

Approved: 5/12/97
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Tim Carmody at 11:20 a.m. on April 9, 1997 in Room 519-S of the Capitol.

All members were present except: Representative David Adkins (excused)
Representative Nancy Kirk (excused)
Representative Phill Kline (excused)
Representative Doug Mays (excused)
Representative Tony Powell (excused)
Representative Tom Sawyer (excused)
Representative Kenny 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: Jamie Corkhill, SRS

Others attending: See attached list

The Chair called the meeting to order in room 519-S at 11:20 a.m. to continue discussion on **SB 140**.

SB 140 **Enforcement of child support uniform interstate family support act.**

The Chair stated that each section of **SB 140** will be considered and recommendations for changes will be noted. The Committee members discussed New Section 1. The Committee members discussed designating the current Employee Security under the Department of Human Resources as the New Hires Register. The Committee members discussed with a representative from the Department of Human Resources possible additions to the current information and the costs involved.

Ms Corkhill, SRS Attorney referred to handouts showing statistical information, SRS administrative appeals procedure, and a balloon changing Sections 73 and 74. (Attachment 1)

The Committee members discussed Section 2 and considered deleting the requirement to follow federal regulations before the federal regulations are developed. A Committee member suggested deletion of Section 2. The Chair stated that Section 3 adds warrants and subpoenas as a way to trigger license restriction for support enforcement proceedings. The Committee members discussed issues with Section 3 concerning limiting the sanctions to the obligor and striking lines 37 through line 40. The Committee members discussed Section 4 and offered suggestions for changing several subsections of that section. The Committee members discussed Section 5 and the effect that changes to Section 4 would have on Section 5.

The Chair recessed the meeting at 12:15 p.m.

The Chair reconvened the meeting at 4:15 p.m. to continue recommendations for **SB 140**.

The Committee members discussed concerns with Section 5 with how the information will flow and if due process requirements are met. The Committee members discussed Section 6 concerning alternative to requiring social security numbers. The Committee members discussed Section 7 concerning modification and the three year review requirement without substantial change in circumstances. Section 8 was reviewed by the Committee members. Deletion of lines 15 through 17 of Section 9 was suggested by a Committee member thereby deleting reference to sections 8 through 24 of the bill. The Committee members discussed further changes to Section 9. The Committee discussed several issues concerning the remedies and powers of the Secretary of SRS as provided in New Section 10. Ms Corkhill answered questions regarding the current powers and duties of the Secretary. The Committee expressed concerns with the concurrent jurisdiction and other provisions contained in New Section 10. The Chair stated that the Committee will continue the discussion and offer recommendations on New Section 10 at the next meeting.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 519-S Statehouse, at 11:20 a.m. on April 9, 1997.

The Chair announced that the House Federal and State Affairs Committee will meet on first adjournment tomorrow to hear SCR 1612 which relates to SB 140. The Chair stated that the discussion on SB 140 will be continued on Thursday if time permits.

The Chair adjourned the meeting at 5:15 p.m.

The next meeting is scheduled for April 11, 1997.

HOUSE JUDICIARY COMMITTEE GUEST LIST

DATE: 4-9-97

NAME	REPRESENTING
John Gaslinger	SRS
Ron Sicks	DHR
Paul Johnson	PACK
Callie Jill Denton	K. Peterson's Assoc.
Bill Laves	KDHR
Mary Kay Freed	student - Baker Univ.
Emil Freed	student
David DeBraham	Attorney General
Kathy Taylor	KBA
Matt Gortland	HCBA
Rehile Chronister	SRS
Jamie Corkhill	SRS (CSE)
DC Shivel	Kansas Legal Services
Kyle Smith	KBI



KANSAS DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

915 SW HARRISON STREET, TOPEKA, KANSAS 66612

ROCHELLE CHRONISTER, SECRETARY

April 8, 1997

Child Support Enforcement Program
P.O. Box 497
300 SW Oakley Street
Topeka, KS 66601-0497
(913) 296-7209

The Honorable Tim Carmody
Chairman, House Judiciary Committee
State House, Room 115-S
Topeka, KS 66612

COPY

RE: Senate Bill 140
Child Support Enforcement

Dear Representative Carmody:

Secretary Chronister asked me to share the attached statistical information with you and members of the Judiciary committee. It provides regional information about the number of support orders being enforced by the CSE Program and how they are distributed among public assistance (AFDC, AFDC Arrears, AFDC-FC [foster care], and GA-FC) and non public assistance (Non-AFDC) categories. Please note that the figures do not include cases needing a support order established.

Representative Garner asked for a summary of the SRS administrative appeals process. The information may be of interest to other members of the committee as well, so I have attached copies to this letter.

Sincerely,

A handwritten signature in cursive script that reads "Jamie L. Corkhill".

Jamie L. Corkhill
Attorney at Law

JLC

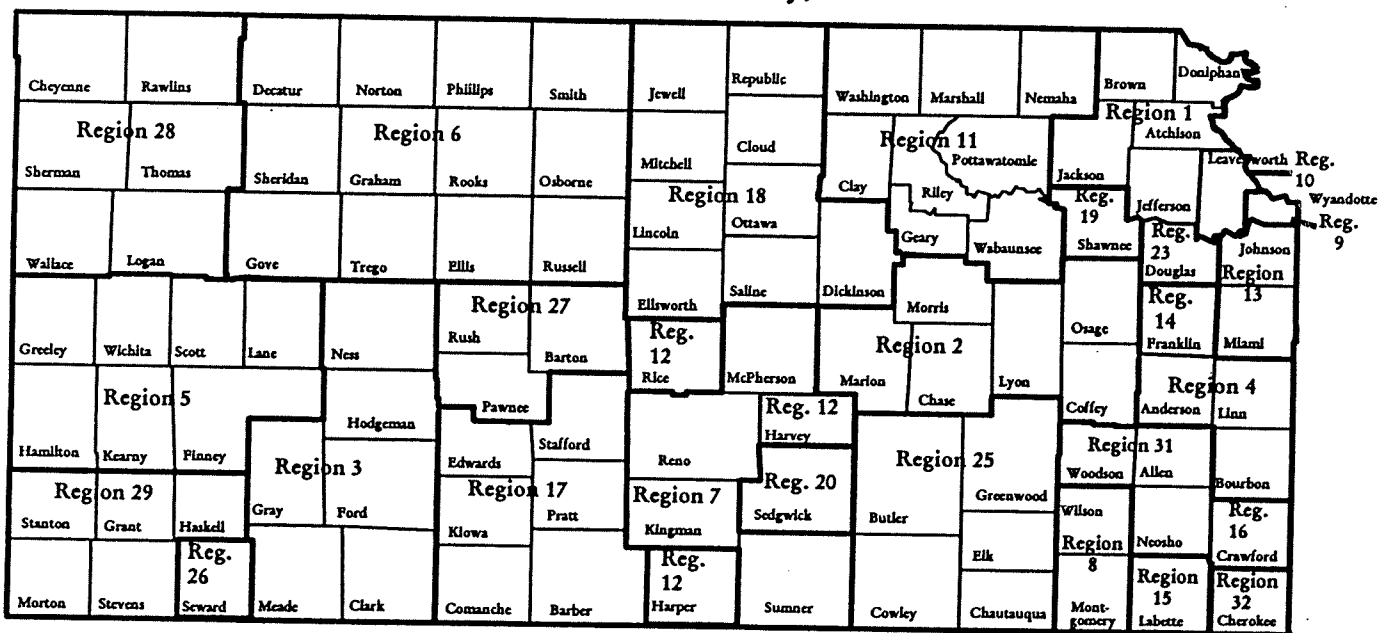
JLC Letters1 CARMOD08 047

Attachments

cc: Members of the House Judiciary Committee

House Judiciary
Attach 1
4-9-97

Child Support Enforcement Court Ordered Cases Open by Region for the Month of February, 1997



REGION NUMBER	REGION NAME	AFDC	AFDC ARREARS	AFDC-FC	GA-FC	NON-AFDC	TOTAL
Region 1	Atchison	340	676	114	73		2,529
Region 2	Council Grove	282	390	43	156	1,326	1,984
Region 3	Dodge City	67	237	33	47	1,113	1,159
Region 4	Fort Scott	160	322	28	18	775	1,145
Region 5	Garden City	129	275	72	153	619	1,550
Region 6	Hays	203	241	105	169	921	1,863
Region 7	Hutchinson	442	506	131	219	1,145	1,863
Region 8	Independence	378	493	59	70	1,750	3,048
Region 9	Kansas City	2,169	2,896	250	259	1,458	2,458
Region 10	Leavenworth	253	613	49	74	4,895	10,469
Region 11	Manhattan	548	1,068	131	234	1,006	1,995
Region 12	Newton	192	348	133	168	2,763	4,734
Region 13	Olathe	481	1,089	97	319	1,093	1,934
Region 14	Ottawa	128	170	41	49	4,471	6,457
Region 15	Parsons	182	448	27	28	340	726
Region 16	Pittsburg	196	363	85	66	1,021	1,706
Region 17	Pratt	114	87	37	35	842	1,552
Region 18	Salina	346	575	133	215	481	754
Region 19	Topeka	966	1,330	232	507	2,535	3,804
Region 20	Wichita	2,701	2,218	386	950	5,002	8,037
Region 23	Lawrence	246	376	107	62	9,001	15,256
Region 25	El Dorado	311	415	0	2	552	1,343
Region 26	Liberal	75	183	18	40	1,438	2,166
Region 27	Great Bend	152	284	59	67	518	834
Region 28	Goodland	58	135	0	0	642	1,184
Region 29	Ulysses	40	35	2	4	375	568
Region 31	Iola	180	222	92	78	266	347
Region 32	Columbus	148	20	24	24	667	1,239
STATEWIDE TOTAL		11,485	15,995	2,486	4,086	47,078	81,130

Prepared by: SAS Data and Reports
Source: Ralph Malone, Child Support Enforcement

02/25/97

1-2



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AND REHABILITATION SERVICES

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ROCHELLE CHRONISTER, SECRETARY

April 8, 1997

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P.O. Box 497
300 SW Oakley Street
Topeka, KS 66601-0497
(913) 296-7209

The Honorable Jim Garner
State House
Topeka, KS 66612

COPY

RE: Senate Bill 140
Child Support Enforcement

Dear Representative Garner:

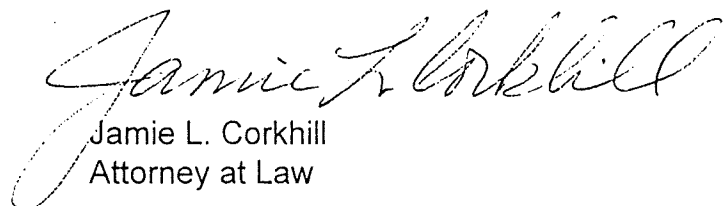
Enclosed please find the information you requested about SRS administrative appeals.

The first attachment, an outline of the basic rules, comes from the back of the appeal request form presently used by anyone who is not an assistance recipient, such as a service provider. The current forms are not quite suited to CSE appeals -- Carol Foreman, the Chief of SRS' Appeals Section, and I agree that specialized forms will be needed. For instance, the form needs to reflect that the location of the hearing will be the local SRS office rather than the state offices in Topeka.

The second attachment shows the sequence of events for an appeal that winds up in district court.

I am sending this material to the entire Judiciary Committee, as others may also find it helpful. If anything further is needed, please just let me know.

Sincerely,


Jamie L. Corkhill
Attorney at Law

BASIC RULES AND REGULATIONS
RELATING TO APPEALS AND FAIR HEARINGS

AH-1107
Rev. 7-90

1. K.S.A. 75-3306, as amended, provides that "The secretary . . . shall provide a fair hearing for any person . . . who appeals from the decision or final action of any agent or employee of the secretary. The hearing shall be conducted in accordance with the Kansas Administrative Procedure Act.

2. The dissatisfied party may request a fair hearing on forms prescribed for that purpose which may be obtained at all local S.R.S. offices. This form filled out and signed must be returned to the agency. The agency will forward a copy to Administrative Hearings Section. This dissatisfied person shall then be called an appellant and the party whose decision is appealed shall be called the respondent.

3. On receipt of such appeal, the Administrative Hearings Section shall arrange for a fair hearing within a reasonable length of time in the state offices in Topeka, Kansas.

4. Written notice of the time and place of the hearing shall be given by Administrative Hearings Section to the appellant and to the respondent. Such notice shall be given in sufficient time to permit the appellant and the respondent to appear in person or by representative, or both, and be heard.

5. The appellant may have a representative of his/her own choice and witnesses and produce documentary evidence relating to his/her appeal. the hearing shall be attended only by persons directly connected with the issues involved or those designated by the appellant and the respondent.

6. The hearing shall be conducted informally by the Hearing Officer and may be continued from time to time to permit all evidence to be introduced by the appellant and the respondent and allow ample time for a full discussion by both.

7. A complete recording shall be made of the hearing, and this recording shall be reduced to a transcript if requested for good cause shown by any of the parties to the hearing. The record for the hearing shall include all evidence given and documents submitted by the appellant and the respondent which shall be considered by the Hearing Officer in making a decision on the issues of the appeal. The cost of preparing the transcript will be charged to the individual or entity requesting the transcript.

8. A copy of the decision of the Hearing Officer shall be mailed to the appellant, the respondent, and to the local S.R.S. Office if it is to have a part in the implementation of the decision.

SRS Administrative Appeal Outline

"Appellant" means the person dissatisfied with an agency action (CSE order or CSE notice).

"Agency" means the local CSE representative assigned to the case.

1	Dissatisfied person contacts the local CSE Unit identified in the order or notice. If the concern is not resolved immediately to the person's satisfaction, a request for fair hearing must be provided to the person.
2	Appellant returns completed request for fair hearing to the agency. The agency's action is stayed (put on hold), if the applicable law so provides and any pre-requisites are met.
3	Agency forwards the request form to SRS Appeals Section in Topeka, along with a summary of the relevant agency action.
4	Appeals Section docket the appeal , assigns a hearing date, and sends notice to the appellant and the agency.
5	Opportunity for pre-hearing discovery, briefs, and motions for both appellant and agency. All are optional. The appellant may be represented by an attorney, but not required. Unless the appellant has an attorney or the case is unusually complex, the agency will rely upon non-attorney caseworker. At any point, the appellant and the agency may settle the case by agreement; appeals must be withdrawn in writing by the appellant.
6	Hearing before an attorney-hearing officer. Telephone conference hearings are encouraged, but only with the appellant's consent. Both sides may present witnesses, documents, and physical evidence; both sides are allowed to cross-examine and object to evidence. Hearings are informal, but orderly. The rules of evidence are less strict than for court hearings. Hearings may be continued in the hearing officer's discretion. Even if the appellant fails to appear, the agency presents evidence supporting the agency action.
7	Decision of the hearing officer issued; copies go to both the agency and the appellant. Either side may request rehearing to correct any perceived error, or may request review by SRS State Appeals Committee. If further review is not requested in the time allowed, both the agency and the appellant are bound by the decision.

8	[Optional] If review by State Appeals Committee is requested, a 3-member panel is appointed by Secretary of SRS; CSE personnel cannot serve. Either side may send a brief or written statement to State Appeals Committee. The review is based on the record of the hearing, not a <i>de novo</i> hearing.
9	If case is reviewed by the State Appeals Committee, a decision by the State Appeals Committee is issued reversing the hearing officer (in whole or in part), upholding the decision (in whole or in part), or sending the case back to the hearing officer for further evidence and hearing.
10	[If the case is <u>not</u> sent back to the hearing officer for further hearing] If the appellant is not satisfied with the decision of the State Appeals Committee, the appellant may file a petition for review by the district court. NOTE: The agency <i>cannot</i> appeal the decision of the State Appeals Committee to district court, even if the local office or the CSE Program disagrees with the result or the reasoning.

C:\OFFICE\WP\WINUAMIE\LEGISLATION\1997\BIG-BILL\APPEAL08.047
Printed: April 8, 1997

4/9/97

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.

sections 4, 5, 16 and 22

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.

or any other provision of law

(c) The provisions of this section shall be in addition to any other prohibition against further disclosure, remedy or sanction provided by law.

8-1

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 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 (NLETS) 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.~~

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 ser-
 19 vices.

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.~~

Upon written request,
 be eligible to receive
 information leading to the location of
 an individual if the information is
 contained within
 delete

delete
 (c)

Any

(d)

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.

The provisions of this subsection shall not apply to information of the department of revenue.

(e) Notwithstanding any prohibition to the contrary which may apply to information of the department of revenue

in this state

for purposes of this section.