, parole, con-
12 ditional release, or postrelease supervision for a felony, a new sentence
13 shall be imposed pursuant to the consecutive sentencing requirements of
14 K.S.A. 21-4608, and amendments thereto, and the court may sentence
15 the offender to imprisonment for the new conviction, even when the new
16 crime of conviction otherwise presumes a nonprison sentence. In this
17 event, imposition of a prison sentence for the new crime does not con-
18 stitute a departure.

19 Prior to imposing a dispositional departure for a defendant whose of-
20 fense is classified in the presumptive nonprison grid block of either sen-
21 tencing guideline grid, prior to sentencing a defendant to incarceration
22 whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing
23 guidelines grid for nondrug crimes, or prior to revocation of a nonprison
24 sanction of a defendant whose offense is classified in the presumptive
25 nonprison grid block of either sentencing guideline grid or grid blocks 5-
26 H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, the
27 court shall consider placement of the defendant in the Labette correc-
28 tional conservation camp. Pursuant to this paragraph the defendant shall
29 not be sentenced to imprisonment if space is available in the conservation
30 camp and the defendant meets all of the conservation camp's placement
31 criteria unless the court states on the record the reasons for not placing
32 the defendant in the conservation camp.

33 The court in committing a defendant to the custody of the secretary of
34 corrections shall fix a term of confinement within the limits provided by
35 law. In those cases where the law does not fix a term of confinement for
36 the crime for which the defendant was convicted, the court shall fix the
37 term of such confinement.

38 (b) Dispositions which do not involve commitment to the custody of
39 the secretary of corrections shall not entail the loss by the defendant of
40 any civil rights.

41 (c) This section shall not deprive the court of any authority conferred
42 by any other Kansas statute to decree a forfeiture of property, suspend
43 or cancel a license, remove a person from office, or impose any other civil

1 penalty as a result of conviction of crime.

2 (d) An application for or acceptance of probation or assignment to a
3 community correctional services program shall not constitute an acqui-
4 escence in the judgment for purpose of appeal, and any convicted person
5 may appeal from such conviction, as provided by law, without regard to
6 whether such person has applied for probation, suspended sentence or
7 assignment to a community correctional services program.

8 (e) The secretary of corrections is authorized to make direct place-
9 ment to the Labette correctional conservation camp of an inmate sen-
10 tenced to the secretary's custody if the inmate: (1) Has been sentenced
11 to the secretary for a probation revocation or as a departure from the
12 presumptive nonimprisonment grid block of either sentencing grid; and
13 (2) otherwise meets admission criteria of the camp. If the inmate suc-
14 cessfully completes the 180-day conservation camp program, the secre-
15 tary of corrections shall report such completion to the sentencing court
16 and the county or district attorney. The inmate shall then be assigned by
17 the court to 180 days of follow-up supervision conducted by the appro-
18 priate community corrections services program. The court may also order
19 that supervision continue thereafter for the length of time authorized by
20 K.S.A. 21-4611 and amendments thereto.

21 (f) When it is provided by law that a person shall be sentenced pur-
22 suant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of
23 this section shall not apply.

24 Sec. 3. K.S.A. 60-2310 is hereby amended to read as follows: 60-
25 2310. (a) *Definitions.* As used in this act and the acts of which this act is
26 amendatory, unless the context otherwise requires, the following words
27 and phrases shall have the meanings respectively ascribed to them:

28 (1) "Earnings" means compensation paid or payable for personal
29 services, whether denominated as wages, salary, commission, bonus or
30 otherwise;

31 (2) "disposable earnings" means that part of the earnings of any in-
32 dividual remaining after the deduction from such earnings of any amounts
33 required by law to be withheld;

34 (3) "wage garnishment" means any legal or equitable procedure
35 through which the earnings of any individual are required to be withheld
36 for payment of any debt; and

37 (4) "federal minimum hourly wage" means that wage prescribed by
38 subsection (a)(1) of section 6 of the federal fair labor standards act of
39 1938, and any amendments thereto.

40 (b) *Restriction on wage garnishment.* Subject to the provisions of sub-
41 section (e), only the aggregate disposable earnings of an individual may
42 be subjected to wage garnishment. The maximum part of such earnings
43 of any wage earning individual which may be subjected to wage garnish-

1 ment for any workweek or multiple thereof may not exceed the lesser of:

2 (1) Twenty-five percent of the individual's aggregate disposable earnings
3 for that workweek or multiple thereof; (2) the amount by which the in-
4 dividual's aggregate disposable earnings for that workweek or multiple
5 thereof exceed an amount equal to 30 times the federal minimum hourly
6 wage, or equivalent multiple thereof for such longer period; or (3) the
7 amount of the plaintiff's claim as found in the order for garnishment. No
8 one creditor may issue more than one garnishment against the earnings
9 of the same judgment debtor during any one 30-day period, but the court
10 shall allow the creditor to file amendments or corrections of names or
11 addresses of any party to the order of garnishment at any time. In an-
12 swering such order the garnishee-employer shall withhold from all earn-
13 ings of the judgment-debtor for any pay period or periods ending during
14 such 30-day period an amount or amounts as are allowed and required
15 by law. Nothing in this act shall be construed as charging the plaintiff in
16 any garnishment action with the knowledge of the amount of any defen-
17 dant's earnings prior to the commencement of such garnishment action.

18 (c) *Sickness preventing work.* If any debtor is prevented from work-
19 ing at the debtor's regular trade, profession or calling for any period
20 greater than two weeks because of illness of the debtor or any member
21 of the family of the debtor, and this fact is shown by the affidavit of the
22 debtor, the provisions of this section shall not be invoked against any such
23 debtor until after the expiration of two months after recovery from such
24 illness.

25 (d) *Assignment of account.* If any person, firm or corporation sells or
26 assigns an account to any person or collecting agency, that person, firm
27 or corporation or their assignees shall not have or be entitled to the ben-
28 efits of wage garnishment. The provision of this subsection shall not apply
29 to the following:

30 (1) Assignments of support rights to the secretary of social and re-
31 habilitation services pursuant to K.S.A. 39-709 and 39-756, and amend-
32 ments thereto, ~~or to~~;

33 (2) support rights which have been assigned to any other state pur-
34 suant to title IV-D of the federal social security act (42 U.S.C. § 651 *et*
35 *seq.*); ~~or to the~~;

36 (3) assignments of accounts receivable or taxes receivable to the di-
37 rector of accounts and reports made under K.S.A. 75-3728b and amend-
38 ments thereto; *or*

39 (4) *collections pursuant to contracts entered into in accordance with*
40 *section 1 and amendments thereto involving the collection of restitution*
41 *or debts to district courts.*

42 (e) *Exceptions to restrictions on wage garnishment.* The restrictions
43 on the amount of disposable earnings subject to wage garnishment as

provided in subsection (b) shall not apply in the following instances:

(1) Any order of any court for the support of any person, including any order for support in the form of alimony, but the foregoing shall be subject to the restriction provided for in subsection (g);

(2) any order of any court of bankruptcy under chapter XIII of the federal bankruptcy act; and

(3) any debt due for any state or federal tax.

(f) *Prohibition on courts.* No court of this state may make, execute or enforce any order or process in violation of this section.

(g) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed:

(1) If the individual is supporting a spouse or dependent child (other than a spouse or child with respect to whose support such order is used), 50% of the individual's disposable earnings for that week;

(2) if the individual is not supporting a spouse or dependent child described in clause (1), 60% of such individual's disposable earnings for that week; and

(3) with respect to the disposable earnings of any individual for any workweek, the 50% specified in clause (1) shall be 55% and the 60% specified in clause (2) shall be 65%, if such earnings are subject to garnishment to enforce a support order for a period which is prior to the twelve-week period which ends with the beginning of such workweek.

~~Sec. 4. K.S.A. 1995 Supp. 60-4302 is hereby amended to read as follows: 60-4302. (a) At the time of the filing of the judgment of restitution, the judgment creditor or such creditor's attorney shall make and file with the clerk of the district court an affidavit setting forth the name and last known post office address of the judgment debtor, and the judgment creditor.~~

~~(b) Promptly upon the filing of the judgment of restitution and the affidavit, the clerk of the district court shall mail notice of the filing of the judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post office address of the judgment creditor and the judgment creditor's attorney. In addition the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk of the district court. Lack of mailing notice of filing by the clerk of the district court shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.~~

~~(c) Promptly upon the filing of the judgment of restitution and the affidavit, the clerk of the district court shall mail notice of the filing to the court in which the order of restitution was originally entered, and the clerk of such court, upon receipt, shall note the filing of the judgment on~~

2-6

~~the docket of the original proceeding in which restitution was ordered.~~

Sec. 4 K.S.A. 1995 Supp. 75-6202 is hereby amended to read as follows: 75-6202. As used in this act:

(a) "Debtor" means any person who:

(1) Owes a debt to the state of Kansas or any state agency or any municipality;

(2) owes support to an individual, or an agency of another state, who is receiving assistance in collecting that support under K.S.A. 39-756 and amendments thereto or under part D of title IV of the federal social security act (42 U.S.C. § 651 *et seq.*), as amended; or

(3) owes a debt to a foreign state agency.

(b) "Debt" means:

(1) Any liquidated sum due and owing to the state of Kansas, or any state agency, municipality or foreign state agency which has accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum. A debt shall not include: (A) Special assessments except when the owner of the property assessed petitioned for the improvement and any successor in interest of such owner of property; or (B) fines or penalties assessed by a municipal court, except for traffic infractions and offenses; or

(2) any amount of support due and owing an individual, or an agency of another state, who is receiving assistance in collecting that support under K.S.A. 39-756 and amendments thereto or under part D of title IV of the federal social security act (42 U.S.C. § 651 *et seq.*), as amended, which amount shall be considered a debt due and owing the department of social and rehabilitation services for the purposes of this act.

(c) "Refund" means any amount of Kansas income tax refund due to any person as a result of an overpayment of tax, and for this purpose, a refund due to a husband and wife resulting from a joint return shall be considered to be separately owned by each individual in the proportion of each such spouse's contribution to income, as the term "contribution to income" is defined by rules and regulations of the secretary of revenue.

(d) "Net proceeds collected" means gross proceeds collected through final setoff against a debtor's earnings, refund or other payment due from the state or any state agency minus any collection assistance fee charged by the director of accounts and reports of the department of administration.

(e) "State agency" means any state office, officer, department, board, commission, institution, bureau, agency or authority or any division or unit thereof and any judicial district of this state or the clerk or clerks thereof. "State agency" shall also include any district court utilizing collection services pursuant to section 1 and amendments thereto to collect

- 1 *debts owed to such court.*
- 2 (f) "Person" means an individual, proprietorship, partnership, limited
- 3 partnership, association, trust, estate, business trust, corporation, other
- 4 entity or a governmental agency, unit or subdivision.
- 5 (g) "Director" means the director of accounts and reports of the de-
- 6 partment of administration.
- 7 (h) "Municipality" means any municipality as defined by K.S.A. 75-
- 8 1117, and amendments thereto.
- 9 (i) "Payor agency" means any state agency which holds money for, or
- 10 owes money to, a debtor.
- 11 (j) "Foreign state or foreign state agency" means the states of Colo-
- 12 rado, Missouri, Nebraska or Oklahoma or any agency of such states which
- 13 has entered into a reciprocal agreement pursuant to K.S.A. 1995 Supp.
- 14 75-6215 *and amendments thereto.*
- 15 New Sec. ~~65~~ 5. Records or information in the custody of the Kansas
- 16 parole board, any community correctional service program or any district
- 17 court regarding the financial assets, income or employment of a criminal
- 18 offender shall be subject to disclosure to any victim to whom such of-
- 19 fender has been ordered to pay restitution, or to anyone acting on behalf
- 20 of such victim to collect the ordered restitution, until such time as all
- 21 restitution is paid in full.
- 22 Sec. ~~67~~ K.S.A. 21-4603d and 60-2310 and K.S.A. 1995 Supp. ~~60-4302~~
- 23 ~~and 75-6202~~ are hereby repealed.
- 24 Sec. ~~78~~ 8. This act shall take effect and be in force from and after its
- 25 publication in the statute book.