

Approved: 5/12/97
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Tim Carmody at 12:15 p.m. on March 31, 1997 in Room 526--S of the Capitol.

All members were present except: Representative Adkins (excused)
Representative Kline (excused)
Representative Sawyer (excused)
Representative Wilk (excused)

Committee staff present: Jerry Ann Donaldson, Legislative Research Department
Mike Heim, Legislative Research Department
Jill Wolters, Revisor of Statutes
Jan Brasher, Committee Secretary

Conferees appearing before the committee: Betty McBride, Kansas Division of Vehicles
Shirley Sicilian, Kansas Department of Revenue
Pat Barnes, Attorney, Kansas Automobile Dealers Association
Sky Westerlund, K-NASW
Paul Johnson, Public Assistance Coalition of Kansas
Gary Brunk, Kansas Action for Children
Mary Becker, Mother to Mother-written testimony only
Greg Debacker, National Congress of Fathers and Children
Wendy McFarland, ACLU
Allan Herrell from Paola, Kansas

Others attending: See attached list

The Chair called the meeting to order at 12:15 p.m. in room 526-S for the continuation of the hearing on SB 140.

SB 140: Enforcement of child support, uniform interstate family support act

Betty McBride, Director of the Kansas Division of Vehicles testified as neutral on the bill, but requested that current language be struck and the original language reading "of the court which issued the support order" be re-inserted on page 36, Sec. 34 on line 37. The conferee also requested on behalf of the Division that on page 36, lines 14 and 15, the language (or on a federal form as required by title IV-D) be struck, leaving the language (on a form prescribed by the Division). (Attachment 1)(Attachment 2)

Shirley Sicilian, Kansas Department of Revenue testified as neutral on the bill, but offered an amendment addressing a procedural issue that arises from the language on page 1, lines 29 to 31. The conferee stated that this language would require the secretary of SRS to contract with the secretary of revenue for data collection services related to the state directory of new hires. The conferee stated that the Department of Revenue does not collect the type of data necessary and that to do so would require a significant administrative expense. The conferee offered that the Department of Human Resources does currently collect the necessary data and that the Committee might consider substituting the Department of Human Resources in place of the Department of Revenue. (Attachment 3)

Pat Barnes, Attorney, Kansas Automobile Dealers Association testified expressing concerns with provisions found at pages 36 and 37 of the bill. The conferee suggested additional language (balloon) to make it clear that actual notice that is, having the notation of the lien on the title is the controlling factor, since to do otherwise, there would be situations where the title is not present with the vehicle, or where an individual refuses to surrender a title for some time and the lien notation then turns up in the middle of a transaction. (Attachment 4)

Sky Westerlund, K-NASW testified in support of SB 140. The conferee stated that history demonstrates the increasing necessity to strengthen the ability of states to collect court ordered child support. The conferee stated that SB 140 is the next step in the evolution of full child support enforcement. (Attachment 5)

The Committee members discussed with the conferee the percentages presented in her written testimony on the amount of child support collected.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 526-S Statehouse, at 12:15 p.m. on March 31, 1997.

Paul Johnson, Public Assistance Coalition of Kansas spoke in support of SB 140. The conferee stated that SB 140 is a step in improving the child support system. The conferee stated that the Kansas Legislature will need to monitor SRS's new private child support enforcement contracts to judge the effectiveness of those contracts. The conferee provided a map and chart in his written testimony showing child support enforcement cases open by region. (Attachment 6)

Gary Brunk, Executive Director for Kansas Action for Children testified in support of SB 140. The conferee noted that there are an increasing number of working poor many of them custodial parents who need child support to adequately care for their children. (Attachment 7)

The Committee members discussed issues concerning privacy issues and the transfer of power to a state agency.

The Committee members discussed with Shirley Sicilian the type of information accessible on the computer system.

Mary Becker, Kansas Mother to Mother, provided written testimony in support of SB 140. (Attachment 8)

Greg Debacker, National Congress of Fathers and Children testified in opposition to SB 140. The conferee stated that this bill could impose many restrictions such as prohibiting the sale of property. The conferee stated that 80% to 90% of noncustodial parents are paying to some extent. The conferee questioned the amount to be lost by not complying with the federal welfare reform act. The conferee stated that this bill will affect too many people who would never owe child support. The conferee questioned the performance of the SRS in handling the additional tasks and powers prescribed in this bill. (Attachment 9)

The Chair recessed the meeting at 2:00 p.m.

The Chair reconvened the meeting at 3:40 p.m.

Wendy McFarland, ACLU testified in opposition to SB 140. The conferee cited constitutional violations, specifically the invasion of privacy. The conferee stated that SB 140 gives subpoena powers to the Secretary of SRS and the power to confiscate property without any judicial oversight. (Attachment 10)

The Committee members discussed issues concerning the separation of powers and court proceedings.

The Committee members had further discussion with Shirley Sicilian regarding a balloon that would lay out the type of information in more detail and not allow second hand dissemination of information.

Committee members discussed various issues with Secretary Chronister, SRS, Betty McBride, Department of Revenue and Roger Aeschliman, Department of Human Resources.

Allan Herrell of Paola, Kansas distributed written material in opposition to SB 140. (Attachment 11)

Representative Krehbeil asked Ms Corkhill for an opinion by the Attorney General and some local universities' law departments.

The Chair announced that tomorrow's meeting will be on first adjournment of the House.

The Chair adjourned the meeting at 5:45 p.m.

The next meeting is scheduled for April 1, 1997.

HOUSE JUDICIARY COMMITTEE GUEST LIST

DATE: 3/31/97

NAME	REPRESENTING
Rick Scheibe	KDOR
Lene Jensen	Ka. ASAP ASSN
Betty McBride	KDOR
Jamie Corkhill	SRS/CSE
Shirley Sicilian	KDOR
Wendy May	KADA
Pat Barnes	Kp. Automobile Dealers Assoc.
Jim Robertson	SRS
Gary Duml	Kansas Action for Children
Paul Johnson	PACK
Brent Smith	Department of Admin.; DPS
Andrea McIntyre	KDWP
Steve A. Stockhouse	KDWP
Paul Shelby	OJA
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Kathy Taylor	KBA
Rochelle Chronister	SRS
Jean Pitsenberger	BRAD SMOOT
TK Shivel	KANSAS LEGAL SERVICES

#1

Betty McBride, Director of Vehicles
Kansas Department of Revenue
915 SW Harrison St.
Topeka, KS 66612-1588



(913) 296-3601
FAX (913) 296-3852
Hearing Impaired TTY (913) 296-3909

Division of Vehicles

To: The Honorable Tim Carmody, Chairman
House Judiciary Committee

From: Betty McBride, Director
Kansas Division of Vehicles

Date: March 27, 1997

Subject: SB 140

Mr. Chairman, members of the Committee:

My name is Betty McBride, I am the Director of the Kansas Division of Vehicles. I appreciate the opportunity to appear before you today to present testimony on Senate Bill 140.

The Division has a specific concern which appears on page 36, Sec. 34, K.S.A. 23-4,146 on line 37, which reads (the obligee may obtain an order from the tribunal) in lieu of the court issuing the support order. We interpret the proposed language to mean that other administrative agencies or entities, as well as courts, would be authorized to submit orders to the Division to perfect liens under this act. By allowing other entities this privilege, the Department could be required to continually change title records and issue new titles, indicating that the lien existed or was released and should no longer be shown on the title. (for example a Dad is in arrears in child support. The Division is requested to indicate the lien on the title and issue a new title. The next month, dad pays the full support amount due. The Division then releases the lien and issues another new title. The following month Dad again becomes delinquent and again a request is submitted to the Division to issue a new title indicating there is a lien). Lien requests and lien releases done by court order will eliminate the possibility of a person having a lien put on the title one month and released the next month. This scenario could continue each time the person is delinquent in support payments. Record keeping would become horrendous and would require an additional FTE within the Title and Registration Bureau to administer this provision. Therefore the Division respectfully requests that current language be struck and the original language reading (of the court which issued the support order) be re-inserted.

The Division also requests that on page 36, lines 14 and 15, the language (or on a federal form as required by title IV-D) be struck, leaving the language (on a form prescribed by the Division). For your review, I have attached a copy of the form currently used by the Division to perfect a lien requested by the Department of Social and Rehabilitation Services through a court order. With minor modifications, the Department feels we can continue to utilize this form.

The Department requests serious consideration of these proposed amendments.

Thank you again for allowing me the opportunity to appear today. At this time I would stand for questions.

House Judiciary
Attachment 1
3/31/97

1 Sec. 34. K.S.A. 23-4,146 is hereby amended to read as follows: 23-
2 4,146. (a) Whenever there is an arrearage in payment of an order of
3 support in an amount equal to or greater than the amount of support
4 payable for one month, the obligee, the secretary of social and rehabili-
5 tation services or the secretary's contractors, if the right to support has
6 been assigned to the secretary, may establish a lien shall arise by opera-
7 tion of law upon certain personal property of the obligor. The lien may
8 be perfected as follows:

9 (1) In the case of a vehicle, the obligee or secretary may establish a
10 may perfect a lien on the vehicle by filing a notice of lien with the division
11 of vehicles of the department of revenue. **[The perfection of the lien**
12 **shall not be in effect until the notation of the lien is actually placed**
13 **upon the certificate of title for the vehicle.]** The notice shall be in a
14 form prescribed by the division, or on a federal form as required by title
15 IV-D, and shall contain a description of the vehicle, the name and address
16 of the obligee or secretary, the name and last known address of the obligor
17 and any other information required by the division. An affidavit of the
18 obligee or person designated by the secretary shall be filed with the notice
19 and shall state that there is an arrearage in an amount The notice shall
20 state the amount of the arrearage and that the arrearage is equal to or
21 greater than the amount of support payable for one month and that a. A
22 copy of the notice of lien has been sent shall be sent simultaneously by
23 first-class mail to the obligor at the obligor's last known address.

24 Upon the filing of the notice of lien in accordance with this subsection
25 (a)(1) and payment to the division of a fee of \$5, the division shall be
26 authorized to demand in writing the surrender of the title certificate from
27 the owner of the vehicle for the purpose of recording the lien on the title
28 certificate. Once the lien is properly recorded **[and perfected by actu-**
29 **ally noting it on the certificate of title],** a transfer of title is not valid
30 unless the lien has been released in the manner provided by K.S.A. 8-
31 135 and amendments thereto or the transfer has been consented to in
32 writing by the lienholder. If the obligor fails to surrender the title certif-
33 icate within 15 days after the written demand by the division of vehicles,
34 the division shall notify the person or entity seeking the lien. Such person
35 or entity obligee seeking to perfect the lien. ~~If the tribunal that issued the~~
36 ~~support order is able to exercise jurisdiction over the obligor, the obligee~~
37 ~~may obtain an order of the court which issued the support order from~~
38 ~~the tribunal~~ requiring the obligor to surrender the title certificate to the
39 court so that a the lien may be properly recorded.

40 (2) In the case of a vessel or aircraft, the obligee or secretary may
41 establish may perfect a lien on the vessel or aircraft by filing a notice of
42 lien with the office where filing is required by K.S.A. 84-9-401 and
43 amendments thereto to perfect a security interest in the vessel or aircraft.

[The
of the court which issued the support
order
to the court

House Judiciary
Attachment 2
3/31/97

1 *[The perfection of the lien shall not be in effect until the notation*
 2 *of the lien is actually placed upon the certificate of title for the*
 3 *vessel or aircraft.]* The notice shall contain a description of the make,
 4 model designation and serial number of the vessel or aircraft, including
 5 its identification or registration number, if any; the name and address of
 6 the obligee ~~or secretary~~; and the name and last known address of the
 7 obligor. ~~An affidavit of the obligee or person designated by the secretary~~
 8 ~~shall be filed with the notice and shall state that there is an arrearage in~~
 9 ~~an amount~~ *The notice shall state the arrearage and that the arrearage is*
 10 *equal to or greater than the amount of support payable for one month*
 11 *and that a . A copy of the notice of lien has been sent shall be sent*
 12 *simultaneously by first-class mail to the obligor at the obligor's last known*
 13 *address.*

14 Upon the filing of the notice of lien in accordance with this subsection
 15 (a)(2) and payment of a fee of \$5, the notice of lien shall be retained by
 16 the office where filed and may be enforced and foreclosed in the same
 17 manner as a security agreement under the provisions of the uniform com-
 18 mercial code. If ~~such liens are required by law to be~~ *the notice of lien is*
 19 *filed in the office of the secretary of state, the filing officer shall file,*
 20 *index, amend, maintain, remove and destroy the lien notification state-*
 21 ~~ment~~ *notice of lien in the same manner as a financing statement filed*
 22 *under part 4 of article 9 of the uniform commercial code. The secretary*
 23 *of state shall charge the same filing and information retrieval fees and*
 24 *credit the amounts in the same manner as financing statements filed*
 25 *under part 4 of article 9 of the uniform commercial code.*

26 (3) *In any case filed under chapter 60 or 61 of the Kansas Statutes*
 27 *Annotated, the obligee may perfect a lien on the obligor's interest in any*
 28 *judgment or settlement in the case by filing a notice of lien with the clerk*
 29 *of the district court. Copies shall be served on appropriate parties to the*
 30 *action. The notice of lien shall have the effect of attaching the obligor's*
 31 *interest in any judgment or settlement in the case. Any person holding*
 32 *property or funds to satisfy any judgment or settlement in the obligor's*
 33 *favor shall be prohibited from transferring to the obligor any of such*
 34 *property or funds without the written consent of the obligee. At the time*
 35 *that the holder would otherwise be required to transfer property to the*
 36 *obligor, such property shall be transferred to the obligee unless the lien*
 37 *on the property has been released. Nothing in this subsection shall be*
 38 *construed to require the holder to transfer any property to the obligee*
 39 *any sooner than the holder would have been required to transfer property*
 40 *to the obligor. To the extent that an attorney's lien on the obligor's interest*
 41 *in any settlement or judgment is perfected before service of the notice of*
 42 *lien under this section, the attorney's lien shall have priority.*

43 *Any person affected by the notice of lien who is or will be a payor as*

1 defined in the income withholding act and amendments thereto may re-
2 quest that the obligee proceed under the income withholding act and re-
3 lease the lien perfected pursuant to this section.

4 (4) If the obligor is or may become entitled to workers compensation
5 benefits, the obligee may perfect a lien on the benefits by serving a notice
6 of lien on the obligor. Copies shall be served on appropriate persons,
7 including but not limited to the director of workers compensation. The
8 notice of lien shall have the effect of attaching the obligor's interest in the
9 workers compensation benefits. Any person holding property or funds to
10 satisfy the obligor's interest shall be prohibited from transferring to the
11 obligor any of such property or funds without the written consent of the
12 obligee. At the time that the holder would otherwise be required to trans-
13 fer property to the obligor, such property shall be transferred to the ob-
14 ligee unless the lien on the property has been released. Nothing in this
15 subsection shall be construed to require the holder to transfer any prop-
16 erty to the obligee any sooner than the holder would have been required
17 to transfer property to the obligor. To the extent that attorney fees are
18 allowed by K.S.A. 44-501 et seq. and amendments thereto, the attorney
19 fees shall have priority.

20 Any person affected by the notice of lien who is or will be a payor as
21 defined in the income withholding act and amendments thereto may re-
22 quest that the obligee proceed under the income withholding act and re-
23 lease the lien perfected pursuant to this section.

24 In a title IV-D case, if no court or administrative agency of this state
25 has jurisdiction to determine the interests of the obligee and obligor in
26 property attached under this subsection, the obligor may request review
27 pursuant to section 15 and amendments thereto.

28 (b) As used in this section:

29 (1) "Aircraft" has the meaning provided by K.S.A. 3-201 and amend-
30 ments thereto.

31 (2) "Vehicle" has the meaning provided by K.S.A. 8-126 and amend-
32 ments thereto.

33 (3) "Vessel" has the meaning provided by K.S.A. 82a-801 and amend-
34 ments thereto.

35 (4) "Arrearage," "obligee," title IV-D, "obligor" and "order for sup-
36 port" have the meanings provided by K.S.A. 23-4,106 and amendments
37 thereto.

38 (5) "Obligee" means the person or entity to whom a duty of support
39 is owed, including but not limited to any title IV-D agency.

40 (6) "Workers compensation" has the meaning provided by K.S.A. 44-
41 501 et seq. and amendments thereto.

42 (7) "Attorney's lien" has the meaning provided by K.S.A. 7-108 and
43 amendments thereto.

3

STATE OF KANSAS

Bill Graves, Governor

Shirley K. Sicilian, Director
Office of Policy & Research
Kansas Department of Revenue
915 SW Harrison St.
Topeka, KS 66612-1588



DEPARTMENT OF REVENUE

John D. LaFaver, Secretary

(913) 296-308
FAX (913) 296-792

Office of Policy & Research

To: The Honorable Tim Carmody Chairman
House Judiciary Committee

From: Shirley Klenda Sicilian
Kansas Department of Revenue

Date: March 27, 1997

Re: SB 140

My name is Shirley Sicilian, and I am the director of policy & research at the department of revenue. Thank you for the opportunity to address the committee briefly on SB140. I am not here to address the merits of the bill. I have only a small procedural issue that arises from the language on page 1, lines 29 to 31.

This language would require the secretary of SRS to contract with the secretary of revenue for data collection services related to the state directory of new hires. This language was probably inserted under a mistaken assumption that revenue currently collects the data that would be required to do this. We do not.

The "W-4" forms which contain some of the required information are federal, not state, forms. The state "Kw-3" forms contain only parts of the required information and are submitted only annually. For the department to begin collection of this data would require a significant administrative outlay.

My understanding from discussions with the department of human resources is that human resources does currently collect the necessary data.

Therefore, the department of revenue respectfully requests that it be deleted from this language. The committee may want to consider substituting the department of human resources.

Thank you very much. I would be happy to answer any questions.

House Judiciary
Attachment 3
3/31/97

#4

TESTIMONY BEFORE THE JUDICIARY
COMMITTEE FOR THE HOUSE OF REPRESENTATIVES
REGARDING SENATE BILL 140, AS AMENDED - CHILD SUPPORT LIENS
ON VEHICLES

By the Kansas Automobile Dealers Association
March 27, 1997

RE: Senate Bill 140

Mr. Chairman and Members of the Committee, I am Pat Barnes, legislative counsel for the Kansas Automobile Dealers Association which is here today representing the franchised New Vehicle Dealers of Kansas.

By the time I appear before you, you will no doubt be well aware of the extent and nature of Senate Bill 140 which effects our industry by virtue of the provisions found at pages 36 and 37 of the Bill. Our concern is with the affect of child support liens on vehicles and commerce in those vehicles. One of the major problems we originally had with the Bill was having clear notice of the lien and access to that information. Curative amendments were added to make it clear that the child support liens were not perfected until actually noted on the title document itself. This generally would catch a lot of situations where third parties would lose a vehicle they purchased because they were unaware of the lien and could not be aware of the lien.

Even so, we still have concerns that additional language is needed to make it clear that actual notice by seeing the notation of the lien on the title is the controlling factor as otherwise there are situations where the title is not present with the vehicle, or where an individual refuses to surrender a title

for some time and the lien notation then turns up in the middle of a transaction which is complete for all intents and purposes except the title is not yet back from the state.

An example of this is where the title is surrendered to the dealer, who sends it to the state to transfer title, only to receive it back (or the customer receives it back), with the lien noted on the title because the lien statement was with the state when the title came in from the dealer, and was then noted on the title. Also, we have transactions, as authorized by K.S.A. 8-135, where with a written agreement title does not have to be exchanged for up to 30 days. It is not uncommon for people to trade vehicles without having the title present and it is easy to foresee a trade or purchase where the lien was in the process of being perfected, or in the process of a court compelling surrender of a title for perfection (as this Bill provides) when the dealer or other innocent person took the vehicle, or financing was advanced against it.

The amendment which we suggest with this testimony should cure this problem and prevent unfair losses. The same amendment is suggested for the sections on vessels and aircrafts. This was done because it is consistent with the Senate amendments, and also because it is not uncommon for vehicle dealers to take boats on trade.

In all, these amendments are designed to do no more than insure actual notice to the public so they can protect themselves accordingly without loss because someone else did not do what they

were supposed to do. In effect, it is the same as protecting the public against fraud since the net affect of this Bill could be said to essentially inject the public at large into the personal problems of others. In a sense, this takes away rights that we currently already possess so it is only fair that we have a means to be quickly and fully informed about the risk of transactions involving child support liens on vehicles.

I would be happy to answer any questions any of you may have of me.

#58385

1 Sec. 34. K.S.A. 23-4,146 is hereby amended to read as follows: 23-
 2 4,146. (a) Whenever there is an arrearage in payment of an order of
 3 support in an amount equal to or greater than the amount of support
 4 payable for one month, ~~the obligee, the secretary of social and rehabili-~~
 5 ~~tation services or the secretary's contractors, if the right to support has~~
 6 ~~been assigned to the secretary, may establish a lien shall arise by opera-~~
 7 ~~tion of law upon certain personal property of the obligor. The lien may~~
 8 ~~be perfected as follows:~~

9 (1) In the case of a vehicle, the obligee ~~or secretary may establish a~~
 10 ~~may perfect a~~ lien on the vehicle by filing a notice of lien with the division
 11 of vehicles of the department of revenue. **[The perfection of the lien**
 12 **shall not be in effect until the notation of the lien is actually placed**
 13 **upon the certificate of title for the vehicle.]** The notice shall be in a
 14 form prescribed by the division, ~~or on a federal form as required by title~~
 15 ~~IV-D, and shall contain a description of the vehicle, the name and address~~
 16 ~~of the obligee or secretary, the name and last known address of the obligor~~

17 and any other information required by the division. ~~An affidavit of the~~
 18 ~~obligee or person designated by the secretary shall be filed with the notice~~
 19 ~~and shall state that there is an arrearage in an amount. The notice shall~~
 20 ~~state the amount of the arrearage and that the arrearage is equal to or~~
 21 ~~greater than the amount of support payable for one month and that a. A~~
 22 ~~copy of the notice of lien has been sent shall be sent simultaneously by~~
 23 ~~first-class mail to the obligor at the obligor's last known address.~~

24 Upon the filing of the notice of lien in accordance with this subsection
 25 (a)(1) and payment to the division of a fee of \$5, the division shall be
 26 authorized to demand in writing the surrender of the title certificate from
 27 the owner of the vehicle for the purpose of recording the lien on the title
 28 certificate. Once the lien is properly recorded **[and perfected by actu-**
 29 **ally noting it on the certificate of title],** a transfer of title is not valid
 30 unless the lien has been released in the manner provided by K.S.A. 8-
 31 135 and amendments thereto or the transfer has been consented to in
 32 writing by the lienholder. If the obligor fails to surrender the title certif-
 33 icate within 15 days after the written demand by the division of vehicles,
 34 the division shall notify the ~~person or entity seeking the lien. Such person~~
 35 ~~or entity obligee seeking to perfect the lien. If the tribunal that issued the~~
 36 ~~support order is able to exercise jurisdiction over the obligor, the obligee~~
 37 ~~may obtain an order of the court which issued the support order from~~
 38 ~~the tribunal requiring the obligor to surrender the title certificate to the~~
 39 ~~court so that a the lien may be properly recorded.~~

40 (2) In the case of a vessel or aircraft, the obligee ~~or secretary may~~
 41 ~~establish may perfect~~ a lien on the vessel or aircraft by filing a notice of
 42 lien with the office where filing is required by K.S.A. 84-9-401 and
 43 amendments thereto to perfect a security interest in the vessel or aircraft.
 SB 140--Am. by SCW

Notwithstanding any provision of this section authorizing a lien on a vehicle of an obligor, no lien shall attach to any vehicle which the obligor has transferred to another person who has purchased the vehicle or accepted it by trade in exchange for other property or services in good faith, for value, prior to the time that the lien on the vehicle has been noted and perfected in the manner provided by this subsection (a)(1).

2 of the lien is actually placed upon the certificate of title for the
 3 vessel or aircraft.] The notice shall contain a description of the make,
 4 model designation and serial number of the vessel or aircraft, including
 5 its identification or registration number, if any; the name and address of
 6 the obligee or secretary; and the name and last known address of the
 7 obligor. ~~An affidavit of the obligee or person designated by the secretary~~
 8 ~~shall be filed with the notice and shall state that there is an arrearage in~~
 9 ~~an amount. The notice shall state the arrearage and that the arrearage is~~
 10 ~~equal to or greater than the amount of support payable for one month~~
 11 ~~and that a copy of the notice of lien has been sent shall be sent~~
 12 ~~simultaneously by first-class mail to the obligor at the obligor's last known~~
 13 address.

14 Upon the filing of the notice of lien in accordance with this subsection
 15 (a)(2) and payment of a fee of \$5, the notice of lien shall be retained by
 16 the office where filed and may be enforced and foreclosed in the same
 17 manner as a security agreement under the provisions of the uniform com-
 18 mercial code. ~~If such liens are required by law to be the notice of lien is~~
 19 ~~filed in the office of the secretary of state, the filing officer shall file,~~
 20 ~~index, amend, maintain, remove and destroy the lien notification state-~~
 21 ~~ment notice of lien in the same manner as a financing statement filed~~
 22 ~~under part 4 of article 9 of the uniform commercial code. The secretary~~
 23 ~~of state shall charge the same filing and information retrieval fees and~~
 24 ~~credit the amounts in the same manner as financing statements filed~~
 25 ~~under part 4 of article 9 of the uniform commercial code.~~

26 (3) *In any case filed under chapter 60 or 61 of the Kansas Statutes*
 27 *Annotated, the obligee may perfect a lien on the obligor's interest in any*
 28 *judgment or settlement in the case by filing a notice of lien with the clerk*
 29 *of the district court. Copies shall be served on appropriate parties to the*
 30 *action. The notice of lien shall have the effect of attaching the obligor's*
 31 *interest in any judgment or settlement in the case. Any person holding*
 32 *property or funds to satisfy any judgment or settlement in the obligor's*
 33 *favor shall be prohibited from transferring to the obligor any of such*
 34 *property or funds without the written consent of the obligee. At the time*
 35 *that the holder would otherwise be required to transfer property to the*
 36 *obligor, such property shall be transferred to the obligee unless the lien*
 37 *on the property has been released. Nothing in this subsection shall be*
 38 *construed to require the holder to transfer any property to the obligee*
 39 *any sooner than the holder would have been required to transfer property*
 40 *to the obligor. To the extent that an attorney's lien on the obligor's interest*
 41 *in any settlement or judgment is perfected before service of the notice of*
 42 *lien under this section, the attorney's lien shall have priority.*

43 Any person affected by the notice of lien who is or will be a payor as
 SB 140--Am. by SCW

Notwithstanding any provision of this section authorizing a lien on a vehicle vessel or aircraft of an obligor, no lien shall attach to any vessel or aircraft which the obligor has transferred to another person who has purchased the vessel or aircraft or accepted it by trade in exchange for other property or services in good faith, for value, prior to the time that the lien on the vessel or aircraft has been noted and perfected in the manner provided by this subsection (a)(2).



National Association of Social Workers

KANSAS CHAPTER

March 27, 1997

Testimony in Support of SB 140 (Child Support Enforcement)

The first federal child support enforcement laws were passed in 1950. State welfare agencies were required to notify appropriate law enforcement agencies upon providing AFDC support to a child who was abandoned or deserted by a parent. Fifteen years later, in 1965, an amendment gave the states authority to obtain the address and place of employment of the absent parent who owed court ordered child support. Ten years later, in 1975, Part D of Title IV of the Social Security Act was created authorizing the federal government agency, currently the Department of Health and Human Services, the primary responsibility of child support enforcement procedures. States were given the primary responsibility to operate the programs by several key points including establishing paternity; securing court ordered child support money for those requesting the assistance as well as securing the support for recipients of AFDC; and establishing a parent locator service using local, state, and federal resources. Compliance was tightened for families applying for AFDC support by requiring them to make an assignment of support rights to the state. This step enabled the state to retrieve a portion of the AFDC which was supporting the recipient parent and child or children.

Subsequent years involved additional amendments in response to inadequacies and barriers to the full collection of child support monies. Some of these additions involved authorizing the IRS to collect, interstate collections, federal penalties for state non-compliance, and exempting child support obligations from bankruptcy declarations. By 1988, The Family Support Act was passed emphasizing the duties of parents to work and support their children. A particular importance was placed on child support enforcement as the first line of defense against welfare dependence. As a technique of collection, each state was required to establish an automated tracking and monitoring system to be fully operational by 1995. The Secretary of Labor and Health and Human Services were required to enter into an agreement to give the Federal Parent Locator Service prompt access to wage and unemployment claims as a way to locate absent and delinquent parents. By 1992, a federal criminal penalty was imposed for the willful failure to pay a past due child support obligation. In 1994, more changes made parents who failed to pay court ordered child support ineligible for small business loans.

This brief history of child support enforcement legislation demonstrates the increasing necessity to strengthen the ability of states to collect court ordered child support. The current bill, SB 140, is the next step in the evolution of full child support enforcement. It builds on the existing provisions and requirements and draws its strategies from the federal guidelines of the welfare reform legislation.

Social workers see this bill and its provisions as a primary child welfare bill. Every child has the right and is entitled to both parents being responsible and providing for their welfare until they are of legal age. This is a minimum of eighteen years. It is the duty of parents to meet their parental responsibilities to their offspring. SB 140 addresses the fact that non-custodial parents, typically the father, has an on-going obligation to support their children. It also acknowledges the fact that many fathers, about half, fail to meet this basic obligation and as a result, such delinquent parents must be forced, one way or another, to pay court ordered support.

House Judiciary
Attachment 5
3/31/97

The most serious problems facing many clients served by social workers are fundamentally economic. Economic instability is at the center of many social problems including homelessness, crime, domestic violence, and child abuse and neglect. It is economic instability that is at the heart of welfare dependency. **The transition away from the federal entitlement of basic support for poor families and children necessitates the urgency of both parents, custodial and non-custodial, mother and father, to fully support their children.** What are the replacement strategies to the entitlement guarantee? **Paying court ordered child support fully and consistently without fail is one part of the entitlement replacement.** Consistent child support payments will decrease the dependence on AFDC/TANF support.

Consider that over 4 in 10 (41.6%) female-headed households with children under 18 are poor. A little over half (56%) of custodial mothers have child support awards. Barely over half (52%) of custodial mothers receive all the child support monies they are entitled, about one-quarter (24%) receive only a partial payment and one-quarter (24%) receive none of their court ordered child support.

Custodial mothers represent 86% of custodial parents. Custodial mothers are more likely than custodial fathers to have a child support award and to collect some of it, but are still two and a half times as likely to be poor. The average child support award owed to custodial mothers, in 1991, was \$3,375.

Each state has its own record of successful child support enforcement collections. The median is 19%. Kansas collected some, but not necessarily all, monies owed in 34% of its cases. **Sixty six percent of non-custodial parents fail to support their children in Kansas.** Children suffer the consequences of their irresponsible parent. This is unacceptable. It has become clear that the state must compel these irresponsible parents to pay their child support as more than half have deliberately disregarded their duty to their children.

K-NASW urges the Committee to put the rights, entitlements, and needs of the most vulnerable population, children, at the center of the examination of this most critical child welfare bill.

Respectfully submitted,



Sky Westerlund, LMSW
Executive Director, Kansas Chapter
National Association of Social Workers

Note: The information contained in this testimony was drawn from the "green book" of Congressional Ways and Means Committee; Women's Legal Defense Fund; NASW; and the Social Work Almanac.

6
To: House Judiciary Committee

From: Paul Johnson - Public Assistance Coalition of Kansas

Date: March 27, 1997

Re: Testimony in support of SB 140

Kansas deserves an effective, efficient child support enforcement system. SB 140 is one step to improve the existing system. This bill brings Kansas into line with twenty other states that already have 'new hire' registries and administrative procedures.

As welfare is fundamentally changed and basic income protection for our poorest families is lost, child support collections become even more important. The scale of the existing system is quite large. SRS has 115,000 open child support cases which represents 144,000 children. Adding in the thousands of private cases, over one-fourth of Kansas 693,000 children are involved in the child support system. SRS is collecting at best just one half of current 'court ordered' support and there is over \$400 million in SRS 4-D child support arrearages.

The 'new hire' registry moves the reporting date from three months to 20 days. There is no new information involved that is not already reported on the W-4 forms. Over 20 other states have this type of registry.

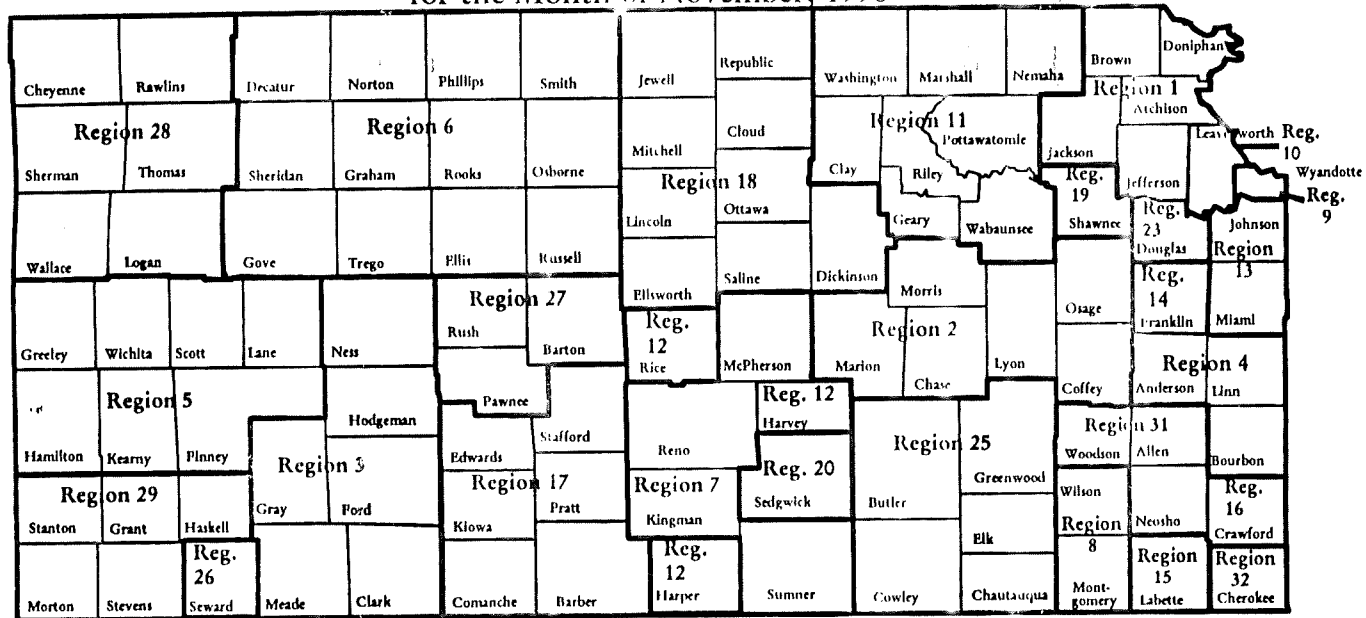
SRS did not ask for complete administrative authority. With respect to procedures for establishing the duty to support, the amount of current support and judgments for reimbursement, SRS will continue to rely on judicial procedures. If an income withholding order (IWO) is issued by the court, the court will send that IWO to the employer. If the employee changes employment than SRS will expedite the process of getting that IWO to the new employer. The courts have the sole power to levy sanctions if SRS's administrative orders for IWO's or other notices are not complied with. Due process is not sacrificed with this bill.

This bill is one step to improving the child support system. The Kansas Legislature will need to monitor SRS's new private child support enforcement contracts to judge the effectiveness of those contracts. SRS has caseloads of 600 cases per child support worker which is 200 over what they should be. New SRS computer updates starting this October may well put more pressure on the staff. The whole system deserves more political visibility.

The nature of this system is inherently troublesome. This is a mixture of objective financial obligation and subjective concerns of emotional distress by divorcing partners. I do believe the concerns over SB 140 have been unduly magnified. There will never be a perfect child support system but we need to do better than we are now. The survival and well-being of thousands of Kansas children depend on improving our child support system.

House Judiciary
Attachment 6
3/31/97

Child Support Enforcement Cases Open by Region for the Month of November, 1996



REGION NUMBER	REGION NAME	AFDC	AFDC ARREARS	AFDC-FC	GA-FC	NON-AFDC	TOTAL
Region 1	Atchison	856	726	214	151	1,786	3,733
Region 2	Council Grove	673	406	94	256	1,650	3,079
Region 3	Dodge City	411	270	155	275	1,557	2,668
Region 4	Fort Scott	342	334	89	40	880	1,685
Region 5	Garden City	327	292	129	226	1,342	2,316
Region 6	Hays	382	236	181	277	1,485	2,561
Region 7	Hutchinson	1,266	542	270	389	2,233	4,700
Region 8	Independence	768	527	151	169	2,072	3,687
Region 9	Kansas City	3,803	2,994	616	596	6,990	14,999
Region 10	Leavenworth	806	641	147	189	1,476	3,259
Region 11	Manhattan	1,042	1,067	164	324	3,624	6,221
Region 12	Newton	519	366	352	391	1,746	3,374
Region 13	Olathe	1,258	1,126	169	476	6,023	9,052
Region 14	Ottawa	298	185	96	165	618	1,362
Region 15	Parsons	356	452	62	60	1,375	2,305
Region 16	Pittsburg	385	368	149	94	1,089	2,085
Region 17	Pratt	199	92	58	50	630	1,029
Region 18	Salina	752	627	199	308	3,587	5,473
Region 19	Topeka	2,840	1,453	1,055	1,273	8,842	15,463
Region 20	Wichita	6,360	2,332	1,667	2,616	13,659	26,634
Region 23	Lawrence	796	389	419	337	1,400	3,341
Region 25	El Dorado	823	418	5	5	2,439	3,690
Region 26	Liberal	276	200	53	114	995	1,638
Region 27	Great Bend	263	294	94	99	950	1,700
Region 28	Goodland	124	134	0	0	544	802
Region 29	Ulysses	157	40	19	53	540	809
Region 31	Iola	336	238	178	140	934	1,826
Region 32	Columbus	306	21	46	39	164	576
STATEWIDE TOTAL		26,724	16,770	6,831	9,112	70,630	130,067

Court orders

11,673

15,134

2,313

4,025

46,250

80,275

6-2

#7

BEFORE THE HOUSE JUDICIARY COMMITTEE

GARY BRUNK, EXECUTIVE DIRECTOR

KANSAS ACTION FOR CHILDREN

March 27, 1997

I am here representing Kansas Action for Children and the Children's Coalition in support of Senate Bill No. 140.

I want to pose one question: Is S.B. 140 good for children?

To state the obvious, the issues surrounding S.B. 140 are not simple. The concerns raised about the negative impact on privacy rights of S.B. 140 have received a good deal of attention. An important issue that probably has not received sufficient attention is the growth in the number of people who work and whose income is still under the poverty line, leaving more fathers unable to pay child support.

I am sympathetic to the situation of those fathers and to some of the privacy concerns.

But I am even more sympathetic to the situation of children in poverty or at risk of being in poverty because parents--primarily fathers--are not taking responsibility for the support of their children.

Consider two statements: a) children should have adequate food, shelter, and health care; b) fathers should be free of governmental intrusion.

In an ideal society we might give equal weight to both statements. In that society men would understand that the right to procreate is limited by the responsibility to care for and support their children--and we would not need S.B. 140.

However, we don't live in that kind of society, and the negative consequences are largely shouldered by children. Is S.B. 140 good for children? Given the world we live in, and given the alternatives, I believe so.

House Judiciary
Attachment 7
3/31/97

#8

TESTIMONY BEFORE THE JUDICIARY COMMITTEE

MARY BECKER, KANSAS MOTHER TO MOTHER

CHILD SUPPORT ENFORCEMENT

MARCH 27, 1977

I am the director of a volunteer organization that provides friendship and support to low income mothers. I work here in Topeka; however, twenty-one Kansas communities have Mother to Mother programs. I have worked with low income families for the last 4 ½ years in my position. During that time, I have been struck by how many fathers do not financially support their children. Many children live in poverty because fathers do not contribute to their well-being. I know there are many fathers who take their responsibilities to their children seriously. Men who continue to support their children after the relationship with the mother of the children has ended. But there are many fathers who do not contribute to the support of their youngsters.

I often ask the mothers what the story is on the fathers who do not pay. I hear basically two different stories. In many cases, SRS pursues the man who does not pay. After a long drawn-out process, his wages are garnished. Right at this time he quits his job. He may quit a full time job and take a part time job instead. He may take money under the table to avoid having child support assessed. He may drop out of sight and be hard to find. In any case, the process starts all over again of trying to locate him and collect child support from him. The other story I hear is that the mother has turned in all the necessary information about the father of her child to SRS, as required. And then nothing happens. If the mother asks the child support worker about it, she may be told that they are understaffed, overloaded with cases and simply cannot pursue them all, although this seems to have gotten better recently.

Congress passed a law last summer that made sweeping changes in our government's welfare

House Judiciary
Attachment 8
3/31/97

policies. Congress made a strong statement that parents are responsible for providing for their children, not the government. Mothers were told that they have to work, have to support their families. They do not have a choice. They are now required to leave their children as young as one year old and compete in a low wage job market for a living. These are people who are the least able to compete successfully in the job market, since they usually lack specific job skills, job training and education. And the government is discouraging job training and education opportunities which would help upgrade the mothers' employability. The job market which they are trying to make a living in is not a friendly one. The overall trend for the past twenty years is for wages to fall, benefits to be dropped, and high paying manufacturing jobs to move overseas. Despite these realities, Congress said the federal government will provide only limited help to poor families, and after five years cut them off completely.

A single parent cannot support a family on a minimum wage job. A mother or a father can work full-time at the best job they can find and still not be able to pay the rent and utilities. Despite what a good economy some are enjoying presently, it is an economy that does not work for everyone. It is essential that both parents contribute to their children's financial support.

In 1995, SRS helped 4,700 families move off of public assistance because they were able to collect the child support that was due these families. Almost 5,000 families able to be self-supporting and move out of poverty, or at the least, the severest levels of poverty because the non-custodial parent began to make regular payments.

The new welfare law that Congress passed is tough on mothers and it seems to want to get tough on fathers too. It wants the states to make a stronger effort to collect unpaid child support. But there is controversy about the child support bill. Is the state of Kansas going to say that it is okay to get tough on mothers but not okay to get tough on fathers? Are mothers alone to be responsible for their children? Women make only 70 cents for every dollar a man earns, even today. Much of the work women do is not valued in the job market - caring for the elderly, the

sick, and the young. What will happen when the five year time limit is up for federal assistance and families still cannot support themselves?

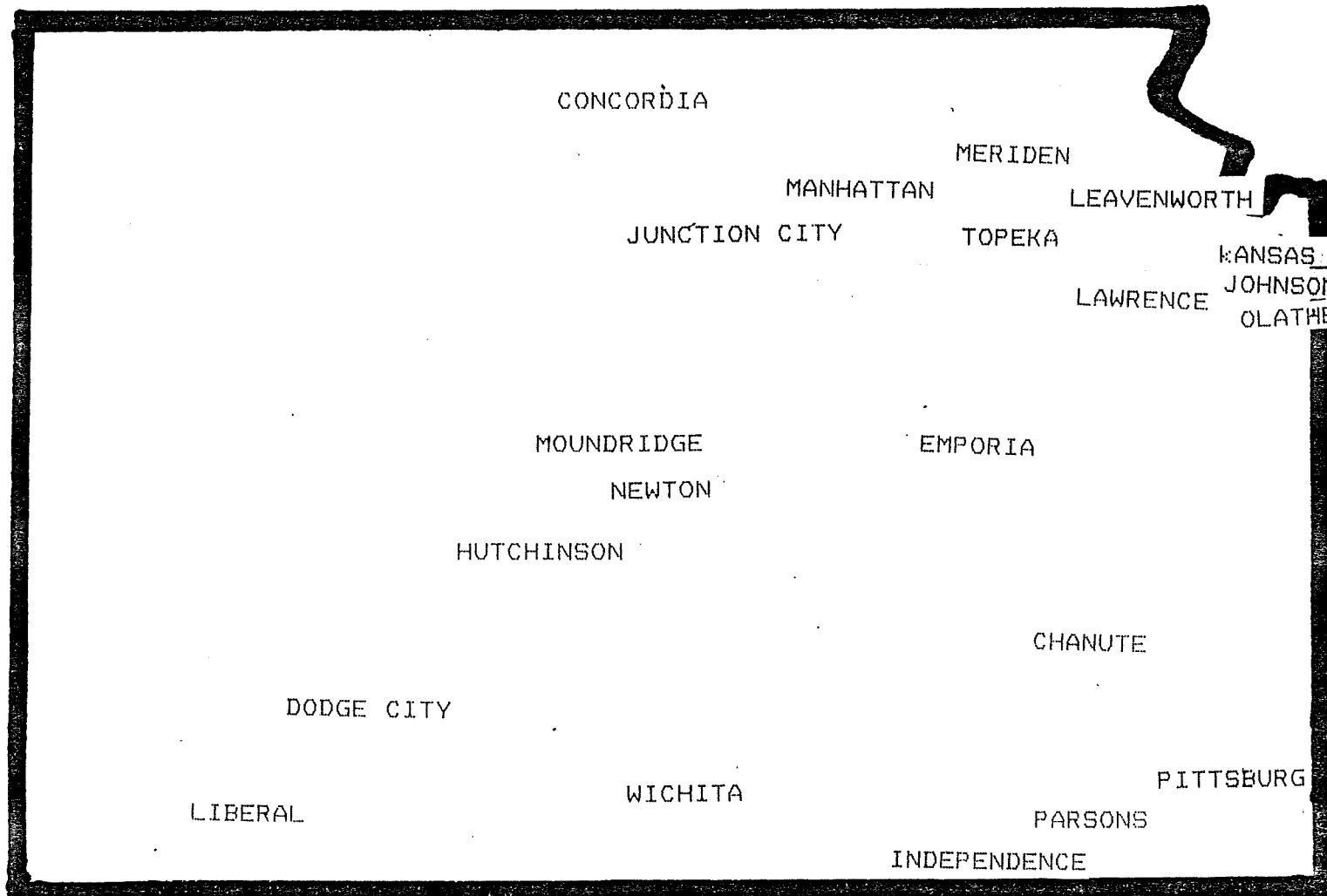
If the state is willing to sacrifice millions of dollars in child support that could be collected and millions of dollars from the federal government to fund child support collections, is it prepared to develop an alternative plan to provide for the economic viability for thousands of Kansas families? It is a matter of gender fairness and a matter of quality of life for many children.

Mary Becker

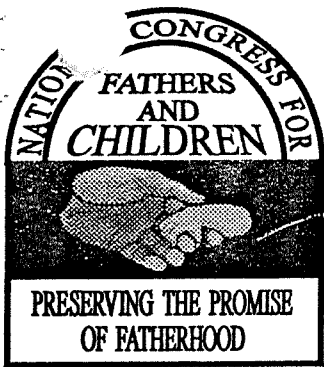
Mother to Mother of Shawnee County

1119 SW 10th, Topeka, KS 66604

913-233-7007



KANSAS
**MOTHER TO MOTHER
MINISTRY**



#9

National Congress For Fathers and Children Topeka Chapter

851 Minnesota Avenue
Post Office Box 171675
Kansas City, KS 66117
(913) 281-9943

Hotline: (800) SEE-DADS
Fax: (913) 342-1414
E-mail: ncfc@primenet.com

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Palo Alto, CA

Leigh Travis, Ph.D.
Ann Arbor, MI

1. The operative word that the SRS is manipulating us with is "may" lose or "could" lose \$29 million of Federal monies. This is money that a "deadbeat congress" in Washington does not have and will further impoverish our children with additional national debt. It is a picture, of a carrot, that they are dangling in front of us.

2. The SRS has performed poorly with foster care programs (Topeka Capital Journal "Foster care still unresolved after 10 years of legal action") . They have underestimated the cost of implementation of Kansas Enhanced Statewide Support Enforcement Program (KESSEP) and the time frame (see attached report). There are numerous horror stories surrounding SRS. Do you believe the SRS is capable of handling the task in this bill? I do not. It frightens me to think of the SRS with the powers it will have with this bill.

3. The Senate did not vote unanimously, in fact parties were split. One Senator called it Constitutional pornography. In Nebraska they called it Legislative drive by shooting. No one knows what innocent bystander will be hit. Then what? Have you ever dealt with the SRS as a private citizen?

4. This bill will make business perform the functions of police. As a businessman I do not need to spend any more time performing tasks for the Crown.

Finally, I urge every representative to please read the entire 74 pages before voting, it is that important. Then reread George Orwell's classic book "1984". This bill is Big Brother in action.

If after reading the bill it offends you, and it should, vote **NO**.

Children Need Fathers not Visitors

NCFC Topeka Chapter P.O. Box 750361 Topeka, KS 66675-0361

House Judiciary
Attachment 9
3/31/97

**Implementation of the
Kansas Enhanced Statewide Support Enforcement System (KESSEP)
for Child Support Enforcement Activities**

To meet federal requirements, the Child Support Enforcement Program is developing a new computer information system, the Kansas Enhanced Statewide Support Enforcement System (KESSEP). The System originally was supposed to be in place by October 1, 1995. However, because most states weren't going to be able to meet that deadline, the federal government extended the completion date to October 1, 1997. Department officials told us they hope Kansas' System will be in operation by the end of fiscal year 1996.

Currently, the Department has projected that the System will cost approximately \$20.8 million, which far exceeds the original budget of \$2.8 million established in April 1991. The federal government reimburses the State at 90% of System expenditures. The following table presents information from the Department regarding the new computer System's initial budget and projected costs.

**Estimated and Projected Costs for the
Kansas Enhanced Statewide Support Enforcement System (KESSEP)**

<u>Category of Expenditure</u>	<u>Initial Project Budget</u> (April 1991)	<u>Project Expenditures To-Date</u>	<u>Remaining Expenditures Projected</u>	<u>Current Project Cost Estimate</u>
Full-time personnel	\$842,261	\$2,993,439	\$761,545	\$3,754,984
Indirect personnel	171,784	1,953,308	1,619,278	3,572,586
Travel	201,200	286,722	71,809	358,530
Communications	187,396	263,806	88,460	352,266
Contractor	1,090,000	5,954,631	2,316,964	8,271,595
Capital Outlay	322,595	3,494,003	339,236	3,833,239
Rent	0	157,427	62,314	219,740
Miscellaneous	59,000	356,614	60,258	416,871
TOTAL	\$2,874,236	\$15,459,949	\$5,319,863	\$20,779,812

The System will take the place of the child support enforcement portion of the Comprehensive Automated Eligibility and Child Support Enforcement System (CAECSES). That system was fully operational at the end of fiscal year 1989 but, according to Department officials, it could not be adapted to meet the new federal requirements.

Department officials told us the new System should be more user friendly. They also said it should allow Program managers to extract the management information needed to oversee the Program, which proved to be a big problem for us in this audit. Finally, Department officials said the new System should have the capability of adapting more easily to any Program modifications. However, new welfare reform legislation currently pending at the federal level could require further changes in the System. Because changes that may be required by welfare reform are unknown, there is uncertainty about whether KESSEP would be able to meet these future needs and requirements without incurring significant expenditures once again to implement yet another information system mandated by federal law.

Welfare Reform — No Room for Daddy?

AMERICAN FATHERS COALITION - 2000 PENNSYLVANIA AVE., N.W., SUITE 148 - WASHINGTON, DC 20006
(202) FATHERS - Telephone: afc@capaccess.org -Internet

Welfare reform proposals being offered by Congress and the White House contain an unfortunate omission -- they fail to give children a father. Welfare reform cannot be accomplished unless reformers are willing to put fathers back in the home.

7 STEPS TO WELFARE REFORM AND HEALTHY CHILDREN

The AFC plan gives children a father, and makes mothers and fathers both financially responsible for the children they bear. Under the present system and under all "reform" proposals, mothers collect benefits for having children out of wedlock and bear no responsibility for repaying those benefits. Until the person who actually receives the benefits is held responsible for repaying the cost of those benefits, welfare will continue to be an incentive for having children out of wedlock. And, until children are allowed to have fathers, they will continue to be at high risk for school drop-out, delinquent behavior, and unwed, teenage parenthood.

AFC makes the following proposals:

- 1) **Custody:** The father should be the placement of first choice if the mother applies for AFDC. This simple change in procedure will immediately cut the AFDC rolls in half, save government 100s of millions of dollars, and provide children with solid, loving homes.
- 2) **Paternity establishment:** Establish a legal link between mother, father, and child at the time that paternity is established. Forms used to establish paternity should also lay the groundwork for a custody / visitation arrangement.
- 3) **Financial Child Support:** Both parties should be held responsible for supporting the child according to their ability to earn. Financial child support obligations should be assigned to both parties based on their ability to earn. This means that mothers who now receive AFDC-related benefits will bear some of the responsibility of repaying government for those benefits, making the AFDC / welfare lifestyle less desirable.
- 4) **Accountability:** Recipients of AFDC benefits should face some form of accountability for how those benefits are spent. AFDC benefits should accrue to the benefit of the children, as should financial child support payments. Some form of accountability is required for all other government third-party payments.
- 5) **Incentives for payment of financial child support:** States should be required to implement custody and visitation presumptions that are proven methods of encouraging voluntary compliance with financial child support laws. Mothers report in census data that fathers who have joint custody pay child support at rates exceeding 90%. Fathers who have "visitation" pay at rates approaching 80%.
- 6) **Inability to pay financial child support:** Due to unemployment or underemployment, many obligors fall behind in financial child support payments. Giving those obligors preference at employment agencies enhances the possibility that they will resume support payments. A system of prioritizing should also include any person who is the sole support of a family.
- 7) **Financial child support -- poorly trained and uneducated parents:** Job training and skills enhancement programs should be provided to parents who are unable to meet their financial child support obligations. These parents should be required to reimburse government for the cost of their training. The federally funded Parents Fair Share program has been very successful -- 90% compliance in AFDC cases.

The Declaration of Independence

He has erected a multitude of New Offices, and sent hither swarms of officers to harrass our People, and eat out their substance

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving Assent to their acts of pretended Legislation:

For suspending our own Legislature, and declaring themselves invested with Power to legislate for us in all cases whatsoever

Amendment 10 to the Constitution of the United States

Reservation of powers to the States

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Amendments to SB 140

Child support shall be no more than 50% of after tax wages. Currently child support can be set at over 100% of a persons earnings. How would you like a tax rate of 110%, 120% or more. That means you need a part time job in order to meet child support obligations and anything left over you can live on. Married people are not held to the same standard. Just because you are divorced should you be held to a higher standard, and often it is not a divorce of their choosing.

There shall be credit if prepaid either by an employers inadvertent withholding and payment or if the payor pays twice in a one month period; It shall not be considered a gift but be credited toward future child support.

Accountability that the child support is used for the childrens benefit and not for the recipients own pleasures.

Taxpayers wanted welfare reform- because of misuse of money
Fathers want child support reform- because of misuse of money

Children Need Fathers not Visitors

NCFC Topeka Chapter P.O. Box 750361 Topeka, KS 66675-0361

ACLU

American Civil Liberties Union

#10

Wendy McFarland - Lobbyist
(913) 575-5749

TESTIMONY OPPOSING SB 140

THANK YOU FOR THIS OPPORTUNITY TO STATE OUR OPPOSITION TO SB 140 WHICH SEEKS TO ESTABLISH AN AUTOMATED DIRECTORY OR DATABASE OF ALL NEW EMPLOYEES IN THE STATE OF KANSAS FOR THE PURPOSE OF ENFORCING CHILD SUPPORT PAYMENTS.

CONSTITUTIONAL VIOLATIONS ABOUND IN THE BILL, THE MOST OBVIOUS OF WHICH IS A CITIZEN'S RIGHT TO PRIVACY. OTHER CONCERNS EXTEND TO A KANSAS CITIZEN WHO MAY BE FALSELY ACCUSED AND IDENTIFIED BECAUSE OF THE ALLEGED FAILURE TO PAY CHILD SUPPORT.

CLEARLY, OUR RESPONSE TO THE FEDERAL MANDATE WHICH ORDERS US TO COLLECT THE INFORMATION GOES FAR BEYOND WHAT THEY HAD IN MIND. OUR VERSION ACTUALLY GIVES SUBPOENA POWERS TO THE SECRETARY OF SRS AND THE POWER TO CONFISCATE PROPERTY WITHOUT ANY JUDICIAL OVERSIGHT. THIS IS TRULY ABSURD, BUT IT DOES AT LEAST MAKE SENSE OF SB 306 WHICH SEEKS FUNDING TO PROVIDE LAW ENFORCEMENT TRAINING FOR SRS PERSONNEL. THEY WILL NEED SUCH TRAINING AND THE ABILITY TO ARM THEMSELVES WHEN THEY ARRIVE ON THE PROPERTY OF SOME FARMER TO CONFISCATE HIS WHEAT CROP FOR ALLEGED FAILURE TO PAY CHILD SUPPORT.

THE BILL CLEARLY REMOVES ALL LIABILITY FROM EMPLOYERS, BANKS, CREDIT AGENCIES AND ANY PRIVATE ENTITY THE STATE WOULD USE TO GATHER INFORMATION, EVEN IF THE INFORMATION IS TOTALLY FALSE...AS LONG AS IT WAS PROVIDED IN GOOD FAITH. THIS WOULD PREVENT THE INNOCENT PERSON FROM TAKING ANY ACTION AGAINST THOSE WHO PROVIDED THE FALSE INFORMATION AND MAKE ONLY THE STATE LIABLE FOR ANY SLANDER, LIBEL OR OTHER MISFORTUNE THAT MAY RESULT FROM SUCH A MISTAKE.

THE STATE HAS ALMOST UNLIMITED RESOURCES AVAILABLE TO DEFEND AGAINST SUCH ACTIONS AND THE VICTIM, POSSIBLY UNEMPLOYED AS A RESULT OF THE FALSE INFORMATION, WILL HAVE TO HIRE A LAWYER TO FIGHT WHAT MAY BE A LONG AND EXPENSIVE BATTLE TO REGAIN HIS REPUTATION AND CLEAR THE MESS OF FALSE INFORMATION THAT NOW HAS BEEN CIRCULATED THROUGHOUT THOUSANDS OF DATABASES ACROSS THE NATION.

House Judiciary
Attachment 10
3/31/97

THE IMPLEMENTATION OF THIS BILL WOULD ESTABLISH NEW FILE SYSTEMS ON EVERY WORKER IN KANSAS SO THAT ABSENTEE PARENTS WHO ARE NOT PAYING CHILD SUPPORT CAN BE TRACKED. THIS BILL IS PUT FORTH IN RESPONSE TO A FEDERAL ACT THAT RECEIVED SUPPORT FROM PRESIDENT CLINTON HOWEVER SOME ADMINISTRATION OFFICIALS HAVE CONCEDED THAT THESE FILES WILL INEVITABLY BE USED FOR OTHER PURPOSES, IN PART TO JUSTIFY THE ENORMOUS COST OF BOTH CREATING THE DATA BASE AND UPDATING THE FILES TO REFLECT EACH OF THE 65 MILLION ANNUAL NEW HIRES IN THE U.S.

THAT LOOSELY BREAKS DOWN TO APP. 1.3 MILLION NEW HIRES IN THE STATE OF KANSAS ALONE. A NATIONAL IDENTIFICATION SYSTEM LIKE THIS WILL RESULT IN COUNTLESS ERRORS RESULTING IN THE DENIAL OF JOBS TO MANY AMERICAN CITIZENS. EVEN A 1% ERROR RATE IN THIS SYSTEM COULD CAUSE 13,000 INNOCENT PEOPLE IN KANSAS TO HAVE OFFICIAL GOVERNMENT DOSSIERS IDENTIFYING THEM AS A "DEADBEAT PARENT".

THE PRESIDENT HAS SUPPORTED REQUIRING STATES TO USE THE SOCIAL SECURITY NUMBER ON DRIVERS LICENSES, MARRIAGE LICENSES, OCCUPATIONAL LICENSES AND OTHER DOCUMENTS. THIS WOULD EFFECTIVELY TURN THE DRIVERS LICENSE/SOCIAL SECURITY CARD INTO A DE FACTO NATIONAL ID CARD.

IT WILL ALSO ALLOW SRS TO ORDER SAMPLES OF DNA TO BE TAKEN WITH THE INFORMATION BEING FED INTO THE NEW NATIONAL DATA BASE. TWO U.S. SOLDIERS WERE RECENTLY COURT-MARTIALED FOR DECLINING TO HAVE A SAMPLE OF THEIR DNA TAKEN AND PUT INTO ANOTHER NEW NATIONAL DATA BASE WHICH WAS ALLEGEDLY GOING TO BE USED ONLY FOR IDENTIFYING REMAINS BUT THE CLINTON ADMINISTRATION, WHEN PRESSED, REFUSED TO LIMIT ITS USE OF THE DNA ONCE IT WAS COLLECTED. THE TWO MARINES EXPRESSED CONCERN THAT THEIR DNA WOULD BE USED IN MAKING SERVICE RELATED AND VETERANS-BENEFIT DECISIONS. THEIR CASES ARE ON APPEAL.

IT SHOULD BE NOTED THAT BOTH DEMOCRATS AND REPUBLICANS IN CONGRESS HAVE SUPPORTED SIMILAR LEGISLATION, INCLUDING THE RESPECTED SENATOR BOB DOLE SO WHY THIS ISSUE APPEARED TO BE A BI-PARTISAN ONE IN THE KANSAS SENATE IS ANYONES GUESS. IF SIDES NEED TO BE TAKEN IT SHOULD BE THE STATES VS. THE UNITED STATES CONGRESS.

IT IS OFFENSIVE ENOUGH FOR EVERY KANSAN WHO VALUES PRIVACY TO HEAR THE DIRECTOR OF THE KANSAS DEPARTMENT OF MOTOR VEHICLES DECLARE THAT HER AGENCY MADE OVER 3 MILLION DOLLARS LAST YEAR SELLING OUR INFORMATION TO PEOPLE WHO WANT IT. OUR PRIVACY IS BEING SOLD BY OUR GOVERNMENT AND THIS BILL WILL EFFECTIVELY DO THE SAME THING.

THE ARRAY OF DOLLAR AMOUNTS WE ARE BEING TOLD WE WILL LOSE WITHOUT PASSAGE OF THIS BILL ARE PURE SPECULATION SINCE THE FEDERAL MANDATE DOES NOT SPELL OUT IF WE WILL BE PENALIZED OR WHAT THE PENALTY WILL BE IF WE ARE.

WE SUPPORT EFFORTS TO ENFORCE CHILD SUPPORT OBLIGATIONS AND ARE SYMPATHETIC TO THE LEGITIMATE INFORMATION NEEDS OF THOSE RESPONSIBLE FOR ESTABLISHING SUCH OBLIGATIONS. IN WORKING TOWARDS THIS GOAL, WE MUST BE CAREFUL NOT TO SACRIFICE CRUCIAL PRIVACY PROTECTIONS FOR AMERICAN WORKERS.

THE NATIONAL FEDERATION OF BUSINESS HAS STRONGLY OPPOSED THIS PLAN AS A "NEW UNFUNDED FEDERAL MANDATE ON SMALL BUSINESS". EVEN FEDERAL GOVERNMENT OFFICIALS CONCEDED THAT THE COST OF IMPLEMENTING AND MAINTAINING THIS DATABASE WILL BE ASTRONOMICAL.

WE BELIEVE THAT IDENTIFYING THOSE WHO OWE CHILD SUPPORT IS EASILY POSSIBLE BY USE OF EXISTING INFORMATION AND SYSTEMS. THERE IS ALREADY ENOUGH INFORMATION THAT EMPLOYERS MUST REPORT TO STATE AGENCIES UNDER THE DEFICIT REDUCTION ACT OF 1984 KNOWN AS CONTRIBUTION NOTICES OR WAGE REPORTS. COMPARE THIS INFORMATION AGAINST THE EXISTING STATE CASE REGISTRIES AND FEDERAL PARENT LOCATOR SERVICE.

MANDATING THE INCLUSION OF THE SOCIAL SECURITY NUMBER ON EVERY INDIVIDUAL RECORD MAINTAINED BY THE STATE RUNS COUNTER TO PUBLIC SENTIMENT WHICH OPPOSES THE CREATION OF A SYSTEM OF NATIONAL IDENTIFICATION.

THE PUBLIC'S CONCERN IS NOT NEW. IT WAS VOICED AT THE CREATION OF THE SSN AND HAS SINCE BEEN RAISED REPEATEDLY. THE SOCIAL SECURITY NUMBER WAS CREATED IN 1935 FOR THE SOLE PURPOSE OF ACCURATELY RECORDING INDIVIDUAL WORKERS CONTRIBUTIONS TO THE SOCIAL SECURITY FUND. THE PUBLIC AND LEGISLATORS AT THE TIME WERE IMMEDIATELY SUSPICIOUS AND FEARED THAT THE NUMBER WOULD QUICKLY BECOME A SYSTEM CONTAINING VAST AMOUNTS OF PERSONAL INFORMATION SUCH AS RACE AND RELIGION THAT COULD BE USED BY THE GOVERNMENT TO TRACK DOWN AND CONTROL THE ACTIONS OF CITIZENS.

PUBLIC CONCERN FOR POTENTIAL ABUSE WAS SO HIGH, THAT IN AN EFFORT TO DISPEL CONCERN, THE FIRST REGULATION ISSUED BY THE SOCIAL SECURITY BOARD DECLARED THAT THE NUMBER WAS FOR THE EXCLUSIVE USE OF THE SOCIAL SECURITY SYSTEM. SO MUCH FOR THEIR GOOD INTENTIONS MUCH LIKE THE GOOD INTENTIONS OF SB 140 IN WHICH THE ENDS DO NOT JUSTIFY THE MEANS.

A NATIONAL DATA BASE OF INFORMATION SUCH AS IS PROPOSED IN THIS BILL POSES A GRAVE THREAT TO THE CIVIL LIBERTIES OF ALL BY CREATING A POWERFUL TOOL FOR ABUSE OF PRIVACY RIGHTS INCREASING THE LIKELIHOOD THAT INTIMATE PERSONAL INFORMATION, CREDIT HISTORIES, SPENDING HABITS, UNLISTED TELEPHONE NUMBERS, VOTING, MEDICAL AND EMPLOYMENT HISTORIES COULD BE EASILY ACCESSED WITHOUT YOUR KNOWLEDGE.

IT IS THE SINGLE GREATEST MOVE TOWARD AN ORWELLIAN NATIONAL ID SYSTEM IN RECENT YEARS AND THE RIDICULOUS SUGGESTION THAT THIS INFORMATION WILL REMAIN CONFIDENTIAL CONSIDERING THE MILLIONS OF GOVERNMENT WORKERS AND THOSE EMPLOYED IN THE PRIVATE SECTOR WITH ACCESS IS PREPOSTEROUS. TRUSTING THE GOVERNMENT WITH YOUR PRIVACY IS LIKE HAVING A PEEPING TOM INSTALL YOUR WINDOW BLINDS. THERE WILL BE LEAKS.

SRS ASSURED A SENATE COMMITTEE OF THEIR ABILITY TO KEEP EMPLOYEE'S INFORMATION CONFIDENTIAL. I WOULD REMIND THEM OF A RECENT NEWS ARTICLE THAT LEFT EGG ON THE FACE OF THE KANSAS DEPARTMENT OF REVENUE. IT DEALT WITH A SO-CALLED "CONFIDENTIAL" ELECTRONIC TRANSMISSION SUGGESTING AN AUDIT OF THE WICHITA EAGLE WHICH WAS DISCOVERED BY A REPORTER AT THE TOPEKA CAPITAL JOURNAL WHO WAS SURFING THE "NET". E-MAILS ARE SUGGESTED AS THE MEANS OF TRANSMISSION IN THIS VERY BILL. SO MUCH FOR PROMISED PRIVACY.

AND WHAT OF THE 8,338 SRS EMPLOYEES STATE WIDE? CAN WE REALLY EXPECT THAT THERE WILL BE NO LEAKS OF THIS PRIVATE INFORMATION? AFTER ALL, IF THE CIA USING THE THREAT OF LIFE IMPRISONMENT CAN'T LOCATE OR CONTAIN THEIR LEAKS, WHY SHOULD WE THINK OUR OWN SRS WOULD BE ABLE TO?

UNDERSTAND THAT PRIVACY LOST IS PRIVACY LOST FOREVER. THE DAMAGE THIS BILL WILL DO, IF ENACTED, CANNOT BE UNDONE. I ALONG WITH MOST KANSANS WOULD IMPLORE YOU TO HAVE THE COURAGE NOT TO SAY 'UNCLE' TO BIG BROTHER JUST YET. THE FEDERAL GOVERNMENT CAN SOMETIMES GO TOO FAR. THEY HAVE DONE SO HERE.

THIS STATE HAS ONCE BEFORE, IN RECENT MEMORY, SAID NO TO A MANDATE THAT WOULD HAVE REQUIRED HELMETS FOR ALL WHO CHOOSE TO RIDE MOTORCYCLES AND THE FEDERAL GOVERNMENT SAID UNCLE FIRST.

LET'S BE A LEADER FOR OTHER STATES TO FOLLOW. MY CONTACTS WITH LOBBYISTS FROM ACROSS THE COUNTRY SUGGEST THAT MANY STATES ARE CLAMORING FOR WORD FROM JUST ONE OTHER STATE BEFORE SAYING NO TO THIS GOVERNMENT ABUSE OF PRIVACY. LET'S GIVE THEM THE NAME KANSAS AS A REFERENCE POINT.

IN DECIDING YOUR VOTE, PLEASE WEIGH HEAVILY THE RIGHTS OF ALL KANSAS WORKERS TO SOME REASONABLE EXPECTATION OF PRIVACY... WITH THE SINGLE GOAL OF LOCATING ABSENTEE PARENTS. THERE ARE OTHER VIABLE WAYS TO SOLVE THIS PROBLEM WITHOUT SACRIFICING ONE OF AMERICAS MOST TREASURED RIGHTS.

ARTICLES OF CONFEDERATION, MARCH 1, 1781

To all to whom these Presents shall come, we the under signed Delegates of the States affixed to our Names, send greeting.

Whereas the Delegates of the United States of America, in Congress assembled, did, on the 15th day of November, in the Year of Our Lord One thousand Seven Hundred and Seventy seven, and in the Second Year of the Independence of America, agree to certain articles of Confederation and perpetual Union between the States of Newhampshire, Massachusetts-bay, Rhodeisland and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia in the words following, viz. "Articles of Confederation and perpetual Union between the states of Newhampshire, Massachusetts-bay, Rhodeisland and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia.

Article I. The Stile of this confederacy shall be "The United States of America."

Article II. Each state retains its sovereignty, freedom, and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States; in Congress assembled.

Article III. The said states hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their Liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

¹ Journals of the Cotinental Congress, Library of Congress edition, Vol. XIX (1912), p. 214. The Articles of Confederation were agreed to by the Congress, November 15, 1777. They were, as appears from the list of signatures affixed to these Articles, signed at different times by the delegates of the different American States. On March 1, 1781, the delegates from Maryland, the last of the States to take action, "did, in behalf of the said State of Maryland, sign and ratify the said articles, by which act the Confederation of the United States of America was completed, each and every of the Thirteen United States, from New Hampshire to Georgia, both included, having adopted and confirmed, and by their delegates in Congress, ratified the same." Ibid., p. 214.

House Judiciary
Attachment II
3/31/97