

Approved: 6/27/97  
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Tim Carmody at 12:15 a.m.. on April 1, 1997 in Room 313-S of the Capitol.

All members were present except: Representative Kline (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: Jamie Corkhill, SRS  
Bill Layes, Employment Security Department of the Kansas  
Department of Human Resources.

Others attending: See attached list

The Chair called the meeting to order at 12:15 p.m. The Chair stated that it is his intention to go through **SB 140** section by section and would not entertain motions to amend or table during this process. The Chair stated that he would like to completely go through the bill, discuss each section among Committee members and call on information from those in the audience. The Chair suggested that Committee members notate possible ideas, concerns and changes to the bill during this process. The Chair stated that after completion of this process, then amendments will be considered for each section. The Chair stated that the Committee will reconvene after session today for continuation of the hearing and discussion on **SB 140**.

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

The Chair opened discussion on **SB 140** with consideration of New Section 1 dealing with the New Hires Directory. The Chair referred to testimony expressing concerns with designation the Department of Revenue rather than the Department of Human Resources for providing the data services to SRS.

Representative Pauls expressed concerns with the enactment date of the federal requirement. The Chair discussed with Ms Corkhill issues concerning the definition of a New Hires Directory. The Committee members discussed the frequency of reporting new hires, reference to "secretary" as to secretary of which department. The Committee members discussed with Bill Layes, Employment Security Department of DHR the information required on the quarterly reports, and SRS online access to that information. The Committee members discussed with the conferee the cost of administrating a new hires reporting system for his department.

Representative Pauls requested an amended fiscal note showing the cost of implementing the new hires directory as discussed through the Department of Human Resources.

The Chair opened discussion on New Section 2 and stated that this section was to provide authority to carry out federal rules and regulations that might be established. In response to a Committee member's inquiry, Secretary Chronister stated that the rules and regulations to be adopted by this act have not yet been published. Representative Pauls questioned whether the state legislature can adopt federal rules and regulations which have not been adopted by the federal government.

Miss Corkhill provided written material showing SRS suggested changes for sections 1, 9, and 22 dated April 1, 1997. (Attachment 1), (Attachment 2) and (Attachment 3)

The Chair opened discussion on New Section 3 concerning the powers of SRS to initiate restriction on licenses. In response to questions from Representative Garner, Ms Corkhill stated that the new language makes sanctions available if there is an outstanding or noncompliance with a warrant or subpoena issuance. Ms Corkhill suggested that the subpoenas could be limited to court subpoenas. Ms Corkhill stated that this section was necessary because this provision does not necessitate being found in contempt of court for the judge to impose the sanction. The Chair stated that this provision would add to current law by stating that if there is a warrant or subpoena outstanding in a support enforcement proceeding then the court can order

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 12:15 p.m. on April 1, 1997.

restrictions until there is compliance. Enforcement proceeding includes maintenance as well as child support. Ms Corkhill stated that federal definition sometimes includes maintenance. Issues concerning whether the federal act require full faith and credit and the definition of word "tribunal" were discussed by Committee members.

The Committee members discussed whether the procedure in this bill would cause the court to lose jurisdiction over the sanctions if the sanctions are determined by the licensing entity.

The Chair suggested an option that could be added to this section which would be listing the sanctions in this section. Thereby there would be two statutes, one dealing with contempt, and one dealing with warrants and subpoenas or go in and simply add something to the current statute.

The Chair opened discussion on Section 4 concerning the access to information by the Secretary of SRS in IV-D cases or any other state's IV-D agency. The Committee members discussed issues concerning the powers of Secretary of SRS and other states' agencies have to information from individuals and private entities. The Committee members discussed issues concerning privileged information and privacy rights.

The Chair opened discussion on Section 5 concerning the Secretary of SRS entering into agreements with financial institutions doing business in Kansas. The Committee members discussed issues concerning the immunity granted banks and financial institutions and how the banks' data will be used.

The Chair opened discussion on Section 6 concerning the recording of an individual's social security number on professional, occupational or marriage licenses. The Committee members discussed this requirement and its impact on privacy rights.

The Chair opened discussion on Section 7 concerning the Secretary's authority to file a motion to periodically modify current support orders in IV-D cases. The Committee members discussed the use of "conclusive presumption" in this section.

The Chair opened discussion on Section 8 pertaining to severability clause in subsection (a). The Committee members discussed subsection (b) concerning immunity from suit under the 11th amendment.

The Chair opened the discussion on New Section 9 dealing with the definitions applying to IV-D administrative proceedings related to sections 8 through 24. The Committee members discussed the definition for "tribunal," "cash asset," and current support as it applies to the child's medical needs. Representative Garner noted the varying terms referring to Puerto Rico in this bill. The Committee members discussed with Ms Corkhill an amendment to further define the term "tribunal" in the state of Kansas.

The Chair recessed the meeting at 2:05 p.m.

The Chair reconvened the meeting at 3:20 p.m.

The Chair opened discussion on New Section 10 dealing with the powers and authority of the Secretary of SRS. The Committee members discussed several issues concerning Section 10. One of the issues discussed was under (7), perfecting of liens. The Revisor in discussion with the Committee agreed that property lien statutes could be referenced. The Committee discussed the phrase "concurrent jurisdiction." The Committee discussed the Secretary's authority in the determination of arrearages, genetic testing, and the finding of facts as to the child's living arrangement. The Committee discussed administrative procedure for a "fair hearing." The Committee members discussed additional issues concerning the amount of additional power that this section will provide to the Secretary of SRS and the need for judicial oversight.

The Chair opened discussion on New Section 11 concerning the items the Secretary shall have jurisdiction over. Committee members discussed with Ms Corkhill over whom the secretary will have jurisdiction and for what purposes. The Committee members discussed the provision of using regular mail for the serving of notice or subpoena providing for the exception of subsection (b).

The Chair opened discussion on New Section 12 dealing with the waiving of rights in IV-D cases. Ms Corkhill offered that in reference to mail service the words, "initial service" could be added.

The Chair opened discussion on New Section 13 concerning provisions applying to all orders in any IV-D administrative proceeding under sections 8 through 24. In response to the Chair's questions if there was any change to current law in this section, the Revisor stated that she would research that.

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The Chair opened discussion on New Section 14 dealing with judicial review of administrative procedures or orders. Issues concerning the procedure and enforcement of civil orders were discussed.

The Chair opened discussion and the Committee members discussed issues on New Section 15 dealing with request for fair hearings. The Committee members discussed the requirement to post a bond and issues regarding the reliability of the mail service in making the request returned within 10 days.

The Chair appointed Representative Phill Kline, Jan Pauls, and Clark Shultz to the subcommittee on **SB 234**.

The Chair recessed the meeting at 4:00 p.m.

The Chair reconvened the meeting at 4:45 p.m. to further discuss **SB 140**.

The Chair opened discussion on New Section 16 dealing with the authority of the Secretary of SRS to subpoena financial or other information needed to establish, modify or enforce a support order. The Committee members discussed the specificity of the subpoena and other forms initiated by the Secretary. The Committee members discussed the time period for response to the subpoenas and expressed concerns that an appropriate amount of time be allowed. The Committee members expressed concerns with how to challenge a subpoena from a IV-D agency of another states.

The Chair opened discussion on New Section 17 dealing with genetic tests. The Committee members discussed with Ms Corkhill when there would be a need for an additional test. The Committee members discussed with Ms Corkhill references to the terminology used in the bill addressing issues of domestic violence, and the term, "attempted to marry." Ms Corkhill referred to a balloon whereby subsection (b) genetic testing would not be mandatory. (Attachment 4)

Representative Pauls discussed with Ms Corkhill the need for this section establishing administrative procedures. Ms Corkhill stated that to be in compliance with the federal requirement this section was needed. Other language options were discussed with Ms Corkhill and issues concerning the federal mandates.

The Chair opened discussion on New Section 18 dealing with collections. Ms Corkhill stated that this section is listed under the federal mandates, 325 (c)(i)(h). The Committee members discussed issues concerning the priorities of collection withholdings and the attachment of bank accounts. Ms Corkhill offered that this possibly needs to be worded more clearly.

The Chair opened discussion on New Section 19 dealing with income withholding procedures. The Committee members discussed current Kansas law regarding income withholding, and property liens. Representative Howell discussed issues concerning the powers of the Secretary with the issuance of an income withholding order with Ms Corkhill.

The Chair opened discussion on New Section 20 which continues the income withhold procedure dealing with modification of determination.

The Chair opened discussion on New Section 21 dealing with the responsible parent's right to ask for a review once there is a notice of intent to issue an income withholding. Ms Corkhill stated that this section is a request for an administrative stay of enforcement. In response to Representative Presta's inquiry, Ms Corkhill detailed the procedure under the income withholding order.

The Chair opened the discussion on New Section 22 dealing with administrative levy on the responsible parent's cash assets and certain retirement funds. The Committee members discussed various retirement funds that could be affected. Ms Corkhill referenced the federal law requiring this provision as 325 (c)(1)(g)(2). The Committee members discussed with Ms Corkhill the levy process and the procedure for seizing assets held in financial institutions. Issues concerning the change this makes to law in joint tenancy presumption were discussed. The Committee members discussed the appeal process.

The Chair opened discussion on New Section 23 dealing with the Secretary's authority to redirect support payments by filing a notice of assignment. The Committee members discussed issues concerning resolution of conflicts between different states.

The Chair stated that the Committee will resume discussion of **SB 140** on page 23, New Section 24 upon first adjournment tomorrow.

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

The next meeting is scheduled for April 2, 1997.



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Attach 1  
#1/1/97

24 New Section 1. (a) There is hereby created a state directory of new  
25 hires, which shall operate in accordance with section 453A of title IV-D  
26 of the federal social security act and shall include an automated directory  
27 containing information reported pursuant to subsection (e). On or before  
28 July 15, 1997, the governor shall designate the secretary of human re-  
29 sources or the ~~The secretary of social and rehabilitation services~~ to shall  
30 supervise operation of the directory and to assure compliance with federal  
31 requirements. ~~The secretary shall contract with the secretary of rev-~~  
32 ~~enue for data collection services related to the state directory of~~  
33 ~~new hires.~~ The secretary may adopt rules and regulations as needed to  
34 carry out the duties of this section. The directory shall be implemented  
35 on or before October 1, 1997.

The secretary of human resources

delete

36 (b) As used in this section:  
37 (1) "Employee" means an individual who is an employee within the  
38 meaning of chapter 24 of the internal revenue code of 1986, but does not  
39 include an employee of an agency of the state or a political subdivision  
40 performing intelligence or counterintelligence functions if the head of  
41 such agency has determined that reporting pursuant to subsection (e)  
42 could endanger the safety of the employee or compromise an ongoing  
43 investigation or intelligence mission.

1 (2) "Employer" has the meaning given such term in section 3401(d)  
2 of the internal revenue code of 1986 and includes any labor organization  
3 and any governmental entity except a department, agency or instrumen-  
4 tality of the United States that is permitted to report newly hired em-  
5 ployees to the national directory of new hires. As used in this section,  
6 "labor organization" shall have the meaning given such term in section  
7 152(5) of the national labor relations act and includes any entity, com-  
8 monly known as a "hiring hall," that is used by the organization and an  
9 employer to carry out requirements described in section 8(f)(3) of the  
10 national labor relations act.

means the secretary of human resources.

11 (3) "Secretary" means the seeretary designated pursuant to subsec-  
12 tion (a) to supervise the operation of the state directory of new hires of  
13 ~~social and rehabilitation services.~~

14 (4) "Title IV-D" means part D of title IV of the federal social security  
15 act (42 U.S.C. § 651 *et seq.*) and amendments thereto.

16 (c) The state directory of new hires shall receive, retain and, to the  
17 extent permitted by federal law, make information reported to the direc-  
18 tory available pursuant to subsection (d). Nothing in this section shall be  
19 construed to prohibit the publication of statistics which are so classified  
20 as to prevent the identification of individuals or individual employers  
21 without their consent. Except as otherwise required by federal law, the  
22 secretary may authorize disposal of reported information at any time after  
23 the end of the first calendar quarter beginning after the information was  
24 received by the directory.

, and shall dispose of reported information no later  
than eight quarters after the information was  
received by the directory.

25 (d) Except as otherwise permitted by federal law, any agency receiv-  
26 ing information from the state directory of new hires shall handle the  
27 information as confidential information for use in administering the pro-  
28 grams for which it was received. The state directory of new hires shall  
29 make information available:

30 (1) Upon implementation of the national directory of new hires, to  
31 the national directory;

32 (2) to the secretary of social and rehabilitation services for uses in-  
33 cluding but not limited to administration of an eligibility verification sys-  
34 tem and, not later than May 1, 1998, the title IV-D program; and

35 (3) to the secretary of human resources, for uses including but not  
36 limited to administration of employment security and workers compen-  
37 sation programs.

38 (e) Except as provided in subsection (h), the employer of any newly  
39 hired employee in this state shall submit a report to the state directory  
40 of new hires in accordance with the contract entered into between  
41 the secretary of social and rehabilitation services and the secretary  
42 of revenue as provided in subsection (a) within 20 days of the date of  
43 hiring or, if the employer periodically transmits reports magnetically or

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1 electronically, by the second report following the date of hiring. Periodic  
2 magnetic or electronic reports shall be transmitted no more than 16 days  
3 apart. Except as provided in subsection (g), the report shall be transmitted  
4 by first class mail.

5 (f) The report shall be made using the employee's W-4 form or, at  
6 the option of the employer, an equivalent form. The report shall contain:

7 (1) The employee's name, address, and social security number; and

8 (2) the employer's name, address, and federal employer identification  
9 number (EIN).

10 (g) The employer may transmit reports required by this section elec-  
11 tronically or magnetically, including but not limited to electronic facsim-  
12 iles. Any report transmitted electronically or magnetically to the state  
13 directory of new hires of this state shall be made in a manner and format  
14 approved by the secretary. The secretary shall take appropriate steps to  
15 encourage voluntary use of electronic or magnetic transmission.

16 (h) Any employer who reports electronically or magnetically and is  
17 required to report newly hired employees to more than one state may  
18 elect to transmit all such reports to one state by complying with the  
19 requirements of title IV-D.

Nothing in this section shall be construed as  
requiring the employer to submit a report for any  
employee hired before October 1, 1997, whose  
employment has not terminated for any reason.

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Attach 2  
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15 New Sec. 9. The following definitions shall apply in any IV-D ad-  
16 ministrative proceeding related to sections 8 through 24 and amendments  
17 thereto, except where the context requires otherwise.

18 (a) "Account" means a demand deposit account, checking or nego-  
19 tiable withdrawal order account, savings account, time deposit account or  
20 money-market mutual fund account.

21 (b) "Arrearages" means past due support under any support order of  
22 any tribunal of this or any other state, including but not limited to the  
23 unpaid balance of any costs awarded, public assistance debt or accrued  
24 interest.

25 (c) "Business day" means a day on which state offices in Kansas are  
26 open for regular business.

27 (d) "Cash asset" means any intangible property that consistently  
28 maintains a fair market value of one dollar per unit. It shall be presumed  
29 that any account held by a financial institution and from which the obligor  
30 may make cash withdrawals, with or without penalty, consists entirely of  
31 cash assets.

32 (e) "Current support" includes but is not limited to the duty to pro-  
33 vide for a child's ongoing medical needs through cash, insurance coverage  
34 or other means. "Current support" does not include any periodic amount  
35 specified to defray arrearages.

36 (f) "Custodial parent" means the parent or other person receiving IV-  
37 D services on the child's behalf and may include an agency acting *in loco*  
38 *parentis*, a guardian, or a blood or adoptive relative with whom the child  
39 resides.

40 (g) "Duty of support" means any duty to support another person that  
41 is imposed or imposable by law or by any order, decree or judgment of  
42 any tribunal, whether interlocutory or final or whether incidental to a  
43 proceeding for divorce, judicial separation, separate maintenance or oth-

1 erwise, including but not limited to the duty to provide current support,  
2 the duty to provide medical support, the duty to pay birth expenses, the  
3 duty to pay a public assistance debt and the duty to pay arrearages.

4 (h) "Financial institution" means any financial institution as defined  
5 in 469A of the federal social security act (42 U.S.C. § 469A) and amend-  
6 ments thereto.

7 (i) "Holder" means any person who is or may be in possession or  
8 control of any cash asset of the responsible parent.

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9 (j) "IV-D" or "title IV-D" means part D of title IV of the federal  
10 social security act (42 U.S.C. § 651 *et seq.*) and amendments thereto. "IV-  
11 D services" means those services the secretary provides pursuant to title  
12 IV-D.

13 (k) "Party" means the secretary, the responsible parent, the custodial  
14 parent or the child or any assignee or other successor in interest to any  
15 of them. "Party" shall not be construed to require that any person or  
16 entity must be formally joined or personally served in any IV-D admin-  
17 istrative proceeding except as specifically provided by law.

18 (l) "Public assistance debt" means the obligation to reimburse public  
19 assistance as described in K.S.A. 39-718b or 39-719 and amendments  
20 thereto or in any similar law of this or any other state.

21 (m) "Responsible parent" means, if a child is receiving or has re-  
22 ceived IV-D services from the secretary, the mother, father or alleged  
23 father of the child.

24 (n) "Secretary" means the secretary of social and rehabilitation serv-  
25 ices or a designee of the secretary.

26 (o) "State" means a state of the United States, the District of Colum-  
27 bia, the Commonwealth of Puerto Rico or any territory or insular pos-  
28 session subject to the jurisdiction of the United States. The term "state"  
29 includes an Indian tribe and includes any jurisdiction declared a foreign  
30 reciprocating country by the United States secretary of state and any  
31 foreign jurisdiction that has established procedures for issuance and en-  
32 forcement of child support orders which are substantially similar to the  
33 procedures of this state. It shall be presumed that a foreign jurisdiction  
34 which is the subject of an unrevoked declaration by the attorney general  
35 pursuant to K.S.A. 23-4,101 and amendments thereto is a state as defined  
36 in this subsection.

37 (p) "Support order" means any order by which a person's duty of  
38 support is established, including but not limited to any order modifying  
39 a prior support order.

40 (q) "Tribunal" means any court, administrative agency or quasi-ju-  
41 dicial entity authorized to establish, modify or enforce support orders or  
42 to determine parentage.

With respect to support orders entered in this  
state, the courts are the tribunals in Kansas.

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43 New Sec. 22. (a) Upon determining that arrearages exist, the secre-

1 tary may enforce any support order by an administrative levy upon the  
2 responsible parent's cash assets. Any retirement fund that may be revoked  
3 or terminated by the responsible parent and is composed of cash assets  
4 shall be subject to administrative levy under this section, notwithstanding  
5 any other provision of law.

6 (b) An order to restrict transfer may be served by the secretary upon  
7 any person who is the holder of any cash asset of the responsible parent.  
8 The secretary may include with the order to restrict transfer an order to  
9 verify information concerning the cash asset.

10 (c) The order to restrict transfer shall attach, upon receipt by the  
11 holder, the interest of the responsible parent in any cash asset in the  
12 possession or control of the holder. If the total value of all such cash assets  
13 is less than \$25 at that time, no interest shall be attached by the order to  
14 restrict transfer. Upon attachment, the holder shall not transfer any of  
15 the attached assets without the consent of the secretary until further order  
16 of the secretary. If any cash asset is added to an account after the initial  
17 attachment and before the order to disburse, the added asset shall also  
18 be attached except to the extent that any part of the addition exceeds the  
19 maximum amount stated in the order to restrict transfer.

20 (d) Any cash asset held by the responsible parent in joint tenancy  
21 with rights of survivorship shall be presumed to be owned entirely by the  
22 responsible parent. The burden of proving otherwise shall be upon any  
23 person asserting ownership of any attached cash asset.

24 (e) The holder shall promptly notify any coowner of the cash asset or  
25 account about the attachment if the coowner's interest appears to be  
26 affected by the attachment.

27 (f) If an order to restrict transfer is issued, the secretary shall  
28 promptly send notice to the responsible parent. The notice shall state  
29 when review is available under section 15 and amendments thereto and  
30 how to request review.

31 (g) The responsible parent, the holder or any coowner may contest  
32 the attachment by requesting a fair hearing pursuant to section 15 and  
33 amendments thereto.

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34 (h) If the secretary includes with the order to restrict transfer an  
35 order to verify information, the holder shall comply with the terms of the  
36 order to verify information within seven days of receipt.

37 (i) If the time allowed to request a fair hearing has elapsed and the  
38 proposed levy has not been challenged or the challenge has been resolved,  
39 in whole or in part, in favor of the secretary, the secretary shall issue an  
40 order to the holder to disburse the funds.

41 (j) If the holder is a financial institution that has entered into an  
42 agreement with the secretary pursuant to section 5 and amendments  
43 thereto, the agreement may provide for alternative methods of: (1) No-

1 tifying the financial institution to restrict transfer of cash assets or to  
2 disburse proceeds of administrative levies; (2) resolving disputes between  
3 the financial institution and the secretary concerning an administrative  
4 levy; and (3) exchanging any data related to the IV-D program.

(k) Except to the extent any provision clearly  
conflicts with this section, the exemptions of article  
23 of chapter 60 shall apply to any attachment  
under this section.

24 New Section 1. (a) There is hereby created a state directory of new  
25 hires, which shall operate in accordance with section 453A of title IV-D  
26 of the federal social security act and shall include an automated directory  
27 containing information reported pursuant to subsection (e). ~~On or before~~  
28 ~~July 15, 1997, the governor shall designate the secretary of human re-~~  
29 ~~sources or the~~ **The** secretary of social and rehabilitation services **to shall**  
30 supervise operation of the directory and ~~to assure compliance with federal~~  
31 requirements. **The secretary shall contract with the secretary of rev-**  
32 **enue for data collection services related to the state directory of**  
33 **new hires.** The secretary may adopt rules and regulations as needed to  
34 carry out the duties of this section. The directory shall be implemented  
35 on or before October 1, 1997.

36 (b) As used in this section:

37 (1) "Employee" means an individual who is an employee within the  
38 meaning of chapter 24 of the internal revenue code of 1986, but does not  
39 include an employee of an agency of the state or a political subdivision  
40 performing intelligence or counterintelligence functions if the head of  
41 such agency has determined that reporting pursuant to subsection (e)  
42 could endanger the safety of the employee or compromise an ongoing  
43 investigation or intelligence mission.

1 (2) "Employer" has the meaning given such term in section 3401(d)  
2 of the internal revenue code of 1986 and includes any labor organization  
3 and any governmental entity except a department, agency or instrumen-  
4 tality of the United States that is permitted to report newly hired em-  
5 ployees to the national directory of new hires. As used in this section,  
6 "labor organization" shall have the meaning given such term in section  
7 152(5) of the national labor relations act and includes any entity, com-  
8 monly known as a "hiring hall," that is used by the organization and an  
9 employer to carry out requirements described in section 8(f)(3) of the  
10 national labor relations act.

11 (3) "Secretary" means ~~the secretary designated pursuant to subsec-~~  
12 ~~tion (a) to supervise the operation of the state directory of new hires of~~  
13 **social and rehabilitation services.**

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14 (4) "Title IV-D" means part D of title IV of the federal social security  
15 act (42 U.S.C. § 651 *et seq.*) and amendments thereto.

16 (c) The state directory of new hires shall receive, retain and, to the  
17 extent permitted by federal law, make information reported to the direc-  
18 tory available pursuant to subsection (d). Nothing in this section shall be  
19 construed to prohibit the publication of statistics which are so classified  
20 as to prevent the identification of individuals or individual employers  
21 without their consent. Except as otherwise required by federal law, the  
22 secretary may authorize disposal of reported information at any time after  
23 the end of the first calendar quarter beginning after the information was  
24 received by the directory.

25 (d) Except as otherwise permitted by federal law, any agency receiv-  
26 ing information from the state directory of new hires shall handle the  
27 information as confidential information for use in administering the pro-  
28 grams for which it was received. The state directory of new hires shall  
29 make information available:

30 (1) Upon implementation of the national directory of new hires, to  
31 the national directory;

32 (2) to the secretary of social and rehabilitation services for uses in-  
33 cluding but not limited to administration of an eligibility verification sys-  
34 tem and, not later than May 1, 1998, the title IV-D program; and

35 (3) to the secretary of human resources, for uses including but not  
36 limited to administration of employment security and workers compen-  
37 sation programs.

38 (e) Except as provided in subsection (h), the employer of any newly  
39 hired employee in this state shall submit a report ~~to the state directory~~  
40 ~~of new hires in accordance with the contract entered into between~~  
41 ~~the secretary of social and rehabilitation services and the secretary~~  
42 ~~of revenue as provided in subsection (a)~~ within 20 days of the date of  
43 hiring or, if the employer periodically transmits reports magnetically or

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1 electronically, by the second report following the date of hiring. Periodic  
2 magnetic or electronic reports shall be transmitted no more than 16 days  
3 apart. Except as provided in subsection (g), the report shall be transmitted  
4 by first class mail.

5 (f) The report shall be made using the employee's W-4 form or, at  
6 the option of the employer, an equivalent form. The report shall contain:

7 (1) The employee's name, address, and social security number; and

8 (2) the employer's name, address, and federal employer identification  
9 number (EIN).

10 (g) The employer may transmit reports required by this section elec-  
11 tronically or magnetically, including but not limited to electronic facsim-  
12 iles. Any report transmitted electronically or magnetically to the state  
13 directory of new hires of this state shall be made in a manner and format  
14 approved by the secretary. The secretary shall take appropriate steps to  
15 encourage voluntary use of electronic or magnetic transmission.

16 (h) Any employer who reports electronically or magnetically and is  
17 required to report newly hired employees to more than one state may  
18 elect to transmit all such reports to one state by complying with the  
19 requirements of title IV-D.

Nothing in this section shall be construed as  
requiring the employer to submit a report for any  
employee hired before October 1, 1997, whose  
employment has not terminated for any reason.

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43 New Sec. 10. (a) The powers and remedies provided in this section  
1 are cumulative and do not affect any other powers of the secretary or the  
2 availability of remedies under other law.

3 (b) In any case for which the secretary is providing IV-D services, the  
4 secretary may:

5 (1) Obtain access to information as authorized by law;

6 (2) subpoena records pursuant to section 16 and amendments  
7 thereto;

8 (3) order genetic tests pursuant to section 17 and amendments  
9 thereto;

10 (4) order minimum payments to defray arrearages pursuant to section  
11 18 and amendments thereto;

12 (5) enforce any duty of support by income withholding pursuant to  
13 the income withholding act and section 19 *et seq.* and amendments  
14 thereto;

15 (6) enforce any duty of support by administrative levy pursuant to  
16 section 22 and amendments thereto;

17 (7) perfect any lien against property;

18 (8) order executions against property pursuant to K.S.A. 60-2401 and  
19 amendments thereto; and

20 (9) change the payee of any support order pursuant to section 23 and  
21 amendments thereto.

22 (c) ~~Except as otherwise provided in this subsection or in section 17  
23 and amendments thereto, and notwithstanding any other law to the con-  
24 trary, the secretary shall have concurrent jurisdiction with the courts of  
25 this state in proceedings in which a support obligation is or may be en-  
26 forced.~~

27 In any IV-D administrative proceeding, the secretary shall not  
28 have jurisdiction over matters involving custody of the child or involving  
29 establishment or exercise of visitation rights with the child. Nothing in  
30 this subsection shall be construed to prevent the secretary from making  
31 findings of fact concerning the child's whereabouts or living arrangements  
32 if the facts are relevant to a matter otherwise within the secretary's juris-  
diction.

Nothing in sections 8 through 24 and amendments thereto shall be construed as authorizing the secretary to enter an order to establish or modify an obligation for current support. Nothing in sections 8 through 24 and amendments thereto shall be construed as limiting or restricting the jurisdiction of the courts of this state.

33 (d) The secretary shall have all powers necessary to carry out the  
34 provisions of this section. The powers of the secretary shall include but  
35 not be limited to the power to:

36 (1) Conduct investigations into the existence of the parent and child  
37 relationship, including but not limited to the power to order persons to  
38 cooperate in genetic testing;

39 (2) conduct investigations into the whereabouts of any parent or asset;

40 (3) conduct investigations into the income, resources and expenses of  
41 the parties; the ability of the responsible parent to pay arrearages and the  
42 alleged nonpayment of support;

43 (4) determine the amount of any arrearages.

1 (5) initiate, modify or enforce an income withholding order for cash  
2 support or medical support or both;

3 (6) enforce any support order using any administrative remedy pro-  
4 vided by law;

5 (7) attest that a document is a true copy of any document in the  
6 records of the secretary or attest that a document derived from records  
7 of the secretary accurately reflects the information contained in those  
8 records; and

9 (8) delegate the powers described in this section to hearing officers  
10 and to authorized agents of the secretary.

11 (e) The secretary may designate employees of the secretary to serve  
12 as authorized agents to exercise powers of the secretary in IV-D admin-  
13 istrative proceedings. By written contract, the secretary may designate  
14 other persons to serve as authorized agents to exercise specific powers of  
15 the secretary in IV-D cases.



7 New Sec. 16. (a) ~~As used in this section:~~

8 ~~(1) "Business" means any kind of business, profession, occupation,~~  
9 ~~calling or operation of institutions, whether carried on for profit or not.~~

10 ~~(2) "Records" means writings, including but not limited to data stored~~  
11 ~~electronically or magnetically, which are memoranda or notations of acts;~~  
12 ~~conditions or events. "Records" may also include books, papers, docu-~~  
13 ~~ments or tangible things.~~

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14 ~~(b)~~ In any title IV-D case, the secretary may issue a subpoena pur-  
15 suant to this section to obtain financial or other information needed to  
16 establish, modify or enforce a support order. The subpoena shall be issued  
17 by an authorized agent of the secretary and shall require the person to  
18 whom it is directed to produce a copy of the records designated in the  
19 subpoena or, if applicable, to complete a form furnished pursuant to sub-  
20 section ~~(c)~~. At least seven days shall be allowed for compliance with the  
21 subpoena.

(b)

(b)

22 ~~(c)~~ The secretary may furnish with the subpoena a form requesting  
23 specific information from the records of the person to whom the sub-  
24 poena is directed. The person may elect to furnish the copy of the des-  
25 ignated records or to complete the form in full. If the person completes  
26 the form in full and returns it to the secretary's authorized agent by mail  
27 or otherwise within the time allowed, it shall be sufficient compliance  
28 with the subpoena.

(b)

29 (d) Except as otherwise provided in this subsection or subsection ~~(c)~~,  
30 the person to whom a subpoena is directed shall comply with the sub-  
31 poena by delivering to the secretary's authorized agent by mail or oth-  
32 erwise a sworn statement and a true and correct copy of the records  
33 designated in the subpoena. ~~If the records are not related to a business,~~

The

34 ~~the sworn statement shall certify that the copy delivered by the person is~~  
35 ~~a true and correct copy of the records designated in the subpoena. If the~~  
36 ~~records are related to a business, the sworn statement shall state that: (1)~~  
37 ~~The affiant is a duly authorized custodian of the records and has authority~~  
38 ~~to certify records; (2) the copy is a true copy of the records designated in~~  
39 ~~the subpoena; and (3) the records were prepared by the personnel or staff~~  
40 ~~of the business, or persons acting under their control, in the regular~~  
41 ~~course of the business at or about the time of the act, condition or event~~  
42 ~~recorded. When more than one person has custody of the records or has~~  
43 knowledge of the facts required to be stated in the sworn statement, more

delete

1 than one sworn statement may be made.

2 If the person has none of the records designated in the subpoena, or  
3 only part thereof, the person shall so state in the sworn statement and  
4 shall send a copy of those records of which the person has custody.

5 (e) Before the time specified in the subpoena for compliance there-  
6 with, the person to whom the subpoena is directed may request review  
7 of all or part of the subpoena pursuant to section 15 and amendments  
8 thereto. The person shall comply with any portion of the subpoena for  
9 which review is not requested.

10 (f) A person in this state shall comply with a subpoena issued by a  
11 title IV-D agency of any other state for the purpose of obtaining financial  
12 or other information needed to establish, modify or enforce a support  
13 order in a title IV-D case. Upon request of a IV-D agency in another  
14 state, the secretary may enforce such a subpoena as though it had been  
15 issued by the secretary.

8-4

16 New Sec. 17. (a) This section shall not apply if an action to establish  
17 the father's duty of support on behalf of the child is pending before any  
18 tribunal. As used in this section, "mother" means the natural mother of  
19 the child whose parentage is in issue.

(c) or

20 (b) Except as otherwise provided in subsection (d), genetic tests may  
21 be ordered by the secretary on the secretary's own initiative or if re-  
22 quested by another title IV-D agency, the alleged father or the mother.  
23 Except as otherwise provided in subsection (e), the secretary shall pay  
24 the costs of genetic tests, subject to recoupment from the father if pa-  
25 ternity is established.

with the consent of the alleged father,

26 (c) Except as otherwise provided in subsection (d), the secretary shall  
27 enter an administrative order for genetic testing if paternity of the child  
28 is contested, genetic testing is requested pursuant to this subsection by a  
29 party and the necessary persons are available for testing. For purposes of  
30 this section, a person receiving title IV-D services is not available for  
31 testing if a claim for good cause not to cooperate under title IV-D is  
32 pending or has been determined in the person's favor or if the person  
33 ceases to receive title IV-D services for any reason. A request under this  
34 subsection shall be supported by a sworn statement by the requesting  
35 party:

36 (1) Alleging paternity and setting forth facts establishing a reasonable  
37 possibility of the requisite sexual contact between the parties; or

38 (2) denying paternity and setting forth facts establishing a reasonable  
39 possibility of the nonexistence of sexual contact between the parties.

40 (d) If a presumption of paternity arises pursuant to subsection (a) of  
41 K.S.A. 38-1114 and amendments thereto because the mother married or  
42 attempted to marry any man, the secretary shall not order genetic testing  
43 unless a court of this state or an appropriate tribunal in another state has

1 found that determining the child's biological father is in the child's best  
2 interests. If a tribunal subsequently determines that the prohibition of  
3 this subsection applied at the time genetic tests were ordered by the  
4 secretary, any support order based in whole or in part upon the genetic  
5 tests may be set aside only as provided in K.S.A. 60-260 and amendments  
6 thereto.

7 (e) Upon receiving the results of genetic testing, the secretary shall  
8 promptly send a copy of the results to the parties, together with notice  
9 of the time limits for requesting any additional genetic tests or for chal-  
10 lenging the results pursuant to K.S.A. 38-1118 and amendments thereto,  
11 how to make such request or challenge, and any associated costs. The  
12 notice shall state the consequences pursuant to K.S.A. 38-1118 and  
13 amendments thereto of failing to act within the time allowed by the stat-  
14 ute. Any additional genetic tests shall be at the expense of the person  
15 making the request for additional genetic tests. Failure of the person  
16 requesting additional tests to make advance payment as required by the  
17 secretary shall be deemed withdrawal of the request.

24 New Sec. 20. (a) At any time after issuing an income withholding  
25 order, the secretary shall: (1) Modify or terminate the income withholding  
26 order because of a modification or termination of the underlying support  
27 order; (2) modify the amount of income withheld to reflect payment in  
28 full of the arrearages; (3) modify or terminate the income withholding  
29 order to reflect the final order in a fair hearing pursuant to K.S.A. 75-  
30 3306 and amendments thereto; or (4) modify, or when appropriate ter-  
31minate, an income withholding order consisting in whole or in part of a  
32 medical withholding order because of a modification or termination of  
33 the underlying medical child support order.

34 (b) In addition to modifications required by subsection (a), at any  
35 time the secretary may issue a modified income withholding order: (1)  
36 To change the amount to be withheld to defray arrearages; or (2) to  
37 conform the terms of a medical withholding order to the requirements  
38 of a payer.

39 (c) The secretary shall provide notice of any proposed modification  
40 to the responsible parent, who may request review of the proposed mod-  
41 ification. The issues shall be limited to whether the amount of current  
42 support is as stated in the proposed modification and whether the total  
43 arrearages are less than the proposed installment to defray arrearages.

1 (d) The responsible parent may request that the secretary terminate  
2 an income withholding order for cash support if: (1) Withholding has not  
3 previously been terminated and reinitiated; and (2) there is a written  
4 agreement among the parties that provides for an alternative arrange-  
5 ment. If an income withholding order is terminated and the obligor sub-  
6 sequently accrues any arrearages, the secretary may issue another income  
7 withholding order as provided in section 19 and amendments thereto.

8 (e) If the income withholding order includes both a medical with-  
9 holding order and an income withholding order for cash support, modi-  
10 fication or termination of one portion of the income withholding order  
11 shall not modify or terminate any other portion of the income withholding  
12 order except as expressly provided in the order.

13 (f) The provisions of section 19 and amendments thereto, relating to  
14 transmitting income withholding orders to the tribunal that issued the  
15 underlying support order, shall apply to any order issued modifying or  
16 terminating income withholding that is issued pursuant to this section.

The provisions of this subsection shall apply only to income withholding orders issued pursuant to section 19 and amendments thereto, including any modifications of such orders.

28 Sec. 64. K.S.A. 32-930 is hereby amended to read as follows: 32-930.

29 (a) ~~Except as provided in subsection (a),~~ the secretary or the secretary's  
30 designee is authorized to issue to any Kansas resident a lifetime fishing,  
31 hunting or combination hunting and fishing license upon proper appli-  
32 cation made therefor to the secretary or the secretary's designee and  
33 payment of a license fee as follows: (1) A total payment made at the time  
34 of purchase in the amount prescribed pursuant to K.S.A. 32-988 *and*  
35 *amendments thereto*; or (2) payment may be made over a two-year period  
36 in eight quarter-annual installments in the amount prescribed pursuant  
37 to K.S.A. 32-988 *and amendments thereto*. If payment is in installments,  
38 the license shall not be issued until the final installment has been paid.  
39 A person making installment payments shall not be required to obtain  
40 the appropriate annual license, and each installment payment shall be  
41 deemed to be such an annual license for a period of one year following  
42 the date of the last installment payment made. If an installment payment  
43 is not received within 30 days after it is due and owing, the secretary may

1 consider the payments in default and may retain any payments previously  
2 received. Any lifetime license issued to a Kansas resident shall not be  
3 made invalid by reason of the holder thereof subsequently residing out-  
4 side the state of Kansas. Any nonresident holder of a Kansas lifetime  
5 hunting or combination hunting and fishing license shall be eligible under  
6 the same conditions as a Kansas resident for a big game permit upon  
7 proper application to the secretary. Any nonresident holder of a lifetime  
8 fishing license issued before July 1, 1989, shall be eligible under the same  
9 conditions as a Kansas resident for a big game permit upon proper ap-  
10 plication to the secretary.

11 (b) Upon request of the secretary of social and rehabilitation services,  
12 the secretary of wildlife and parks shall not issue a lifetime fishing, hunting  
13 or combination hunting and fishing license to an applicant except as pro-  
14 vided in this subsection. The secretary of social and rehabilitation services  
15 may make such a request if, at the time of the request, the applicant  owed  
16 ~~(1) *owed* arrearages under a support order in a title IV-D case being~~  
17 ~~administered by the secretary of social and rehabilitation services, or~~ delete  
18 ~~(2) *had outstanding a warrant or subpoena, directed to the applicant,*~~ delete  
19 ~~*in a title IV-D case being administered by the secretary of social and*~~  
20 ~~*rehabilitation services.*~~

21 Upon receiving a release from an authorized agent of the secretary of  
22 social and rehabilitation services, the secretary of wildlife and parks may  
23 issue the lifetime fishing, hunting or combination hunting and fishing

24 license. The applicant shall have the burden of obtaining and delivering  
25 the release.

26 The secretary of social and rehabilitation services shall issue a release  
27 upon request if, as appropriate:

28 (1) The arrearages are paid in full or a tribunal of competent juris-  
29 diction has determined that no arrearages are owed;

30 (2) an income withholding order has been served upon the applicant's  
31 current employer or payor;

32 (3) an agreement has been completed or an order has been entered  
33 setting minimum payments to defray the arrearages, together with receipt  
34 of the first minimum payment; or

35 (4) the applicant has complied with the warrant or subpoena or the  
36 warrant or subpoena has been quashed or withdrawn.

37 Nothing in this subsection shall be construed to require or permit the  
38 secretary of wildlife and parks to determine any issue related to the title  
39 IV-D case except to resolve questions of mistaken identity or determine  
40 the adequacy of any notice relating to this subsection that the secretary  
41 of wildlife and parks provides to the applicant.

42 "Title IV-D" means part D of title IV of the federal social security act  
43 (42 U.S.C. § 651 et seq.) and amendments thereto, relating to child sup-  
1 port enforcement services.

2 (b) (c) The secretary, in accordance with K.S.A. 32-805 and amend-  
3 ments thereto, may adopt rules and regulations necessary to carry out the  
4 provisions of this section.

27 Sec. 73. K.S.A. 39-758 is hereby amended to read as follows: 39-758.

28 (a) State, county and local units of government, their officers and em-  
29 ployees, shall cooperate with the secretary of social and rehabilitation  
30 services in locating absent parents or their assets and shall on request  
31 supply the secretary of social and rehabilitation services with available  
32 information about an absent parent or the absent parent's assets including  
33 but not limited to the location, employment status, income, date of birth  
34 and social security number of an the absent parent including or any in-  
35 formation concerning medical or health insurance coverage for depend-  
36 ents.

37 (b) All federal and state agencies conducting activities under title IV-  
38 D shall have access to any system used by this state or any political sub-  
39 division to locate an individual for purposes relating to motor vehicles or  
40 law enforcement, including but not limited to the national law enforce-  
41 ment telecommunications system (NLEETS) and the national crime infor-  
42 mation center (NCIC). For purposes of this section, the title IV-D agency  
43 shall be considered a law enforcement agency.

all information leading to the location of an individual that is contained in

delete

such a

1 (c) The secretary of social and rehabilitation services or the secreta-  
2 ry's designee shall have access pursuant to K.S.A. 79-3234 and amend-  
3 ments thereto to information in the records of the department of revenue  
4 concerning any person who has or may have a duty of support in a title  
5 IV-D case. The secretary of social and rehabilitation services or the se-  
6 cretary's designee may use the information in an appropriate administra-  
7 tive or judicial proceeding to establish, modify, or enforce a support ob-  
8 ligation in the title IV-D case or may disclose the information to another  
9 title IV-D agency for use in any administrative or judicial proceeding to  
10 establish, modify or enforce a support obligation in the title IV-D case.  
11 Except to the extent that disclosure of information is authorized by this  
12 subsection, any person receiving information pursuant to this subsection  
13 shall be subject to the provisions of subsections (b) and (d) of K.S.A. 79-  
14 3234 and amendments thereto.

15 (b) (d) Information received by the secretary of social and rehabili-  
16 tation services under this section shall be available upon request to per-  
17 sons authorized to receive such information in accordance with rules and  
18 regulations duly adopted by the secretary of social and rehabilitation serv-  
19 ices.

20 Except as otherwise provided in this section, any person receiving such  
21 information shall be subject to the provisions of K.S.A. 39-759 and amend-  
22 ments thereto.



4-14

23 (e) Any person or entity providing access to information pursuant to  
24 this section, including but not limited to access by automated processes,  
25 shall not be liable to any person for good faith actions in providing the  
26 access or information.

27 (f) For purposes of this section, the secretary may enter into an agree-  
28 ment with any agency or official to permit the secretary and the secre-  
29 tary's designees access to information. Such an agreement shall not be  
30 construed to be a contract for the performance of support enforcement  
31 services pursuant to K.S.A. 75-5365 and amendments thereto.

4-15

32 Sec. 74. K.S.A. 39-759 is hereby amended to read as follows: 39-759.

33 (a) ~~Any~~ With respect to information obtained by the secretary under  
34 K.S.A. 39-758 or section 4 and amendments thereto, any person who  
35 willfully requests, obtains or seeks to obtain ~~any confidential~~ information  
36 available under ~~K.S.A. 39-758~~ under false pretenses or who willfully com-  
37 municates or seeks to communicate such information to any person ex-  
38 cept in accordance with ~~the provisions of this act and rules and regulations~~  
39 ~~adopted pursuant thereto~~ any law permitting such disclosure shall be  
40 guilty of a class B nonperson misdemeanor.

41 (b) Effective October 1, 1997, the secretary shall safeguard, to the  
42 extent required by title IV-D, any confidential information handled by  
43 the secretary. Unauthorized use or disclosure of information relating to

1 proceedings or actions to establish paternity or to establish or enforce a  
2 support obligation is prohibited, except that nothing in this provision shall  
3 prevent the secretary or the secretary's designees from using or disclosing  
4 information, or authorizing use or disclosure of information, as needed in  
5 the administration of the IV-D program or as authorized by title IV-D.

6 The release of information concerning the location of one party to an-  
7 other party against whom a protective order with respect to the former  
8 party has been entered is prohibited. The release of information concern-  
9 ing the location of one party to another party is prohibited if the secretary  
10 has reason to believe that the release of such information may result in  
11 physical or emotional harm to the former party. For purposes of this  
12 subsection, "has reason to believe" means that the former party has  
13 claimed good cause for refusing to cooperate in IV-D activities, so long  
14 as the claim is pending or has been approved.

If the offender is an officer or employee of the state or a political subdivision of the state, such officer or employee shall be dismissed from office. Any violation of this subsection by a IV-D contractor or an agent of a IV-D contractor shall be grounds for termination of the IV-D contract unless the IV-D contractor terminates the contractor's relationship with any individual offender. The provisions of this subsection shall be a complete defense in any civil action concerning such dismissal, termination of the IV-D contract or termination of a contractor's relationship with an individual offender.

14 Sec. 83. This act shall take effect and be in force from and after its  
15 publication in the statute book [*and publication in the Kansas register*  
16 *of a proclamation issued by the governor which states that this act*  
17 *shall take effect upon the publication of such proclamation*].

[ resolution adopted by the state finance council  
[ resolution