

Approved: 5/12/97  
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Tim Carmody at 9:00 a.m. on April 25, 1997 in Room 313-S of the Capitol.

All members were present except: Representative Howell (excused)  
Representative Kline (excused)  
Representative Wilk (excused)  
Representative Shultz (excused)

Committee staff present:

Mike Heim, Legislative Research Department  
Jill Wolters, Revisor of Statutes  
Jan Brasher, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

The Chair called the meeting to order at 9:20 a.m.

The Chair discussed the procedure for Committee action on SB 140.

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

Discussion began on the New Hires Directory in Section 1. A representative from the Department of Human Resources spoke from the audience and related that the current DHR reporting system does not pick up all employees. The conferee discussed the cost of modifying the current system.

A motion was made by Representative Presta and seconded by Representative Mayans to delete the New Hires provision in the bill.

The Committee discussed issues relating to the New Hires directory and the necessity of such a directory.

Representative Presta closed on his motion.

The motion fails with a tie vote.

Representative Carmody made a motion, seconded by Representative Gilmore to amend New Section 1 of SB 140 by designating the current DHR system as the New Hires directory required by federal law.

Representative Carmody stated that his motion would take the system currently used in this state and add addresses to the information requested from employers. Representative Carmody stated, referring to a handout (House Judiciary Committee Suggested Amendments to SB 140 as of April 11, 1997) that his motion would adopt the language in (a), delete (b), adopt the balloon change (c), adopt balloon change (d), delete (e) and keep (h). (Attachment 1)

Committee members discussed the motion. Representative Carmody closed on his motion.

The motion to amend New Section 1 carries with a vote of 11 in yeas and 3 nays.

Representative Presta made a motion, seconded by Representative Powell, to amend Section (a) (as adopted by the Committee) to insert the word "new" before employee's address.

Representative Presta stated that the purpose of his motion is to require that employees' addresses only be required at the initial report on that person as a new employee.

The motion to amend to insert "new" carries with a vote of 10 yeas, and 3 nays.

Representative Pauls made a motion, seconded by Representative Ruff to provide an option for employers to use the W-4 form or an equivalent form as designated by the Secretary of SRS. The motion fails with a tie vote of 8 to 8.

Representative Presta made a motion, seconded by Representative Dahl to direct the Department of Human Resources to make the new employee's address requirement effective on or before January 1, 1998 and to

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 9:00 a.m. on April 25, 1997.

sunset Section 1 of the bill (New Hires Directory) December 31, 1998.

The Committee members discussed issues concerning the motion.

The motion fails with a vote of 6 yeas, to 8 nays.

A motion was made by Representative Pauls and seconded by Representative Ruff to have New Section 1 as amended go into effect on September 31, 1997 for reporting purposes. The motion fails with a tie vote of 8 to 8.

The Revisor summarized the changes to Section 1 of SB 140.

The Chair referred to the balloon (House Judiciary Committee Suggested Amendments to SB 140 as of April 11, 1997) and stated that the Revisor had summarized the changes discussed during Committee hearings on this bill.

The Chair opened discussion on Section 2 of the bill.

A motion was made by Representative Garner and seconded by Representative Presta to delete New Section 2 of SB 140. The motion carries.

The Chair opened discussion on Section 3 of SB 140 concerning court enforcement proceedings.

A motion was made by Representative Carmody and seconded by Representative Dahl to adopt the balloon language for Section 3 of SB 140. The motion carries.

Representative Mays made a motion to remove reference to child support on page 3, lines 27 and 28 thus making subpoenas and warrants for every offense come under the sanctions of this Section. Representative Presta seconded the motion. The motion fails with a vote of 6 yeas to 8 nays.

The Chair stated that Section 4 was the information sharing section and that the intent of the balloon is to require more specificity in court warrants. The Chair stated that the balloon language maintains confidentially safeguards, but that much of the language was deleted.

A motion was made by Representative Carmody, seconded by Representative Dahl to adopt the balloon language for Section 4. The motion carries.

Representative Mays made a motion, seconded by Representative Carmody to conceptually amend the adopted balloon language for Section 4 to state that the reference to a court means a Kansas court. The motion carries.

The Committee members discussed New Section 5.

Representative Presta made a motion, seconded by Representative Swenson to delete New Section 5. The motion carries with a vote of 8 yeas and 4 nays.

The Committee members discussed New Section 6 with Jamie Corkhill, attorney for SRS. Ms Corkhill referred to a handout labeled "April 24th packet of balloons." The conferee stated that proposed language changes for New Section 6 is contained in that packet. Ms Corkhill stated that the proposed balloon language would add an option for agencies to permit use of numbers other than social security numbers. (Attachment 2)

The Chair stated that during Committee discussion it appeared that the general consensus of the Committee was to delete this section.

A motion was made by Representative Garner, seconded by Representative Ruff to amend New Section 6 of the bill so that either a social security number or another designated number as used on the licenses be inserted in New Section 6. The motion fails by a vote of 6 yeas to 8 nays.

Representative Presta made a motion to adopt the House Judiciary balloon which deletes New Section 6 from the bill. The motion was seconded by Representative Powell. The motion carries.

The Chair discussed the contents of the balloon for New Section 7. The Chair stated that this is the process to periodically review the child support amount. The balloon amends the code of civil procedure and puts this as a court function. If more than three years have passed since the last order one would not have to show a

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 9:00 a.m. on April 25, 1997.

material change in circumstances to request a modification. The court would still have to conduct a hearing, and adhere to the guidelines. The Chair stated that this should comply with federal guidelines.

The balloon deletes the language in New Section 7 and replaces it with Section 5 of K.S.A. 1996 Supp. 60-1610 as amended.

A motion was made by Representative Carmody, seconded by Representative Pauls to adopt the balloon language for New Section 7 by deleting New Section 7 of the bill and replacing it with Section 5 of K.S.A. 1996 Supp. 60-1610 as amended. The motion carries.

The Chair discussed New Section 8 and the changes the April 11th balloon will make to this section. The Chair stated that this is a severability clause providing that if any section of the bill is found unconstitutional other sections of the bill still apply.

Representative Carmody made a motion, seconded by Representative Swenson to adopt the April 11 balloon language for New Section 8. The motion carries.

The Chair discussed the April 11 balloon in regard to changes in New Section 9. The Chair noted that lines 15 through 17 were deleted and that language was added on line 42 to say that the courts are the tribunals in Kansas.

A motion was made by Representative Carmody and seconded by Representative Powell to adopt the April 11 balloon language for New Section 9. The motion carries.

A motion was made by Representative Pauls, seconded by Representative Ruff to change the references in subsection (0) of New Section 9 to read "Puerto Rico" and to add "the Virgin Islands" making the language in this section consistent with other sections of the bill. The motion carries.

The Chair discussed two options to consider for New Section 10 as contained in the April 11 balloon.

Representative Carmody made a motion to adopt the April 11 balloon language for New Section 10. The motion was withdrawn.

Representative Carmody made a motion to insert language in option 2 on the April 11 balloon into page 9, subsection (b) line 4 stating that the secretary of SRS may "initiate court action to." The motion was seconded by Representative Powell.

The Committee members discussed with Ms Corkhill ramifications of option 2. Representative Garner discussed advantages of adopting option 1. Representative Powell stated that option 1 would be a more appropriate standard of review.

Representative Carmody withdrew his motion. Representative Powell withdrew his second.

A motion was made by Representative Powell to insert "de novo" into option 1 so as to read, "subject to de novo court review" and to then adopt option 1. Representative Gilmore second the motion. The motion carries.

Representative Carmody made a motion to delete Subsections (c) and (d) in New Section 10 as shown in the April 11 balloon. Representative Presta seconded the motion. The motion carries.

Representative Garner made a motion to include language in New Section 10 requiring that a conspicuous notice be provided concerning remedies to resolve conflict with the secretary's orders. Representative Powell seconded the motion. The motion carries.

The Chair discussed the contents of New Section 11. The Chair stated that New Section 11 is the jurisdictional section. The Chair stated that Committee amendments to New Section 10 have injected the court into the process. The Chair stated that each administrative action has its own rules and ideally match the code of civil procedure and its jurisdictional rules.

A motion was made by Representative Carmody to adopt the April 11 balloon language by striking "but is not limited to" on line 34. Representative Pauls second the motion. The motion carries.

During discussion on New Section 12, Representative Powell expressed concerns that some individuals may unknowingly waive their rights.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 9:00 a.m. on April 25, 1997.

Representative Powell made a motion, second by Representative Gilmore to insert language in New Section 12 that would state for any waiver under this section there is a right to revoke the waiver 20 days after waiver is signed and the person is told to seek an attorney's advise. The motion carries.

The Chair stated that New Section 13 spells out what has to be in each administrative order.

The Committee members discussed New Sections 14.

The Committee members discussed with Ms Corkhill New Section 15. The Chair stated that the Committee amendments have set up a dual track for review. Ms Corkhill referred to a suggested new section included in the April 24th packet of balloons. (Attachment 2)

The Committee members discussed with the Mike Heim, Research Department several options referring to amended New Section 15 and reference to language in amended New Section 10.

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

The Chair reconvened the meeting at 1:10 p.m.

The Chair referred to New Section 16 concerning the subpoena powers. The Chair stated that in subsection (d) the Committee had discussed making reference to the code of civil procedure. The Chair stated that on page 14 the Committee had discussed limiting the scope for inquiry to out financial resources and the location of the obligor. The Committee members discussed with Ms Corkhill Subsection (f). Ms Corkhill referred to the April 24th SRS balloon. The Chair reviewed New Subsection 16 of the balloon.

A motion was made by Representative Carmody to adopt the language of the April 24 SRS balloon on New Section 16, with language referencing the court review procedure. The motion was second by Representative Presta. The motion carries.

The Chair explained that New Section 17 deals with establishing a duty of support and the genetic testing program. The Chair referred to April 24 SRS balloon language on New Section 17.

Representative Carmody made a motion to adopt the language in the April 24 SRS balloon, revised New Section 17. Representative Presta second the motion. The motion carries.

The Chair discussed New Section 18 as being the section for minimum payments on arrearages. The Chair referred to revised New Section 18 on the SRS handout and discussed the proposed changes.

Representative Carmody made a motion to adopt the SRS balloon on revised New Section 18, dropping subparagraph (e). The amendment would include the language on court review. Representative Pauls second the motion. The motion carries.

The Chair stated that New Section 19 is a statement of current law. The Chair referred to page 17, line 12 and stated that the Committee felt more comfortable with substituting the word, "may" for "shall." The Chair discussed the revised New Section 19 with Ms Corkhill.

Representative Carmody made a motion to adopt the SRS revised New Section 19 balloon, dropping subparagraph (e) and renumbering (f) and changing the word on page 17, line 12 from "shall" to "may." Representative Dahl second the motion. The motion carries.

The Chair discussed New Section 20 dealing with the modification of the income withholding order. The Chair stated that the SRS proposed language would clarify that this only applies to withholding orders that have been set through the agency process and have not been appealed. The Chair stated that the dual review process language needs to be inserted in this section.

Representative Carmody made a motion, second by Representative Pauls to adopt the SRS, April 24 balloon language on revised New Section 20. The motion carries.

The Chair stated that New Section 21 deals with the request to stay initiation of an administrative withholding order. The Chair referred to the April 24, SRS balloon and discussed the changes with Ms Corkhill.

A motion was made by Representative Carmody, second by Representative Dahl to adopt the April 24, SRS balloon language with the review procedure (de novo court review). The motion carries.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 9:00 a.m. on April 25, 1997.

The Chair stated that New Section 22 deals with administrative levies against bank accounts. The Chair reviewed the Committee discussion of the previous day. The Chair read the SRS proposed language. In response to the Chair's question regarding set-offs by the bank, Ms Kathy Taylor, Kansas Bankers Association stated that the bank may deem itself unsecured.

Representative Presta suggested either attaching both private and public retirement funds or attaching neither.

Representative Carmody stated that if the employee can withdraw the funds without a change in their employment status that would be subject to this provision.

A motion was made by Representative Carmody, second by Representative Pauls to: adopt the April 24 SRS balloon language, except: strike out on subsection (k), "except to the extent that any provision clearly conflicts with this section;" delete paragraph (g); and add the language for the de novo review process in revised New Section 22. The motion carries.

Representative Presta made a motion to add language of K.S.A. 60-727 in subsection (d) of Section 22 that states that neither the agency or the financial institution would be liable if funds are later proven not to be responsible parent's (obligor's). The motion carries.

A motion was made by Representative Presta, second by Representative Powell to delete lines 16 through 19 on page 20 of the bill so that assets added later would not be attached. The motion carries.

The Chair stated that New Section 22 deals with redirecting support payments and the mechanism to do that. The Chair referred to the SRS April 24 balloon.

A motion was made to adopt the SRS April 24 balloon language and add language providing provisions for a de novo court review. The motion carries.

The Chair stated that the Revisor prepared a handout containing changes in language for New Section 10. The changes include language allowing for remedies and rights of an aggrieved person in response to action by the secretary. The proposed amendment deletes New Section 15 and adopts SRS balloon language for New Sections 16-23 with the addition of allowing the person the option of an administrative hearing or a de novo court review. (Attachment 3)

A motion was made by Representative Powell, second by Representative Gilmore to adopt the Revisor's amendment for New Section 10. The motion carries.

There was Committee discussion on New Section 24 and New Section 25.

The Committee members discussed New Section 26.

A motion was made a motion to strike "Workers Compensation" where it appears on page 23, and add a sentence on line 11 that would say "income for the purposes of child support orders shall also include periodic payments from Workers Compensation.

Representative Garner made a motion, second by Representative Haley to amend Section 26 conceptually to limit the income withholding on periodic Workers Compensation payments to only child support and not spousal maintenance. The motion carries with a vote of 8 in favor and 6 opposing.

The Chair stated that New Section 27 applies to court established orders. The Chair stated that the Committee had discussed deleting lines 43 through line 3 on pages 25 and 26. This refers to the standard form in use by federal department of Health and Human Services (HHS). The Chair stated that HHS has not yet developed a form.

A motion was made by Representative Presta, second by Representative Powell to insert, "a format prescribed by the State's Secretary of SRS" on page 26, line 2 of Section 27. The motion carries.

Representative Pauls made a motion that in Section 26 on page 24, line 9, strike the words, " and amendments thereto" and add the words "as in effect on May 1, 1997." Representative Dahl seconded the motion. The motion carries.

The Chair opened discussion on Section 28.

Representative Presta made a motion, second by Representative Powell to change the word "shall" to "may"

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 9:00 a.m. on April 25, 1997.

on line 1, page 31 and to put a period after the word "withheld and paid over" on line 2 and strike the rest of that sentence talking about the total arrearage in subsection (I). The motion carries.

A motion was made by Representative Presta, second by Representative Powell to strike (2) under subsection (j) on line 18, page 31 referring to employer sanctions for failure to comply. The motion fails with a vote of 4 in favor and 8 opposing.

The Chair opened discussion on Section 29. Representative Presta discussed language concerning the federal income withholding limit.

A motion was made by Representative Carmody, second by Representative Presta to amend Section 29, page 31 at line 26, delete the words, "this act" and add language to cite K.S.A. 60-2310. The motion carries.

Members of the Committee discussed Section 30 concerning procedural safeguards regarding non IV-D cases.

The Chair referred to Sections 31, 32, and 33 for Committee discussion. No changes were recommended.

The Chair opened discussion on Section 34 and referred to an amendment on subsection (a) in Section 34 requested by Betty McBride of the Department of Revenue concerning the method a lien may be perfected when there is an arrearage in child support payment. The Chair stated that the purpose of the amendment is to protect the innocent purchaser who takes title to a car and there is no lien on it. The Revisor noted an error in the amendment, the sentence should read, "--a transfer of title *is not* valid unless the lien has----etc."

A motion was made by Representative Carmody, second by Representative Pauls to adopt the Department of Revenue's amendment to Section 34. The motion carries.

The Committee discussed the limits in Section 34 to personal property.  
The Committee members discussed the need to have a mechanism to prioritize liens.

Representative Carmody made a motion, second by Representative Presta to conceptually amend Section 34 on page 37, lines 41 and 42 to state if the amount of judgment is insufficient to satisfy all liens, the court shall conduct a hearing to determine the amount on each lien to be paid. The motion carries.

A motion was made by Representative Carmody, second by Representative Pauls to delete on line 2, page 37 in Section 34 the word "certificate" and insert the words, "appropriate documentation of title." The motion carries.

The Chair discussed with staff and Committee members the reference to Section 15 which was deleted by a previous motion.

A motion was made by Representative Pauls, second by Representative Carmody to delete lines 24-27 on page 38. The motion carries.

Representative Dahl made a motion, second by Representative Presta to delete the language, "To the extent that attorney fees are -----etc." on lines 17 to 19 on page 38 in Section 34. The motion fails.

The Chair and Committee members discussed Sections 35, 36, 37, 38, 39, 40, and 41. There were no motions offered on those sections.

The Chair opened discussion on Section 42 and stated that there had been a lot of discussion on this section many of the changes involved technical cleanup.

A motion was made by Representative Pauls, second by Representative Ruff to insert on lines 12 and 42 a reference to Article 3 of K.S.A. Chapter 60. The motion carries.

The Chair opened discussion on Section 43. The Chair further discussed the procedure for personal service of a petition.

A motion was made by Representative Pauls, second by Representative Garner to insert on line 5, page 46, Section 43 a reference to Article 3 of K.S.A. Chapter 60. The motion carries.

The Chair stated that there is the same issue in Section 44.

A motion was made by Representative Pauls, second by Representative Carmody to replace the stricken

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 9:00 a.m. on April 25, 1997.

language with a reference to Article 3 of K.S.A. Chapter 60 on line 19, page 46 of Section 44. The motion carries.

The Chair opened discussion on Section 45 and there were no motions offered.

The Chair opened discussion on Section 46.

A motion was made by Representative Presta to change the word "shall" to "may" on line 16, subsection (c), page 47. The motion was seconded by Representative Dahl. The motion carries.

Representative Powell made a motion, second by Representative Presta to delete lines 18 through 22 on page 47 in Section 46 starting with the words, "In a proceeding----etc." The motion carries.

The Chair opened discussion on Sections 47 and 48 and there were no motions offered.

The Chair opened discussion on Section 49.

A motion was made by Representative Carmody, second by Representative Pauls to insert the words, "with that employer" on page 49, line 1 of Section 49 after the word, "employment." The motion carries.

The Chair opened discussion on Section 50.

A motion was made by Representative Carmody, second by Representative Powell to insert "with that employer" at the end of line 11 on page 49 in New Section 50. The motion carries.

The Chair opened discussion on New Sections 51, 52 and 53 with no motions being offered.

The Chair opened discussion on New Section 54.

A motion was made by Representative Pauls, second by Representative Klein to insert language "pursuant to Article 3 of K.S.A. Chapter 60" on line 37 of page 49 in New Section 54. The motion carries.

The Chair stated that the changes in Sections 55 through 58 were technical.

The Chair opened discussion on Section 59.

A motion was made by Representative Carmody, second by Representative Pauls to insert the words, "of this state" on line 4 after the word "tribunal" on page 52 in Section 59. The motion carries.

The Chair opened discussion on New Sections 60, 61, and Sections 62, and 63 to which there were no motions offered.

The Chair opened discussion on Section 64 the life time hunting and fishing sanction section.

The Revisor proposed some technical changes in numbering, the (d) on line 29, page 53 should be (b) and on page 54 on lines 16 and 18 the bracket notations (1) and (2) will be removed.

Representative Pauls made a motion, second by Representative Ruff to insert language on line 43 relating that title IV-D as in effect May 1, 1997 and the Revisor's technical changes. The motion carries.

Discussion on Section 60 regarding prior notice giver to obligor was discussed.

The Chair stated that Section 65 begins the amendments to the Kansas Parentage Act.

The Chair announced that there will be a Committee meeting at 9:00 a.m. to 10:30 a.m. on Wednesday, April 30, 1997 in room 313-S to continue action on this bill.

The Revisor requested a clarification that if this bill passes out could this be a substitute bill? It was the consensus of the Committee that this bill should be a substitute bill.

The Chair adjourned the meeting at 4 p.m.

The next meeting is scheduled for April 30, 1997.

# HOUSE JUDICIARY COMMITTEE GUEST LIST

DATE: 4-25-97

NAME	REPRESENTING
Paul Johnson	PACK
Whitney Jamon	KS Auto Repls. JESN
Roger Aschliman	KMHP
KATRICA HENSHAW	OJA
Jamie Corkhill	SRS-CSE
Matt Goldard	HiBA
ALLAN HERREL	SELF
Janice Des	Governor's Office
Theresa Ann Smith	KMHA
John Gads	SRS
Bryant N. D.	JESUS!
Bruce Zeh	leg
Kathy Taylor	KBA
Reinold Urwinster	SRS
Jeremy Clays	Rep. Pauls
Shirley Sullivan	K. D. of Revenue
Betty McBride	K. D. of Revenue
Andrew Powell	Self
Ann Kingman	KTLA



# HOUSE JUDICIARY COMMITTEE GUEST LIST

DATE: 4-22-97

NAME	REPRESENTING
<del>Virginia H. Thomas</del>	
Lisa Meyer	KS Governmental Consulting

SENATE BILL No. 140

By Committee on Ways and Means

1-29

12 AN ACT concerning child support enforcement; the uniform interstate  
13 family support act; income withholding act; amending K.S.A. 23-4,101,  
14 23-4,106, 23-4,107, 23-4,108, 23-4,109, 23-4,110, 23-4,111, 23-4,129,  
15 23-4,133, 23-4,146, 23-9,101, 23-9,202, 23-9,205, 23-9,206, 23-9,207,  
16 23-9,301, 23-9,304, 23-9,305, 23-9,306, 23-9,307, 23-9,311, 23-9,313,  
17 23-9,401, 23-9,501, 23-9,605, 23-9,606, 23-9,607, 23-9,609, 23-9,610,  
18 23-9,611, 23-9,801, 23-9,902, 32-930, 38-1113, 38-1131, 39-702, 39-  
19 753, 39-758, 39-759, 44-514, 60-2202, 60-2401 and 75-3306 and K.S.A.  
20 1996 Supp. 38-1115, 38-1119, 38-1137, 38-1138, 74-146, 74-147 and  
21 79-3234 and repealing the existing sections.

22  
23 *Be it enacted by the Legislature of the State of Kansas:*

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.

(a) The department of human resources is hereby designated as the agency to collect the new hires information required by the personal responsibility and work opportunity act of 1996. Such information shall be reported on the current employer quarterly report of wages filed pursuant to K.S.A. 44-710, and amendments thereto, which became effective on January 1, 1937. Such information shall include the employee's address. The secretary of human resources shall contract with the secretary of social and rehabilitation services to provide the information needed to be in compliance with the personal responsibility and work opportunity act of 1996.

House Judiciary Committee  
Suggested Amendments to SB 140  
As of April 11, 1997

House Judiciary  
Attachment 1  
4/25/97

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.

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; ~~and~~

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~~

and  
 use in administering

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.

20 New Sec. 2. As provided in K.S.A. 38-1137 and amendments thereto  
21 the secretary of health and environment shall offer voluntary paternity  
22 establishment services pursuant to regulations issued by the federal sec-  
23 retary of health and human services under part IV of title D of the federal  
24 social security act (42 U.S.C. § 651 *et seq.*) and amendments thereto. The  
25 secretary of health and environment may adopt rules and regulations to  
26 ~~carry out the provisions of this section.~~

Renumber remaining sections accordingly.

27 New Sec. 3. (a) If the court in any support enforcement proceeding  
28 finds that ~~there is a warrant or subpoena outstanding with respect to a~~  
29 ~~person who~~ has or may have an occupational, professional or driver's  
30 license, the court may impose such sanctions under this section as the  
31 court deems appropriate until the person has complied with the warrant  
32 or subpoena. As used in this section, "support enforcement proceeding"  
33 means any civil proceeding to:

an obligor has failed to comply with an outstanding  
warrant or subpoena issued by a court of competent  
jurisdiction of this state or any other state and  
such obligor

34 (1) Establish paternity; ~~or~~  
35 (2) establish, modify or enforce the duty to provide child support or  
36 maintenance; ~~or~~

or

37 (3) ~~enforce an administrative order or subpoena issued pursuant to~~  
38 ~~sections 8 through 24 and amendments thereto, as provided in the act~~  
39 ~~for judicial review and civil enforcement of agency actions, K.S.A. 77-601~~  
40 ~~et seq. and amendments thereto~~

41 (b) If the ~~person~~ is or may be authorized to practice a profession by  
42 a licensing body as defined in K.S.A. 1996 Supp. 74-146 and amendments  
thereto, the court may order that a notice pursuant to K.S.A. 1996 Supp.

obligor

4-147 and amendments thereto be served on the licensing body. If the person is or may be a licensed attorney, the court may file a complaint with the disciplinary administrator of the Kansas supreme court or with the appropriate official or agency of any state in which the person may be licensed.

(c) The court may restrict the person's driving privileges as provided in K.S.A. 1996 Supp. 8-292 and amendments thereto.

New Sec. 4. The secretary and any title IV-D agency of another state shall have access to information related to a IV-D case that is in the custody or control of an individual or private entity as follows:

(a) ~~As directed,~~ each party to a paternity or child support proceeding in any case included in the state case registry shall provide, and update as appropriate, information about the location and identity of the party. To the extent such information exists, it shall include but not be limited to the person's full name, social security number, residential and mailing addresses, telephone number, driver's license number and the name, address and telephone number of the person's employer.

(b) ~~Upon request,~~ any employer, including but not limited to for-profit and nonprofit employers, shall promptly provide information on the employment, compensation and benefits of any individual employed by such person or entity as an employee or contractor. ~~If the employer fails to respond adequately, the secretary may issue a subpoena pursuant to section 16 and amendments thereto on the secretary's own behalf or on behalf of a IV-D agency in another state.~~

(c) ~~Notwithstanding any other law to the contrary,~~ any person or entity holding customer records of a public utility or cable television company shall comply with a subpoena for information about an individual consisting of the individual's name, address, employer, or employer's address as reflected in such records.

(d) ~~Notwithstanding any other law to the contrary,~~ a financial institution shall promptly provide information upon request about an individual or the individual's property of liabilities. ~~If the financial institution fails to respond adequately, the secretary may issue a subpoena pursuant to section 16 and amendments thereto on the secretary's own behalf or on behalf of a IV-D agency in another state.~~

(e) ~~Nothing in this section shall be construed as a condition precedent to issuance of a subpoena pursuant to section 16 and amendments thereto or as a limit upon the secretary's access to information under any other provision of law.~~

(f) Confidential information received by the secretary under this section shall be subject to the safeguards of K.S.A. 39-759 and amendments thereto. ~~Information received by the secretary under this section shall be available upon request to persons authorized to receive such information.~~

obligor

obligor's

upon order of the court

1-4

5-1

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

~~(h) For purposes of this section, the secretary may enter into an agreement with any person or entity to establish procedures permitting the secretary and the secretary's designees access to information. Such an agreement shall not be construed to be a contract for the performance of support enforcement services pursuant to K.S.A. 75-5365 and amendments thereto.~~

~~(i) This section shall be part of and supplemental to article 7 of chapter 39 of the Kansas Statutes Annotated.~~

New Sec. 5. (a) Upon request, the secretary shall enter into agreements with financial institutions doing business in this state:

(1) To develop and operate, in coordination with such financial institutions, a data match system, using automated data exchanges to the maximum extent feasible, in which each such financial institution is required to provide for each calendar quarter the name, record address, social security number or other taxpayer identification number and other identifying information for each responsible parent, as identified by the secretary by name and social security number or other taxpayer identification number, who maintains an account at such financial institution and who owes arrearages;

(2) to encumber, restrict transfer of or surrender cash assets of any responsible parent in response to any notice of lien, order to restrict transfer or order to disburse received by the financial institution from the secretary, **subject to any existing liens or any right of setoff that the financial institution may have against such assets;** and

(3) to address any other matters related to the title IV-D program; **and**

**(4) to provide for reasonable compensation, not to exceed actual costs incurred by the financial institution, as agreed by the parties.**

(b) No financial institution that is a party to an agreement under this section shall be liable to any person:

(1) For any disclosure of information made pursuant to the agreement;

(2) for encumbering, restricting transfer of or surrendering any property in response to any notice of lien, order to restrict transfer or order to disburse received pursuant to the agreement; or

(3) for any other action taken in good faith to comply with the agreement.

(c) Agreements entered into pursuant to this section shall not be con-

(f) of the financial institution

1 ued to be contracts for the performance of support enforcement serv-  
 2 pursuant to K.S.A. 75-5365 and amendments thereto. Nothing in  
 3 such an agreement or in this section shall be construed as requiring the  
 4 secretary to implement or modify any automated system *or to enter into*  
 5 *any agreement if the secretary determines that implementing the*  
 6 *agreement would cause the secretary to exceed the secretary's*  
 7 *budget authority, spend more state general funds than appropriated*  
 8 *or reduce or jeopardize federal matching funds or other federal*  
 9 *funds.*

10 (d) As used in this section, the term "responsible parent" shall have  
 11 the meaning given such term in section 9 and amendments thereto.

12 (e) This section shall be part of and supplemental to article 7 of chap-  
 13 ter 39 of the Kansas Statutes Annotated.

14 ~~New Sec. 6. The social security number of any individual applicant~~  
 15 ~~for a professional license, occupational license or marriage license shall~~  
 16 ~~be recorded, if available, on the application for such license. As used in~~  
 17 ~~this section, "on the application" includes but is not limited to any docu-~~  
 18 ~~ment attached or supplemental to an application or any optically, elec-~~  
 19 ~~tronically or magnetically recorded data related to an individual applica-~~  
 20 ~~tion.~~

21 ~~New Sec. 7. (a) The secretary shall determine periodically whether~~  
 22 ~~a motion should be filed to modify the current support order, if any, in~~  
 23 ~~a title IV-D case. Nothing in this section shall be construed to prevent~~  
 24 ~~the secretary from determining at any time that a motion to modify cur-~~  
 25 ~~rent support should be filed.~~

26 (b) As used in this section, "periodically" means once every three  
 27 years, upon receipt of a request for modification that meets the criteria  
 28 of title IV-D.

29 (c) In any proceeding to modify the current support order in a IV-D  
 30 case, the person requesting modification may request that the court con-  
 31 conclusively presume that a substantial change of circumstances has occurred  
 32 because the determination to file the motion to modify was made within  
 33 the 3-year cycle provided in subsection (a). The court shall conclusively  
 34 presume a substantial change of circumstances has occurred unless cur-  
 35 rent support was established or modified within the 30 months before  
 36 the motion to modify was filed. Unless the court is required by this section  
 37 to conclusively presume a substantial change of circumstances has oc-  
 38 curred, the person requesting modification of current support shall have  
 39 the burden of showing that a substantial change of circumstances has  
 40 occurred.

41 (d) This section shall be part of and supplemental to article 7 of chap-  
 42 ~~ter 39 of the Kansas Statutes Annotated.~~

43 ~~Sec. 8. (a) If any provision of sections 8 through 24 and amend~~

Replace New Sec. 7 with attached Sec. 5.  
 K.S.A. 1996 Supp. 60-1610, as amended.  
 Renumber remaining sections accordingly.

Sec. 5. K.S.A. 1996 Supp. 60-1610 is hereby amended to read as follows: 60-1610. A decree in an action under this article may include orders on the following matters:

(a) Minor children. (1) Child support and education. The court shall make provisions for the support and education of the minor children. The court may modify or change any prior order, including any order issued in a title IV-D case, within three years of the date of the original order or a modification order, when a material change in circumstances is shown, irrespective of the present domicile of the child or the parents. If more than three years has passed since the date of the original order or modification order, a material change in circumstance need not be shown. The court may make a modification of child support retroactive to a date at least one month after the date that the motion to modify was filed with the court. Any increase in support ordered effective prior to the date the court's judgment is filed shall not become a lien on real property pursuant to K.S.A. 60-2202 and amendments thereto. Regardless of the type of custodial arrangement ordered by the court, the court may order the child support and education expenses to be paid by either or both parents for any child less than 18 years of age, at which age the support shall terminate unless: (A) The parent or parents agree, by written agreement approved by the court, to pay support beyond the time the child reaches 18 years of age; (B) the child reaches 18 years of age before completing the child's high school education in which case the support shall not terminate automatically, unless otherwise ordered by the court, until June 30 of the school year during which the child became 18 years of age if the child is still attending high school, or (C) the child is still a bona fide high school student after June 30 of the school year during which the child became 18 years of age, in which case the court, on motion, may order support to continue through the school year during which the child becomes 19 years of age so long as the child is a bona fide high school student and the parents jointly participated or knowingly acquiesced in the decision which delayed the child's completion of high school. The court, in extending support pursuant to subsection (a)(1)(C), may impose such conditions as are appropriate and shall set the child support utilizing the guideline table category for 16-year through 18-year old children. Provision for payment of support and educational expenses of a child after reaching 18 years of age if still attending high school shall apply to any child subject to the jurisdiction of the court, including those whose support was ordered prior to July 1, 1992. If an agreement approved by the court prior to July 1, 1988, provides for termination of support before the date provided by subsection (a)(1)(B), the court may review and modify such agreement, and any order based on such agreement, to extend the date for termination of support to the date provided by subsection (a)(1)(B). If an agreement approved by the court prior to July 1, 1992, provides for termination of support before the date provided by subsection (a)(1)(C), the court may review and modify such agreement, and any order based on such agreement, to extend the date for termination of support to the date provided by subsection (a)(1)(C). For purposes of this section, "bona fide high school student" means a student who is enrolled in full accordance with the policy of the accredited high school in which the student is pursuing a high school diploma or a graduate equivalency diploma (GED). In determining the amount to be paid for child support, the court shall consider all relevant factors, without regard to marital misconduct, including the financial resources and needs of both parents, the financial resources and needs of the child and the physical and emotional condition of the child. Until a child reaches 18 years of age, the court may set apart any portion of property of either the husband or wife, or both, that seems necessary and proper for the support of the child. Every order requiring payment of child support under this section shall require that the support be paid through the clerk of the district court or the court trustee except for good cause shown.

(2) Child custody and residency. (A) Changes in custody. Subject to the provisions of the uniform child custody jurisdiction act (K.S.A. 38-1301 et seq., and amendments thereto), the court may change or modify any prior order of custody when a material change of circumstances is shown.

(B) Examination of parties. The court may order physical or mental examinations of the parties if requested pursuant to K.S.A. 60-235 and amendments thereto.

(3) Child custody or residency criteria. The court shall determine custody or residency of a child in accordance with the best interests of the child.

(A) If the parties have a written agreement concerning the custody or residency of their minor child, it is presumed that the agreement is in the best interests of the child. This presumption may be overcome and the court may make a different order if the court makes specific findings of fact stating why the agreement is not in the best interests of the child.

(B) In determining the issue of custody or residency of a child, the court shall consider all relevant factors, including but not limited to:

(i) The length of time that the child has been under the actual care and control of any person other than a



ant and the circumstances relating thereto;

- (ii) the desires of the child's parents as to custody or residency;
- (iii) the desires of the child as to the child's custody or residency;
- (iv) the interaction and interrelationship of the child with parents, siblings and any other person who may significantly affect the child's best interests;
- (v) the child's adjustment to the child's home, school and community;
- (vi) the willingness and ability of each parent to respect and appreciate the bond between the child and the other parent and to allow for a continuing relationship between the child and the other parent; and
- (vii) evidence of spousal abuse.

Neither parent shall be considered to have a vested interest in the custody or residency of any child as against the other parent, regardless of the age of the child, and there shall be no presumption that it is in the best interests of any infant or young child to give custody or residency to the mother.

(4) Types of custodial arrangements. Subject to the provisions of this article, the court may make any order relating to custodial arrangements which is in the best interests of the child. The order shall include, but not be limited to, one of the following, in the order of preference:

(A) Joint custody. The court may place the custody of a child with both parties on a shared or joint-custody basis. In that event, the parties shall have equal rights to make decisions in the best interests of the child under their custody. When a child is placed in the joint custody of the child's parents, the court may further determine that the residency of the child shall be divided either in an equal manner with regard to time of residency or on the basis of a primary residency arrangement for the child. The court, in its discretion, may require the parents to submit a plan for implementation of a joint custody order upon finding that both parents are suitable parents or the parents, acting individually or in concert, may submit a custody implementation plan to the court prior to issuance of a custody decree. If the court does not order joint custody, it shall include in the record the specific findings of fact upon which the order for custody other than joint custody is based.

(B) Sole custody. The court may place the custody of a child with one parent, and the other parent shall be the noncustodial parent. The custodial parent shall have the right to make decisions in the best interests of the child, subject to the visitation rights of the noncustodial parent.

(C) Divided custody. In an exceptional case, the court may divide the custody of two or more children between the parties.

(D) Nonparental custody. If during the proceedings the court determines that there is probable cause to believe that: (i) The child is a child in need of care as defined by subsections (a)(1), (2) or (3) of K.S.A. 38-1502 and amendments thereto; (ii) neither parent is fit to have custody; or (iii) the child is currently residing with such child's grandparent, grandparents, aunt or uncle and such relative has had actual physical custody of such child for a significant length of time, the court may award temporary custody of the child to such relative, another person or agency if the court finds the award of custody to such relative, another person or agency is in the best interests of the child. In making such a custody order, the court shall give preference, to the extent that the court finds it is in the best interests of the child, first to awarding such custody to a relative of the child by blood, marriage or adoption and second to awarding such custody to another person with whom the child has close emotional ties. The court may make temporary orders for care, support, education and visitation that it considers appropriate. Temporary custody orders are to be entered in lieu of temporary orders provided for in K.S.A. 38-1542 and 38-1543, and amendments thereto, and shall remain in effect until there is a final determination under the Kansas code for care of children. An award of temporary custody under this paragraph shall not terminate parental rights nor give the court the authority to consent to the adoption of the child. When the court enters orders awarding temporary custody of the child to an agency or a person other than the parent but not a relative as described in subpart (iii), the court shall refer a transcript of the proceedings to the county or district attorney. The county or district attorney shall file a petition as provided in K.S.A. 38-1531 and amendments thereto and may request termination of parental rights pursuant to K.S.A. 38-1581 and amendments thereto. The costs of the proceedings shall be paid from the general fund of the county. When a final determination is made that the child is not a child in need of care, the county or district attorney shall notify the court in writing and the court, after a hearing, shall enter appropriate custody orders pursuant to this section. If the same judge presides over both proceedings, the notice is not required. Any disposition pursuant to the Kansas code for care of children shall be binding and shall supersede any order under this section. When the court enters orders awarding temporary custody of the child to a relative as described in subpart (iii), the court shall annually review the temporary custody to evaluate whether such custody is still in the best interests of the child. If the court finds such custody is in the best

rests of the child, such custody shall continue. If the court finds such custody is not in the best interests of the child, the court shall determine the custody pursuant to this section.

(b) Financial matters. (1) Division of property. The decree shall divide the real and personal property of the parties, including any retirement and pension plans, whether owned by either spouse prior to marriage, acquired by either spouse in the spouse's own right after marriage or acquired by the spouses' joint efforts, by: (A) a division of the property in kind; (B) awarding the property or part of the property to one of the spouses and requiring the other to pay a just and proper sum; or (C) ordering a sale of the property, under conditions prescribed by the court, and dividing the proceeds of the sale. Upon request, the trial court shall set a valuation date to be used for all assets at trial, which may be the date of separation, filing or trial as the facts and circumstances of the case may dictate. The trial court may consider evidence regarding changes in value of various assets before and after the valuation date in making the division of property. In dividing defined-contribution types of retirement and pension plans, the court shall allocate profits and losses on the nonparticipant's portion until date of distribution to that nonparticipant. In making the division of property the court shall consider the age of the parties; the duration of the marriage; the property owned by the parties; their present and future earning capacities; the time, source and manner of acquisition of property; family ties and obligations; the allowance of maintenance or lack thereof; dissipation of assets; the tax consequences of the property division upon the respective economic circumstances of the parties; and such other factors as the court considers necessary to make a just and reasonable division of property. The decree shall provide for any changes in beneficiary designation on: (A) Any insurance or annuity policy that is owned by the parties, or in the case of group life insurance policies, under which either of the parties is a covered person; (B) any trust instrument under which one party is the grantor or holds a power of appointment over part or all of the trust assets, that may be exercised in favor of either party; or (C) any transfer on death or payable on death account under which one or both of the parties are owners or beneficiaries. Nothing in this section shall relieve the parties of the obligation to effectuate any change in beneficiary designation by the filing of such change with the insurer or issuer in accordance with the terms of such policy.

(2) Maintenance. The decree may award to either party an allowance for future support denominated as maintenance, in an amount the court finds to be fair, just and equitable under all of the circumstances. The decree may make the future payments modifiable or terminable under circumstances prescribed in the decree. The court may make a modification of maintenance retroactive to a date at least one month after the date that the motion to modify was filed with the court. In any event, the court may not award maintenance for a period of time in excess of 121 months. If the original court decree reserves the power of the court to hear subsequent motions for reinstatement of maintenance and such a motion is filed prior to the expiration of the stated period of time for maintenance payments, the court shall have jurisdiction to hear a motion by the recipient of the maintenance to reinstate the maintenance payments. Upon motion and hearing, the court may reinstate the payments in whole or in part for a period of time, conditioned upon any modifying or terminating circumstances prescribed by the court, but the reinstatement shall be limited to a period of time not exceeding 121 months. The recipient may file subsequent motions for reinstatement of maintenance prior to the expiration of subsequent periods of time for maintenance payments to be made, but no single period of reinstatement ordered by the court may exceed 121 months. Maintenance may be in a lump sum, in periodic payments, on a percentage of earnings or on any other basis. At any time, on a hearing with reasonable notice to the party affected, the court may modify the amounts or other conditions for the payment of any portion of the maintenance originally awarded that has not already become due, but no modification shall be made without the consent of the party liable for the maintenance, if it has the effect of increasing or accelerating the liability for the unpaid maintenance beyond what was prescribed in the original decree. Every order requiring payment of maintenance under this section shall require that the maintenance be paid through the clerk of the district court or the court trustee except for good cause shown.

(3) Separation agreement. If the parties have entered into a separation agreement which the court finds to be valid, just and equitable, the agreement shall be incorporated in the decree. The provisions of the agreement on all matters settled by it shall be confirmed in the decree except that any provisions for the custody, support or education of the minor children shall be subject to the control of the court in accordance with all other provisions of this article. Matters settled by an agreement incorporated in the decree, other than matters pertaining to the custody, support or education of the minor children, shall not be subject to subsequent modification by the court except: (A) As prescribed by the agreement or (B) as subsequently consented to by the parties.

(4) Costs and fees. Costs and attorney fees may be awarded to either party as justice and equity require. The

It may order that the amount be paid directly to the attorney, who may enforce the order in the attorney's name in the same case.

(c) Miscellaneous matters. (1) Restoration of name. Upon the request of a spouse, the court shall order the restoration of that spouse's maiden or former name.

(2) Effective date as to remarriage. Any marriage contracted by a party, within or outside this state, with any other person before a judgment of divorce becomes final shall be voidable until the decree of divorce becomes final. An agreement which waives the right of appeal from the granting of the divorce and which is incorporated into the decree or signed by the parties and filed in the case shall be effective to shorten the period of time during which the remarriage is voidable.

1-1

~~ments thereto or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect any other provision or application which can be given effect without the invalid provision or application, and to this end the provisions of sections 8 through 24 and amendments thereto are severable.~~

~~(b)~~ Nothing in sections 8 through 24 and amendments thereto shall be construed as a waiver by the state of Kansas of immunity from suit under the 11th amendment to the constitution of the United States or as allowing any jurisdiction outside this state to impose sanctions or penalties against the state of Kansas, any agency or instrumentality thereof, its officers or employees.

(a)

~~(e)~~ Sections 8 through 24 and amendments thereto shall be part of and supplemental to article 7 of chapter 39 of the Kansas Statutes Annotated.

(b)

New Sec. 9. The following definitions shall apply in any IV-D administrative proceeding related to sections 8 through 24 and amendments thereto, except where the context requires otherwise.

Renumber internal sections accordingly.

(a) "Account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account or money-market mutual fund account.

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

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

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

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

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

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

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

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

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

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

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

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

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

(n) "Secretary" means the secretary of social and rehabilitation services or a designee of the secretary.

(o) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes an Indian tribe and includes any jurisdiction declared a foreign reciprocating country by the United States secretary of state and any foreign jurisdiction that has established procedures for issuance and enforcement of child support orders which are substantially similar to the procedures of this state. It shall be presumed that a foreign jurisdiction which is the subject of an unrevoked declaration by the attorney general pursuant to K.S.A. 23-4,101 and amendments thereto is a state as defined in this subsection.

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

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

New Sec. 10. (a) The powers and remedies provided in this section

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

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

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;
- ~~(4) determine the amount of any arrearages;~~

OPTION 1: ", subject to court review, "

OPTION 2: "initiate court action to"

81-1

1-14

~~(5) initiate, modify or enforce an income withholding order for cash 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.

16 New Sec. 11. (a) The secretary shall have jurisdiction over:

17 (1) Any person receiving IV-D services from the secretary;

18 (2) any person within or without this state who may be made subject  
19 to the jurisdiction of the courts of this state for the purpose of determining  
20 the person's duty of support or for establishing or enforcing a support  
21 order;

22 (3) any person without this state who may be made subject to the  
23 jurisdiction of the secretary for IV-D purposes by the laws of the jurisd-  
24 iction in which the person resides or may be found; and

25 (4) any person who may be made subject to the jurisdiction of the  
26 courts of this state because the person is or may be in possession or  
27 control of property of the responsible parent, is or may be indebted to  
28 the responsible parent or is or may be the responsible parent's payor as  
29 defined in the income withholding act and amendments thereto.

30 (b) The jurisdiction of the secretary over any person shall commence  
31 at the time the person is served with an initial notice or order in any  
32 IV-D administrative proceeding or, for a person receiving IV-D services  
33 from the secretary, at the time the secretary's IV-D services begin. "Initial  
34 notice or order" includes ~~but is not limited to~~ a subpoena, an order for  
35 genetic tests, a notice of lien, an income withholding order and an order  
36 to restrict transfer.

37 The secretary's jurisdiction over the responsible parent shall con-  
38 tinue so long as IV-D administrative proceedings are pending or so long  
39 as a duty of support exists, whichever is longer, regardless of the respon-  
40 sible parent's subsequent departure from this state.

41 (c) Except as provided in subsection (d) or as otherwise specifically  
42 required by law, service of any subpoena, notice or order in any IV-D  
administrative proceeding upon any person shall be by regular mail ad-

1-15

2 dressed to the person's last known address. Service by mail is complete  
3 upon mailing. Nothing in this subsection shall prevent the secretary and  
4 any person from agreeing to an alternative method of service, including  
5 but not limited to electronic data transfer. Any person accepting an al-  
6 ternative method of service under this subsection shall not be liable to  
7 any person solely because of the method of service.

8 (d) Service upon the responsible parent of an order for genetic tests  
9 shall be made in any manner permitted for service of summons and pe-  
10 tition by the statutes contained in article 3 of chapter 60 of the Kansas  
11 Statutes Annotated and amendments thereto.

12 (e) If service of any notice or order in a IV-D administrative pro-  
13 ceeding must be made in the manner of a summons and petition, any  
14 person qualified to serve process pursuant to article 3 of chapter 60 of  
15 the Kansas Statutes Annotated and amendments thereto is qualified to  
16 serve the notice or order.

17 (f) Except as otherwise provided in this subsection, substantial com-  
18 pliance with the requirements for any method of service provided by this  
19 section shall effect valid service if, upon review, the hearing officer or  
20 tribunal finds that, notwithstanding some irregularity or omission, the  
21 person served was made aware that an action or proceeding was pending  
22 in which the person's person, status or property could be affected.

23 After commencement of any IV-D administrative proceeding, service  
24 upon the secretary of any notice or document in the same IV-D admin-  
25 istrative proceeding at any address other than the current address pro-  
26 vided by the secretary shall not be effective service upon or notice to the  
27 secretary.

28 New Sec. 12. Except to the extent precluded by another provision  
29 of law, a person may waive any right conferred upon that person with  
30 respect to any IV-D proceeding.

31 New Sec. 13. (a) The provisions of this section shall apply to all or-  
32 ders entered by an authorized agent of the secretary in any IV-D admin-  
33 istrative proceeding under sections 8 through 24 and amendments  
34 thereto.

35 (b) Every administrative order entered shall specify:

- 36 (1) Identifying information about the IV-D case;
- 37 (2) the mailing address of the Kansas office providing IV-D services;
- 38 (3) any finding of fact required by law; and
- 39 (4) when review of the administrative order is available under section  
40 15 and amendments thereto and how to request review.

41 (c) Each administrative order shall be signed and dated by the secre-  
42 tary's authorized agent. The date of entry shall be the date the adminis-  
43 trative order is signed by the secretary's authorized agent. The adminis-  
44 trative order shall be effective as of the date of entry except to the extent



that the order's effectiveness is stayed under section 15 and amendments thereto.

3 (d) A copy of the administrative order shall be served on each person  
 4 required to comply with the administrative order, on the responsible par-  
 5 ent, and on any other person required by law to receive a copy of the  
 6 administrative order.

7 (e) The secretary may correct any technical error arising from over-  
 8 sight or omission or any clerical mistake that is discovered in any admin-  
 9 istrative order. Except as otherwise provided in this section, the amend-  
 10 ment may be made at any time upon the secretary's own initiative or upon  
 11 request of any person and after such notice, if any, that the secretary  
 12 determines appropriate. If a review pursuant to section 15 and amend-  
 13 ments thereto is pending, an amendment under this section may be made  
 14 only with leave of the presiding officer. The amendment shall relate back  
 15 to the date of the original administrative order, except that any person  
 16 who has relied in good faith upon the original administrative order shall  
 17 not be prejudiced by the relation back of any amendment under this  
 18 section. A copy of the amended administrative order shall be served upon  
 19 the same parties as the original administrative order, with a statement  
 20 explaining the change, when review of the amended administrative order  
 21 is available under section 15 and amendments thereto and how to request  
 22 review. For the purpose of determining whether review of the amended  
 23 order is available under section 15 and amendments thereto, the date the  
 24 amended order was served upon the person requesting review shall be  
 25 treated as the date the amended administrative order was entered.

26 New Sec. 14. (a) Subject to subsection (b), an administrative sub-  
 27 poena or order whose effect has not been stayed shall be enforceable  
 28 pursuant to the civil enforcement provisions of the act for judicial review  
 29 and civil enforcement of agency actions, K.S.A. 77-601 *et seq.* and amend-  
 30 ments thereto, from the date of the subpoena's issuance or the order's  
 31 entry.

32 (b) A subpoena issued pursuant to section 16 and amendments  
 33 thereto or an order to restrict transfer or to verify information entered  
 34 pursuant to section 22 and amendments thereto shall not be enforceable  
 35 more than two years after the date of issuance or entry, as shown on the  
 36 face of the subpoena or order.

37 New Sec. 15. (a) Any person entitled to request review of an admin-  
 38 istrative order entered pursuant to sections 8 through 24 and amend-  
 39 ments thereto may request a fair hearing by complying with procedures  
 40 established by the secretary within 10 days after entry of the order. If the  
 41 order or notice of the order is served upon the aggrieved person by mail,  
 42 the time shall be extended by three days.

4 (b) Any person entitled to request review of a subpoena issued pur-

1-16

1-17

3 suant to section 16 and amendments thereto may request a fair hearing  
4 by complying with procedures established by the secretary within seven  
5 days after issuance of the subpoena. If the subpoena is served upon the  
6 aggrieved person by mail, the time shall be extended by three days.

7 (c) Any person entitled to request review of a notice of intent to  
8 initiate income withholding entered pursuant to section 19 and amend-  
9 ments thereto may request a fair hearing by complying with procedures  
10 established by the secretary within seven days after service of the notice.  
11 If the notice is served upon the aggrieved person by mail, the time shall  
12 be extended by three days. A request for review under this subsection  
13 shall be deemed a request that issuance of the income withholding order  
14 be stayed.

15 (d) Any person entitled to request review of any other action taken  
16 by the secretary pursuant to sections 8 through 24 and amendments  
17 thereto may request a fair hearing by complying with procedures estab-  
18 lished by the secretary within 10 days after notice of the action is served.  
19 If the notice is served upon the aggrieved person by mail, the time shall  
20 be extended by three days.

21 (e) At the time review is requested, the aggrieved person may request  
22 that the effect of the administrative order, subpoena or notice be stayed  
23 pending resolution of the review. Except as otherwise provided in this  
24 section, if the request for review is made within the time allowed, the  
25 effect of the administrative order, subpoena or notice shall be stayed until  
26 the review is dismissed or otherwise resolved. If the administrative order,  
27 subpoena or notice includes any provision not directly related to the re-  
28 view, upon request the presiding officer may limit the effect of the stay.

29 (f) The effect of an order to restrict transfer entered pursuant to  
30 section 22 and amendments thereto may be stayed only if the person  
31 requesting the stay posts a cash bond, or other unencumbered security  
32 equal in value to the amount of the attached assets.

, surety bond

33 (g) The effect of an order to change the payee entered pursuant to  
34 section 23 and amendments thereto may be stayed only if the new payee  
35 is a person or entity other than the clerk of court, as defined in section  
36 23 and amendments thereto.

37 (h) Initiation or modification of income withholding may be stayed  
38 only to the extent that the income withholding act or section 21 and  
39 amendments thereto permits income withholding to be stayed.

40 (i) If any order, including but not limited to a proposed income with-  
41 holding order, specifies a periodic amount to defray arrearages, the pre-  
42 siding officer may order the authorized agent to reduce the periodic  
amount to defray arrearages only if the total arrearages owed are less than  
the periodic amount to defray arrearages.

(j) Unless the order is the subject of a pending fair hearing, an ad-

81-1

1 administrative order entered pursuant to sections 8 through 24 and amend-  
 2 ments thereto shall be given res judicata and collateral estoppel effect as  
 3 though it had been entered by a court of this state.

4 (k) All reviews pursuant to this section shall be conducted in accord-  
 5 dance with the Kansas administrative procedure act, K.S.A. 77-501 *et seq.*  
 6 and K.S.A. 77-3306 and amendments thereto.

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.

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.

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.

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,  
 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  
 knowledge of the facts required to be stated in the sworn statement, more

April 24th packet of balloons:

Section Number & Topic	Comments
6 - Social security numbers on applications	Added <i>option</i> for agencies to permit use of other numbers
16 - Administrative subpoenas	Clarifies scope of information & availability of defenses. Incorporates manner of service, admin. appeal procedures, judicial enforcement for noncompliance.
17 - Admin. order for genetic testing	Limited to cases with consent of the alleged father. Incorporates service of the order, admin. appeal procedures, judicial enforcement for noncompliance.
18 - Admin. order for minimum payments to defray arrearages	Incorporates service of order, admin. appeal procedures, judicial enforcement for noncompliance.
19 - Initiation of admin. income withholding order	Incorporates jurisdiction over persons, service of notice. (Admin. appeals procedures are in section 21)
20 - Modification of admin. income withholding order	Clarifies that it applies only to admin. withholding orders. Incorporates notice, admin. appeal procedures.
21 - Request to stay initiation of admin. IWO under sec. 19	Incorporates special provisions previously contained in sec. 15.
22 - Administrative levy against bank accounts	Clarifies exemptions, prior attachments or rights. Incorporates jurisdiction, service of orders, admin. appeal procedures, judicial enforcement for noncompliance.
23 - Admin. order to change payee	Incorporates jurisdiction, service of orders, admin. appeal procedures, judicial enforcement for noncompliance.
76 - Liens on real property	<b>[Attorney General opinion]</b> Adds requirements to insure notice & opportunity for hearing have been provided to obligor.
New Section - Court review of administrative procedures	Immediate access to court for review, as alternative to admin. review. Also, court review of attachment of <b>out-of-state lien</b> to Kansas real estate.

House Judiciary  
Attachment 2  
4/25/97

**(Revised) New Section 6. *The Except as otherwise provided in this section, the social security number of any individual applicant for a professional license, occupational license or marriage license shall be recorded, if available, on the application for such license. As used in this section, "on the application" includes but is not limited to any document attached or supplemental to an application or any optically, electronically or magnetically recorded data related to an individual application. An agency or entity that issues professional or occupational licenses may permit the use of a number other than the social security number on an application, provided that the agency or entity so advises the applicant.***

**(Revised) New Section 16.** (a) In any title IV-D case, the secretary may issue a subpoena pursuant to this section to obtain ~~financial or other~~ information ***about the responsible parent's whereabouts or finances if the information is*** needed to establish, modify or enforce a support order. The subpoena ~~shall be issued by an authorized agent of the secretary and~~ shall require the person to whom it is directed to produce a copy of the records designated in the subpoena or, if applicable, to complete a form furnished pursuant to subsection (c). At least ~~seven~~ ***fourteen*** days shall be allowed for compliance with the subpoena. ***A subpoena issued pursuant to this section shall be subject to defenses which would apply if the subpoena had been issued by a court of this state.***

***(b) A subpoena issued pursuant to this section shall be served in any manner permitted for service of a subpoena to produce records issued pursuant to chapter 60 of the Kansas statutes annotated and amendments thereto.***

(c) The secretary may furnish with the subpoena a form requesting specific information from the records of the person to whom the subpoena is directed. The person may elect to furnish the copy of the designated records or to complete the form in full. If the person completes the form in full and returns it to the secretary's authorized agent by mail or otherwise within the time allowed, it shall be sufficient compliance with the subpoena.

(d) Except as otherwise provided in this subsection or subsection (c), the person to whom a subpoena is directed shall comply with the subpoena by delivering to the

secretary's authorized agent by mail or otherwise a sworn statement and a true and correct copy of the records designated in the subpoena. ~~If the records are not related to a business, the~~ **The** sworn statement shall certify that the copy delivered by the person is a true and correct copy of the records designated in the subpoena. ~~If the records are related to a business, the sworn statement shall state that: (1) The affiant is a duly authorized custodian of the records and has authority to certify records; (2) the copy is a true copy of the records designated in the subpoena; and (3) the records were prepared by the personnel or staff of the business, or persons acting under their control, in the regular course of the business at or about the time of the act, condition or event recorded.~~ When more than one person has custody of the records or has knowledge of the facts required to be stated in the sworn statement, more than one sworn statement may be made.

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

(e) Before the time specified in the subpoena for compliance therewith, the person to whom the subpoena is directed may request **an administrative hearing to review of all or part of the subpoena pursuant to ~~section 15 K.S.A. 75-3306~~ and amendments thereto *by complying with procedures established by the secretary for requesting such a review.*** The person shall comply with any portion of the subpoena for which review is not requested. ***If the subpoena is served by mail, the***

*time for requesting review shall be extended by three days. If the request for review is made within the time allowed, the effect of the subpoena shall be stayed pending resolution of the review. Upon request, the presiding officer may limit the stay to the matters under review.*

~~(f) A person in this state shall comply with a subpoena issued by a title IV-D agency of any other state for the purpose of obtaining financial or other information needed to establish, modify or enforce a support order in a title IV-D case. Upon request of a IV-D agency in another state, the secretary of social and rehabilitation services may enforce such a subpoena as though it had been issued by the secretary of social and rehabilitation services. Except as otherwise provided in this subsection, a subpoena issued pursuant to this section whose effect has not been stayed may be enforced pursuant to the civil enforcement provisions of the act for judicial review and civil enforcement of agency actions, K.S.A. 77-601 et seq. and amendments thereto, after the time for compliance with the subpoena has expired. A subpoena issued pursuant to this section shall not be enforceable more than two years after the date of issuance shown on the face of the subpoena.~~



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

(b) Except as otherwise provided in subsection (d), genetic tests may be ordered by the secretary ~~on the secretary's own initiative or if requested by another title IV-D agency, the alleged father or the mother if the alleged father consents and the necessary persons are available for testing.~~ Except as otherwise provided in subsection (e), the secretary shall pay the costs of genetic tests, subject to recoupment from the father if paternity is established.

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

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

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

*(c) A copy of the order for genetic tests shall be served upon persons required to comply with the order in any manner permitted for service of summons and petition pursuant to article three of chapter 60 of the Kansas statutes annotated and amendments thereto. The order shall specify the time and place the person is required to appear for testing, which shall be at least ten days after the date the order is entered.*

(d) If a presumption of paternity arises pursuant to subsection (a) of K.S.A. 38-1114 and amendments thereto because the mother married or attempted to marry any man, the secretary shall not order genetic testing unless a court of this state or an appropriate tribunal in another state has found that determining the child's biological father is in the child's best interests. If a tribunal subsequently determines that the prohibition of this subsection applied at the time genetic tests were ordered by the secretary, any support order based in whole or in part upon the genetic tests may be set aside only as provided in K.S.A. 60-260 and amendments thereto.

(e) Upon receiving the results of genetic testing, the secretary shall promptly send a copy of the results to the parties, together with notice of the time limits for requesting any additional genetic tests or for challenging the results pursuant to K.S.A. 38-1118 and amendments thereto, how to make such request or challenge, and any associated costs. The notice shall state the consequences pursuant to K.S.A. 38-1118

and amendments thereto of failing to act within the time allowed by the statute. Any additional genetic tests shall be at the expense of the person making the request for additional genetic tests. Failure of the person requesting additional tests to make advance payment as required by the secretary shall be deemed withdrawal of the request.

***(f) Any person required to comply with an order issued pursuant to this section may request an administrative hearing pursuant to K.S.A. 75-3306 and amendments thereto by complying with procedures established by the secretary within ten days after entry of the order. If the order is served on the person by mail, the time for requesting review shall be extended by three days. An order issued pursuant to this section shall be subject to defenses that would apply if the order had been issued by a court of this state. If the request for review is made within the time allowed, the effect of the order shall be stayed with respect to the person requesting review pending resolution of the review.***

***(g) An order issued pursuant to this section whose effect has not been stayed may be enforced pursuant to the civil enforcement provisions of the act for judicial review and civil enforcement of agency actions, K.S.A. 77-601 et seq. and amendments thereto, after the time for compliance with the order has expired.***

**(Revised) New Section 18.** (a) If the responsible parent owes any arrearages, the secretary may serve upon the responsible parent an order for minimum payments to defray the arrearages. The order shall identify the amount of unpaid arrearages and the minimum periodic payment the obligor is required to make to defray the arrearages. The amount specified for the minimum periodic payment shall be in addition to any current support order. The **notice order** shall ~~also~~ state that failure to request review of the stated amount of arrearages may bar any later challenge to the amount. ***The order shall be served on the responsible parent in any manner permitted for service of summons and petition pursuant to article three of chapter 60 of the Kansas statutes annotated and amendments thereto.***

***(b) The secretary shall adopt guidelines for determining minimum payments to defray arrearages that may be ordered pursuant to this section. To the extent that information is known, the following factors shall be considered: the financial condition of the child, custodial parent and responsible parent; the amount of the current support order; the existence of other dependents; and the total of unpaid arrearages.***

***(c) Unless stayed, an order issued pursuant to this section shall be effective 30 days after the date of entry. The responsible parent may request an administrative hearing pursuant to K.S.A. 75-3306 and amendments thereto by complying with procedures established by the secretary within ten days after entry of the order. If the order is served by mail, the time shall be extended by***

**three days.**

***(d) If, after an order issued pursuant to this section becomes effective, the responsible parent fails to make the minimum payments to defray arrearages, the order may be enforced pursuant to the civil enforcement provisions of the act for judicial review and civil enforcement of agency actions, K.S.A. 77-601 et seq. and amendments thereto.***

***(b) (e)*** Nothing in this section shall be construed to prevent the secretary from collecting the full amount of arrearages at any time using any remedy. Nothing in this subsection shall prevent any lien for unpaid support from arising or attaching to property.

**(Revised) New Section 19.** (a) Except as otherwise provided in K.S.A. 23-4,107 *or section 21* and amendments thereto ***and subject to the provisions of subsection (e)***, if no income withholding order is in effect to enforce a support order in a title IV-D case, an income withholding order may be entered by the secretary. A notice of intent to initiate income withholding, as described in K.S.A. 23-4,107 and amendments thereto, shall be served on the responsible parent at least 7 days before the secretary issues the income withholding order. If the amount of arrearages is less than the amount of current support due for one month, the requirements of subsection (d) must be met. The income withholding order shall conform to the requirements of the income withholding act and amendments thereto and shall have the same force and effect as an income withholding order issued by a district court of this state.

(b) If an income withholding order is issued by the secretary to enforce a support order entered by a court of this state, the original document shall be delivered for filing to the clerk of the court that entered the support order. Thereafter, if the secretary is no longer providing title IV-D services in the case, the clerk of the district court shall use the income withholding order issued by the secretary in the same manner as an income withholding order issued by the court.

(c) If an income withholding order is issued by the secretary to enforce a support order entered by a tribunal of another state, the secretary shall transmit a copy of the income withholding order to the tribunal of the other state.

(d) If there are no arrearages or the amount of arrearages under the support

order is less than the amount of current support due for one month, the secretary shall initiate income withholding only if:

- (1) Any arrearages are owed;
- (2) A medical child support order exists;
- (3) The secretary determines that immediate issuance of the income withholding order was required by K.S.A. 23-4,107 and amendments thereto or by a similar law of another state, but no income withholding order was entered;
- (4) The responsible parent consents;
- (5) Required payments have been received after the due date at least twice within the preceding 12 months, regardless of whether any arrearages are owed; or
- (6) The support order was entered by a tribunal of another state.

***(e) An income withholding order may be issued pursuant to this section only if the responsible parent may be made subject to the jurisdiction of the courts of this state for the purpose of enforcing the support order or if the support order was entered by or registered with a court of this state and the responsible parent is subject to the jurisdiction of the court. The jurisdiction of the secretary over the responsible parent for purposes of this section shall commence when the responsible parent is served with a notice of intent to initiate income withholding pursuant to this section and shall continue so long as administrative proceedings under this section are pending or so long as the parent's duty of support exists, whichever is longer, regardless of the***

**responsible parent's subsequent departure from this state.**

**(f) If the support order was entered by or registered with a court of this state, the notice of intent to initiate income withholding shall be served on the responsible parent by first class mail, with service complete upon deposit in the United States mail. In all other cases, the notice of intent to initiate income withholding shall be served upon the responsible parent in any manner permitted for service of summons and petition pursuant to article three of chapter 60 of the Kansas statutes annotated and amendments thereto.**



**(Revised) New Section 20.** (a) At any time after issuing an income withholding order, the secretary shall: (1) Modify or terminate the income withholding order because of a modification or termination of the underlying support order; (2) modify the amount of income withheld to reflect payment in full of the arrearages; (3) modify or terminate the income withholding order to reflect the final order in a fair hearing pursuant to K.S.A. 75-3306 and amendments thereto; or (4) modify, or when appropriate terminate, an income withholding order consisting in whole or in part of a medical withholding order because of a modification or termination of the underlying medical child support order.

(b) In addition to modifications required by subsection (a), at any time the secretary may issue a modified income withholding order: (1) to change the amount to be withheld to defray arrearages, or (2) to conform the terms of a medical withholding order to the requirements of a payor. ***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.***

(c) The secretary shall provide notice of any proposed modification to the responsible parent, ***who by first class mail at least 14 days before entry of the modified income withholding order. The responsible parent may request an administrative hearing pursuant to K.S.A. 75-3306 and amendments thereto for review of the proposed modification by complying with procedures established by the secretary within ten days after service of the notice. If the notice is served by mail, the time for requesting review shall be extended by three days. If the***

***proposed modification increases the total amount to be withheld from the responsible parent's income, entry of the modified income withholding order shall be stayed pending resolution of the review. In all other instances, entry of the proposed modification shall be stayed only for cause.*** The issues *in the administrative hearing* shall be limited to whether the amount of current support is as stated in the proposed modification and whether the total arrearages are less than the proposed installment to defray arrearages.

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

(e) If the income withholding order includes both a medical withholding order and an income withholding order for cash support, modification or termination of one portion of the income withholding order shall not modify or terminate any other portion of the income withholding order except as expressly provided in the order.

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

**New Section 21.** (a) ~~As provided in section 15 and amendments thereto,~~  
~~the~~ *The* responsible parent may request *an administrative hearing pursuant to*  
*K.S.A. 75-3306 and amendments thereto for* review of a notice of intent to initiate  
income withholding served pursuant to section 19 and amendments thereto *by*  
*complying with procedures established by the secretary within seven days after*  
*service of the notice of intent. If the notice is served by mail, the time for*  
*requesting review shall be extended by three days.* The request for review shall  
specify the mistake of fact alleged to be the basis for the stay or any applicable defense  
under this section. If the amount of the current support order or the amount of  
arrearages is challenged, the request shall specify the amount that is uncontested.

(b) The issues on review shall be limited to whether a mistake of fact existed at  
the time the notice to the responsible parent was prepared or, if specified in the request  
for review, whether a defense exists under this section. As used in this section,  
“mistake of fact” means an incorrect statement of the amount of current support due,  
the amount of arrearages, the amount of income to be withheld or the ~~identify~~ *identity*  
of the responsible parent.

(c) Except as otherwise provided in this subsection, ~~upon request~~ the presiding  
officer shall immediately authorize issuance of an income withholding order *upon*  
*request of the secretary* if the identity of the responsible parent is not contested and  
the uncontested facts in the case show that the requirements of subsection (d) of  
section 19 and amendments thereto have been met. If a defense under subsection (g)

has been alleged, the presiding officer shall ~~immediately~~ authorize *immediate* issuance of an income withholding order only if the uncontested arrearages equal or exceed the amount of support due for one month. A copy of the request shall be served on the responsible parent.

(d) The income withholding order authorized by this subsection shall specify an amount sufficient to satisfy the order for current support and to defray any arrearages, but only to the extent that each amount is not contested. Any income withholding order issued pursuant to this subsection shall be effective until modified or terminated.

*(d) Entry of the income withholding order may be stayed only to the extent permitted by the income withholding act and amendments thereto or this section. A request for review under this section shall stay issuance of the administrative income withholding order until further order of the presiding officer.*

(e) Within 45 days of the date the notice of intent to initiate income withholding was served on the responsible parent, the presiding officer shall provide the responsible parent an opportunity to present the responsible parent's case, determine if an income withholding order may be issued and notify the responsible parent and the ~~authorized agent secretary~~ whether or not withholding is to occur.

(f) In addition to any other circumstances warranting issuance of an income withholding order under this section and notwithstanding any claim made pursuant to subsection (g), if the presiding officer finds that a notice of intent to initiate income

withholding was served on the responsible parent and that there were arrearages, as of the date the notice was prepared, in an amount equal to or greater than the amount of support payable for one month, the presiding officer shall authorize issuance of an income withholding order. Subsequent payments to defray arrearages shall not prevent issuance of an income withholding order under this subsection unless there is no current support due and all arrearages are satisfied.

(g) If an income withholding order was not entered at the time the support order was entered because the tribunal found that there was good cause not to order immediate income withholding or that the parties had entered into an agreement for an alternative arrangement, the responsible parent may request that income withholding be stayed pursuant to this subsection.

If the responsible parent shows that the tribunal issuing the support order found good cause not to require immediate income withholding and that the basis for the finding of good cause still exists, the presiding officer shall stay issuance of the income withholding order unless subsection (f) applies.

If the responsible parent shows that the tribunal issuing the support order did not require immediate income withholding based upon an agreement of the interested parties for an alternative arrangement, the presiding officer may stay issuance of the income withholding order unless the presiding officer finds that: (1) Subsection (f) applies; (2) the agreement was not in writing; (3) the agreement was not approved by all interested parties, including any IV-D agency involved in the case at the time of the

agreement; (4) the terms of the agreement or alternative arrangement are not being met; (5) the agreement or alternative arrangement is not in the best interests of the child; or (6) the agreement or alternative arrangement places an unnecessary burden upon the custodial parent, the responsible parent, or a public office.

***(h) If the proposed administrative income withholding order specifies a periodic amount to defray arrearages, the presiding officer may order a reduction in the periodic amount to defray arrearages only if the total arrearages owed are less than the periodic amount to defray arrearages.***

**(Revised) New Section 22.** (a) Upon determining that arrearages exist *in a title IV-D case*, the secretary may enforce ~~any the~~ support order by an administrative levy upon the responsible parent's cash assets, ***subject to the provisions of subsection (g)***. Any retirement fund that may be revoked or terminated by the responsible parent and is composed of cash assets shall be subject to administrative levy under this section, notwithstanding any other provision of law ***unless the retirement fund has any primary beneficiary other than the responsible parent or the responsible parent's spouse.***

(b) ~~An~~ ***To initiate an administrative levy under this section, the secretary shall serve an order to restrict transfer*** ~~may be served by the secretary upon any person who is~~ the holder of any cash asset of the responsible parent. The secretary may include with the order to restrict transfer an order to verify information concerning the cash asset. ***Except as otherwise provided pursuant to subsection (j), the order to restrict transfer shall be served in any manner permitted for service of summons and petition pursuant to article three of chapter 60 of the Kansas statutes annotated and amendments thereto.***

(c) The order to restrict transfer shall attach, upon receipt by the holder, the interest of the responsible parent in any cash asset in the possession or control of the holder, ***subject to any prior attachment or lien or any right of setoff that the holder may have against such assets.*** If the total value of all ~~such~~ ***attachable*** cash assets is less than 25 dollars at that time, no interest shall be attached by the order to restrict

transfer. Upon attachment, the holder shall not transfer any of the attached assets without the consent of the secretary until further order of the secretary. If any cash asset is added to an account after the initial attachment and before the order to disburse, the added asset shall also be attached except to the extent that any part of the addition exceeds the maximum amount stated in the order to restrict transfer.

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

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

(f) If an order to restrict transfer is issued, the secretary shall **promptly** **simultaneously** send notice to the responsible parent **by first class mail**. The notice shall state when review is available under ~~section 15 and amendments thereto~~ **subsection (l)** and to how to request review.

~~(g) The responsible parent, the holder or any coowner may contest the attachment by requesting a fair hearing pursuant to section 15 and amendments thereto. An administrative levy may be initiated pursuant to this section only if the property to be attached is located in this state or if the responsible parent and the holder are subject, or may be made subject, to the jurisdiction of the courts of~~



***this state for the purpose of enforcing the responsible parent's duty of support. The jurisdiction of the secretary over the holder for purposes of this section shall commence when the holder is served with the order to restrict transfer and shall continue so long as administrative proceedings related to that order are pending or until two years after the date of entry shown on the order, whichever is shorter.***

(h) If the secretary includes with the order to restrict transfer an order to verify information, the holder shall comply with the terms of the order to verify information within ~~seven~~ **14** days of receipt.

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

(j) If the holder is a financial institution that has entered into an agreement with the secretary pursuant to section 5 and amendments thereto, the agreement may provide for alternative methods of: (1) notifying the financial institution **of the order** to restrict transfer of cash assets or to disburse proceeds ~~of administrative levies~~, (2) resolving disputes between the financial institution and the secretary concerning an administrative levy and (3) exchanging any data related to the IV-D program.

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

*(l) The responsible parent, the holder or any coowner may contest any order entered under this section that affects the person's rights or duties. The aggrieved person may request an administrative hearing pursuant to K.S.A. 75-3306 and amendments thereto by complying with procedures established by the secretary within ten days after entry of the order being contested. If the order is served on the person by mail, the person's time for requesting review shall be extended by three days.*

*(m) Except as otherwise provided in this subsection, the effect of an order to restrict transfer may be stayed pending resolution of an administrative hearing only upon request and only if the person requesting the stay posts a cash or surety bond or provides other unencumbered security equal in value to the amount of the attached assets. Upon notice and opportunity for hearing, the presiding officer may stay or limit the effect of an order to restrict transfer if the request for stay is accompanied by a sworn statement that the responsible parent is not the owner of the attached assets.*

*The effect of an order to verify information or an order to disburse attached funds shall be stayed only at the discretion of the presiding officer.*

*(n) An order issued pursuant to this section whose effect has not been stayed may be enforced pursuant to the civil enforcement provisions of the act for judicial review and civil enforcement of agency actions, K.S.A. 77-601 et seq. and amendments thereto, after the time for compliance with the order has*

***expired. An order issued pursuant to this section shall not be enforceable more than two years after the date of entry shown on the face of the order.***

**(Revised) New Section 23.** (a) Nothing in this section shall be construed to prevent the secretary from redirecting support payments by filing a notice of assignment pursuant to K.S.A. 39-754 and amendments thereto, or to require the secretary to issue an order to change payee in lieu of filing such a notice of assignment.

(b) If a support order has been entered in any IV-D case, the secretary may ~~issue~~ **enter** an order to change the payee. The order may be directed to the clerk of court or any other payer under the support order and shall require payments to be made and disbursed as provided in the order to change payee until further notice. ***The order to change payee shall be served on the clerk of court or other payer by first class mail.*** The secretary shall serve ~~notice~~ **a copy** of the order to change payee on the responsible parent and the custodial parent and, if the previous payee is a real party in interest, upon the previous payee ***by first class mail.*** ***An order to change payee may be entered pursuant to this section only if the payer is subject, or may be made subject, to the jurisdiction of the courts of this state. The jurisdiction of the secretary over the payer for purposes of this section shall commence when the payer is served with the order to change payee and shall continue so long as the order to change payee is in effect and has not be superceded.***

(c) If an order to change payee is directed to any payer other than the clerk of court, a copy shall also be filed with the tribunal that issued the support order.

(d) If the underlying support order was entered or has been registered in this state, no order to change payee issued by any IV-D agency shall be effective to require

any payer, other than a clerk of court, to send payments to any location other than to the clerk of court where the support order was entered or registered, a location specified in the support order or a location specified by court rule ~~or statute~~. If the clerk of court receives an order to change payee from anyone other than the secretary and a notice of assignment pursuant to K.S.A. 39-754 and amendments thereto or a conflicting order to change payee is still in effect, the clerk of court ~~shall~~ **may at any time** request ~~review of the order to change payee pursuant to section 15 and amendments thereto~~ **an administrative hearing pursuant to K.S.A. 75-3306 and amendments thereto by complying with procedures established by the secretary.**

(e) If the underlying support order was not entered and has not been registered in this state, any person whose interest may be prejudiced by the order to change payee may request ~~review pursuant to section 15 and amendments thereto~~ **an administrative hearing pursuant to K.S.A. 75-3306 and amendments thereto by complying with procedures established by the secretary within ten days after entry of the order being contested. If the order is served on the person by mail, the person's time for requesting review shall be extended by three days.**

(f) An order to change payee issued by a IV-D agency in another state shall have the same force and effect in this state, and be subject to the same limitations, as an order to change payee issued by the secretary under this section. Upon request of a IV-D agency in another state, the secretary may enforce such an order to change payee as though it had been issued by the secretary of social and rehabilitation

services. By serving an order to change payee related to a support order entered in this state, such IV-D agency shall be deemed to have consented to the jurisdiction of this state to determine how payments will be directed to maintain accurate payment records and rapid disbursement of support collections.

(g) As used in this section, "clerk of court" includes any district court trustee generally designated to process support payments and includes any disbursement unit or entity that may be established by court rule ~~or statute~~ to process support payments.

***(h) In an administrative hearing pursuant to K.S.A. 75-3306 and amendments thereto, the effect of an order to change payee may be stayed only upon request and only if the new payee is a person or entity other than the clerk of court.***

***(i) An order issued pursuant to this section whose effect has not been stayed may be enforced pursuant to the civil enforcement provisions of the act for judicial review and civil enforcement of agency actions, K.S.A. 77-601 et seq. and amendments thereto, after the time for compliance with the order has expired.***

30 Sec. 76. K.S.A. 60-2202 is hereby amended to read as follows: 60-  
31 2202. (a) Any judgment rendered in this state by a court of the United  
32 States or by a district court of this state in an action commenced under  
33 chapter 60 of the Kansas Statutes Annotated shall be a lien on the real  
34 estate of the judgment debtor within the county in which judgment is  
35 rendered. Except as provided in subsection (c), the lien shall be effective  
36 from the time at which the petition stating the claim against the judgment  
37 debtor was filed but not to exceed four months prior to the entry of the  
38 judgment. An attested copy of the journal entry of the judgment, together  
39 with a statement of the costs taxed against the judgment debtor in the  
40 case, may be filed in the office of the clerk of the district court of any  
41 other county upon payment of the fee prescribed by K.S.A. 28-170 and  
42 amendments thereto, and the judgment shall become a lien on the real  
43 estate of the debtor within that county from the date of filing the copy.

1 The clerk shall enter the judgment on the appearance docket and index  
2 it in the same manner as if rendered in the court in which the clerk serves.  
3 Executions shall be issued only from the court in which the judgment is  
4 rendered.

5 (b) Any judgment rendered by a district court of this state in an action  
6 commenced under chapter 61 of the Kansas Statutes Annotated shall  
7 become a lien on the real property of the judgment debtor when the  
8 party in whose favor the judgment was rendered pays the fee prescribed  
9 by K.S.A. 28-170 and amendments thereto and the clerk of the district  
10 court enters the judgment in the appearance docket. The lien shall be-  
11 come a lien only upon the debtor's real property that is located in the  
12 county in which the filing is made, but a filing may be made in any county  
13 in which real property of the judgment debtor is located. Upon the filing  
14 of a journal entry of judgment and payment of the fee as provided in this  
15 section, the clerk of the district court shall enter it in the appearance  
16 docket. The lien shall cease to be a lien on the real property of the judg-  
17 ment debtor at the time provided in article 24 of this chapter.

18 (c) Notwithstanding the foregoing provisions of this section, the filing  
19 of a petition or other pleadings against an employee of the state or a  
20 municipality which alleges a negligent or wrongful act or omission of the  
21 employee while acting within the scope of the employee's employment  
22 shall create no lien rights as against the property of the employee prior  
23 to judgment, regardless of whether or not it is alleged in the alternative  
24 that the employee was acting outside the scope of the employee's em-  
25 ployment. A judgment against an employee shall become a lien upon the  
26 employee's property when the judgment is rendered only if it is found  
27 that (1) the employee's negligent or wrongful act or omission occurred  
28 when the employee was acting outside the scope of the employee's em-  
29 ployment or (2) the employee's conduct which gave rise to the judgment  
30 was because of actual fraud or actual malice of the employee; in those  
31 cases the lien shall not be effective prior to the date judgment is rendered.  
32 As used in this subsection, "employee" has the meaning provided by  
33 K.S.A. 75-6102 and amendments thereto.

2-29

34 ~~To the extent that any unpaid arrearages accruing~~ under a sup-  
 35 port order rendered in another state give rise to a lien on real property  
 36 in the state where rendered, such arrearages shall become a lien on the  
 37 real property of the obligor ~~when~~ the clerk of court in this state enters the  
 38 order in the appearance docket. The clerk of court shall enter the order  
 39 in the appearance docket upon receiving payment of the fee prescribed  
 40 by K.S.A. 28-170 and amendments thereto and a legible copy of the sup-  
 41 port order or, in a title IV-D case, a notice of lien that describes the  
 42 support order. The lien shall become a lien only upon the obligor's real  
 43 property that is located in the county in which the filing is made, but a  
 1 filing may be made in any county in which real property of the obligor is  
 2 located. The lien shall cease to be a lien on the real property of the obligor  
 3 at the time provided in article 24 of this chapter. As used in this section,  
 4 "title IV-D case" means a case being administered pursuant to part D of  
 5 title IV of the federal social security act (42 U.S.C. § 651 et seq.) and  
 6 amendments thereto.

If unpaid arrearages accrued

as of the date

; a sworn statement that the obligor was provided at least 30 days prior written notice that the lien would be filed in this state, that the obligor was provided an opportunity for hearing concerning the proposed filing and that no hearing was timely requested or the decision therein allows the lien to be filed; a sworn statement of the amount of the lien

Any person filing the documents required by this subsection shall be deemed to have submitted to the jurisdiction of the courts of this state with respect to any action in this state to determine the validity of the lien or the lien's attachment to any real property.



**New Section \_\_\_\_.** (a) If an aggrieved person has the right to request an administrative hearing pursuant to K.S.A. 75-3306 and amendments thereto concerning any action of the secretary of social and rehabilitation services initiated pursuant to sections 16 through 24 and amendments thereto and such request for administrative hearing has not been docketed, the aggrieved person may file a petition with the district court pursuant to chapter 60 of the Kansas statutes annotated for review of the secretary's action. A petitioner under this section shall not be required to first exhaust administrative remedies that may be available to the person. The action shall be commenced within the time allowed, including any applicable extension, for requesting an administrative hearing on the same grounds. The action shall be filed in the county where child support enforcement services pursuant to K.S.A. 39-702 and amendments thereto are being provided at the time the petition is filed. The secretary of social and rehabilitation services shall be a necessary party in the action. In any action under this subsection, the court may grant any relief that would have been available to the parties in an administrative hearing conducted pursuant to K.S.A. 75-3306 and amendments thereto.

(b) A person named as the debtor in a notice of lien filed pursuant to subsection (d) of K.S.A. 60-2202 and amendments thereto, based upon a support order issued in another state, or a person whose interest in real estate is affected by the filing of such a notice of lien may may file a petition pursuant to chapter 60 of the Kansas statutes annotated with the district court where the notice of lien was filed. The petitioner shall

notify the person who filed the notice of lien that a hearing to contest the validity of the lien or the lien's attachment to the petitioner's property will be held no less than 30 days after the date of mailing or personal service of the notice.

3

New Section 10, insert "(c) In any action by the secretary pursuant to subsection (b), an aggrieved person has the right to file a petition with the district court pursuant to chapter 60 of the Kansas Statutes Annotated, and amendments thereto, for de novo court review of such action by the secretary. An aggrieved person shall not be required to first exhaust administrative remedies that may be available to such person. If such person files a petition for de novo review and a request for an administrative hearing has already been docketed, such administrative hearing shall be stayed until the court has reviewed and rendered a decision on such petition. The secretary of social and rehabilitation services shall be a necessary party to the action. In any action under this subsection, the court may grant relief that would have been available to the parties in an administrative hearing conducted pursuant to KSA 75-3306, and amendments thereto."

----Deleting New Section 15.

----Adopting SRS balloon language for New Sections 16-23 with the addition of stating the person has the option of an administrative hearing or a de novo court review pursuant to New Section 10.

House Judiciary  
Attachment 3  
4/25/97