

Approved: 6/27/97  
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Tim Carmody at 9:10 a.m. on April 30, 1997 in Room 313-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Jamie Corkhill, SRS

Others attending: See attached list

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

The Chair called the meeting to order at 9:10 a.m. in room 313-S. The Chair opened the continuation of the discussion and action on **SB 140**. The Chair stated that on Friday, April 25, 1997 the Committee had worked through section 64 of the bill. The Chair referred to handout on what is **substitute for SB 140** prepared by the revisor showing the changes adopted by the Committee up to section 64. (Attachment 1) The Chair referred to a letter dated April 28, 1997 from the Attorney General, Carla Stovall to Rochelle Chronister, Secretary of SRS suggesting language on section 76. (Attachment 2) The Chair noted that copies of a letter to Secretary Chronister from the Attorney General concerning whether a proposed amendment to **SB 140** satisfies the Fourteenth Amendment was provided. (Attachment 3) The Chair referred to a fourth handout dated April 28, 1997 from Rochelle Chronister to Representative Carmody explaining the procedure where the regional office of HHS have to work together on determining whether our IV-D plan is in compliance. (Attachment 4) The Chair referred to a memorandum dated, April 30, 1997 from Charles Underwood to Secretary Chronister regarding input from other states. (Attachment 5)

The Chair opened discussion on section 65 which continues the amendments on the Kansas Parentage Act. The Chair noted the change to current law on lines 9 through lines 13 of page 55. The Chair referred to discussion on the voluntary acknowledgment program and stated that the provision in this section adds a time limitation on which to set aside the acknowledgement.

The Chair stated that section 66 refers to the acknowledgment of paternity and the need to advise of legal responsibilities including any child support obligation arising from acknowledging paternity. The Chair stated that there may be a set-aside for good cause. The Chair addressed the changes to subsection (e). The Chair stated that the changes are intended to make it more difficult to withdraw acknowledgment of paternity.

The Chair discussed section 67 and stated that the change is on page 57, new subsection (d) and (e). The Chair stated that (d) is language that was discussed earlier in other parts of the bill about allowing U.S. Health and Human Services to certify a lab and then it shall be admissible as evidence. Ms Corkhill suggested language changes that would restate that subsection to say: "Evidence consisting of the results are not excluded solely because of the laboratory, if the laboratory is one that is admitted designated by the Secretary of SRS." Ms Corkhill stated that by changing the language the results presented by the laboratory will not be excluded.

A motion was made by Representative Powell, second by Representative Mays to amend --"Evidence consisting of the results of any genetic test that is of a type generally acknowledged as reliable by accreditation bodies designated by the Kansas Secretary of Social and Rehabilitation Services shall not be excluded from evidence solely because performed by such laboratory." The motion carries.

The Chair referred to new subsection (e) concerning the presentation of bills for pregnancy, childbirth and genetic testing as evidence and referred to cross reference 325 in federal act.

Representative Powell expressed a concern about the person presenting the evidence, that they have the actual bills or certified copies. Representative Powell offered that a rule be established to assure those bills are what they are reported to be.

The Chair offered the following language: "Evidence of expenses incurred for pregnancy, childbirth and genetic test are admissible without requiring third party foundation and shall constitute prima facie evidence of amounts incurred for such goods and services."

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 9:10 a.m. on April 30, 1997.

A motion was made Representative Powell, second by Representative Pauls to change the language in (e) of section 67 to: "evidence of expenses incurred for pregnancy, childbirth and genetic tests may be admitted without requiring third party foundation testimony and shall constitute prima facie evidence." The motion carries.

The Chair discussed the second sentence is subsection (e).

A motion by Representative Powell, second by Representative Pauls to delete the second sentence in subsection (e) of Section 67, page 57 after the period on line 19. The motion carries.

The Chair opened discussion on Section 68 dealing with the Kansas Parentage Act and stated that the changes are on line 24, these rules apply not only to a court action that is filed under the Kansas Parentage Act, but other action under paternity establishment. The Chair noted that on line 35 the court could order the payment of temporary child support pending final determination, and is not ex parte, there has to be hearings. The Chair stated that the court can issue interim orders pending final determination. The Chair referred to page 58 new subsection (c) and stated that the purpose of this section is to provide that clear and convincing evidence may be presented in any form. The Chair stated that there is a problem with language regarding the request for temporary child support as it can be considered clear and convincing evidence and not allow for a hearing.

Representative Pauls suggested on line 12 of page 58 deleting the words, "an uncontested allegation" in the pleading, or striking, "including but not limited to."

Representative Carmody suggested using the term "uncontroverted\*\* allegation of paternity." The Chair referred to the language on line 5 of page 58 and suggested language that would state, "After notice and hearing the court shall enter an order for child support during the pendency." The Chair stated that "shall" interjects court discretion back into the process.

A motion was made by Representative Pauls, second by Representative Powell at line 5 to take out the words "upon request" and insert "After notice and hearing" and the rest of the italicized portion would remain. The motion carries.

The Chair stated that the change in section 69 is on page 59 new subsection (d).

A motion was made by Representative Shriver, second by Representative Gilmore to delete reference to new section 2 in new subsection (d) of section 69. The motion carries.

The Chair stated that section 70 deals with the time an acknowledgment of paternity may be set aside or an action initiated to set it aside. The Chair summarized section 70 by stating that an acknowledgment can be set aside if it is within 60 days, 60 days to one year of age of the child or one year after the individual turns 18, in such cases fraud and duress must be shown, and if more than a year (if the child is more than a year old) even with fraud and duress the court can still weigh the best interest of the child. Ms Corkhill stated that this is the section that outlines the notice of rights and responsibilities that has to be on the affidavit form. Ms Corkhill noted that on line 15 there is a reference to new section 2.

Representative Carmody made a motion to delete reference to new section 2 on line 15, page 59 in section 70. The motion was seconded by Representative Presta. The motion carries.

The Committee discussed subsection (b) and on page 60, line 19 concerning the change in information that is to be provided.

The Chair stated that in section 71 the only change is on page 62, lines 26 through 29 and this is the reference to the federal act and regulations that were discussed last week. The Chair stated that as a result of previous discussion, reference should be made to Title IV-D "and regulations in effect on May 1, 1997."

A motion was made by Representative Pauls, second by Representative Ruff to delete reference to the federal act and regulations to be promulgated and make reference to title IV-D in effect May 1, 1997. The motion carries.

The Chair stated that section 72 is the general enabling statute for title IV-D program. The committee members discussed limiting the language to avoid the practice of randomly accessing information. The Committee members discussed language in subsection (k). It was noted that HHS has not defined what non IV-D cases are. In response to Committee inquiry, Ms Corkhill stated that the trend is to move to a registry of all support cases, or a central data base. Representative Carmody suggested deleting "as required by federal law" on lines 24 and 26 of section 72, subsection (k).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 9:10 a.m. on April 30, 1997.

A motion was made by Representative Pauls, second by Representative Ruff to substitute title IV-D for the words, "federal law" on lines 24 and 26. The motion carries.

The Chair referred to line 37, on page 63 in section 73, subsection (b). Ms Corkhill noted that there is a balloon dated April 9 that makes substantial change and will provide safeguards.

In response to Representative Howell's question Ms Corkhill referred to federal mandate, section 315 and stated that it does not refer to the system by name. Ms Corkhill stated that the federal mandate states that procedures to insure that all federal and state agencies conducting activities under this part (title IV-D) should have access to any system if used by the state to locate an individual for purposes relating to motor vehicle or law enforcement. Ms Corkhill stated that the balloon language would add a safeguard by stating that agencies do not have direct access to the system, even if they are eligible to receive information. The Chair stated that eligibility to receive information is not limited to law enforcement agencies and that federal and state agencies conducting business under IV-D such as the Department of Health and Environment and the Department of Human Resources could be included. The Chair suggested the insertion of language, "conducting locator activities" which would by definition eliminate many agencies and, therefore, limit access to the system to the actual IV-D cases.

Representative Presta made a motion, second by Representative Ruff to adopt the April 9 balloon language for subsection (b) of section 73 and add the word, "locator" between the words, "conducting" and "activities", and delete subsection (c) of section 73 per balloon. The motion carries.

The Chair discussed the contents of the April 9 SRS balloon shown as subsection (d) of the bill on page 64, line 20 in section 73. Ms Corkhill stated that K.S.A. 39-759 refers to privacy act and sanctions for misuse of IV-D information, and K.S.A. 79-3234 concerns specifically the Department of Revenue's misuse of information.

Representative Garner made a motion, second by Representative Ruff to adopt the SRS April 9 balloon language, amending lines 20 through 22 on page 64 of section 73. The motion carries.

The Chair discussed the SRS April 9 balloon language for subsection (e) of section 73. The Committee members discussed the SRS balloon language for subsection (f) of the balloon regarding automated information exchange protection. Ms Corkhill stated that the protection follows the information.

A motion was made by Representative Kirk, second by Representative Garner to adopt the SRS balloon language for subsections (e) and (f) in section 73 of the bill. The motion carries.

The Committee members discussed with Ms Corkhill the specifics of what kinds of information is going to be automatically released and to what agencies.

Ms Corkhill stated that she did not anticipate that ABC would release information other than that necessary to identify the person. In response to Representative Howell's question, Ms Corkhill stated that federal requirements include security provisions such as having an audit trail to identify who made requests, when they made the request, and who changed records. Ms Corkhill suggested the inclusion of a provision that states SRS shall provide an audit trail. Representative Howell stated that until more details are available, he would not like information exchanged through automation. Ms Corkhill stated it would only be SRS requests. Ms Corkhill stated that she would work on the language to make it clear that it is SRS's request to other agencies.

Representative Howell made a motion, second by Representative Mays to conceptually amend section 73 by deleting references to automated access to information.

Representative Carmody suggested language that would restructure the section and rephrase it to say that persons or entities providing access to information pursuant to this section shall do so only by non-automated or manual process.

Representative Shriver expressed concerns with the motion.

Representative Garner opposed the motion and noted that the next section of the SRS balloon states any contractor doing this work who violates the confidentially will be subject to termination of contract, any employee who violates confidentially requirements will be subject to termination of employment.

Representative Howell closed on the motion by stating that the intent of the motion is to move more slowly

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 9:10 a.m. on April 30, 1997.

until all the facts are known.

Representative Howell's motion fails.

The Chair outlined the issues left to be considered by the Committee. The Chair stated that he intends to complete work on this bill during first adjournment or at a time when all members could be present. The Chair recessed the meeting at 10:30 a.m.

The Chair reconvened the meeting at 8:20 p.m. in room 526-S to consider the remaining sections of **SB 140**.

The Chair referred to section 74 and stated that this section increases the sanctions against those who release the information. The Chair stated that the bill adds the language "unauthorized--" The Chair referred to discussion in the Committee concerning on page 65 the release of information providing the location of one party to another when there are protective orders. The Chair related that concerns were expressed regarding what constitutes "good cause." The Chair stated that SRS balloon language has been proposed that would put into statute what SRS currently uses as an administrative definition of "good cause." The Chair referred to the second page of the balloon and stated that the SRS's administrative definition would be inserted as a further definition of "good cause."

A motion was made by Representative Mays, second by Representative Swenson to adopt the SRS April 9 balloon language for section 74. The motion carries.

The Chair stated that section 75 is a technical section and adds specific reference to the Kansas Income Withholding Acts and amendments thereto, and on page 66 references to changes to the Uniform Interstate Family Support Act are found.

The Chair stated that the Attorney General raised a concern in section 76 and in her opinion letter stated that this section was unconstitutional. The Chair referred to a letter from the Attorney General containing suggested language. (Attachment 2)

A motion was made by Representative Mays, second by Representative Swenson to adopt the Attorney General's language found on the second page of the April 30, 1997 letter to the Secretary of SRS which would become a new subsection (d). The motion carries.

Ms Corkhill discussed section 76 and asked if the motion was to make it a separate section (d) for an additional remedy or was it a substitute for (d) of section 76? The Chair stated that the previous motion would substitute the Attorney General's new subsection (d) for subsection (d) of the bill.

A motion was made by Representative Adkins, second by Representative Mays to reinstate the language in (d) of section 76 and to adopt the language on the first page of the Attorney General's letter.

The Chair stated that the motion by Representative Adkins would reinstate (d) of the bill, and add the Attorney General's language shown on the first page of her letter and would also include the language on page 2 of that letter.

The motion made by Representative Adkins carries.

The Chair stated that section 77 deals with the executions that would issued by the Secretary of SRS. The Chair stated that there had been extensive discussion during previous Committee meetings on this procedure. The Chair noted that this would be parallel to the procedure used by the treasurer and the Department of Revenue whereby execution of warrants are issued to sheriff and the return goes back to the district court. The Chair stated that this process allows an opportunity for the court to make a determination.

The Chair stated that in section 78 there are some strike-outs on page 69 there was no committee concern expressed on that.

The Chair stated that section 79 deals with the licensing body. The Chair stated that in this case the court still has to have a finding of contempt, but the contempt can either be on the failure to comply with the prior court order or a warrant or a subpoena. The Chair stated that there will be a court determination as to a failure to comply.

The Chair related that in section 80 there was Committee discussion on page 71 about how the Kansas Administrative Procedure Act would interact with this bill. Ms Corkhill stated that the Committee changes in section 10 should take care of any conflicting issues

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 9:10 a.m. on April 30, 1997.

The Chair stated that there is a Department of Revenue balloon on section 81. The Chair stated that language will be inserted on page 73, line 11 of the bill allowing disclosure of name, address and income to SRS for use solely in administrative or judicial proceedings in establishing, modifying, or enforcing a support obligation.

Representative Mays made a motion, second by Representative Swenson to adopt the SRS April 9 balloon language for section 81 deleting the cite to K.S.A. 39-758 in subsection (b) and adopting the language which limits the use of information to IV-D cases. The motion carries.

The Chair referred to the second page of the balloon regarding changes to section 81, by adding new subsection (g) to provide the protection that is in federal law on disclosure of income information.

A motion was made by Representative Swenson, second by Representative Adkins to adopt new subsection (g) in the SRS April 9 balloon on section 81. The motion carries.

There was no discussion on section 82.

The Chair stated that section 83 was the enacting clause. The Chair referred to the Committee discussion last week on the language in this section. The Committee reviewed the process for enactment of this bill.

Ms Corkhill stated in answer to a Committee member's question that the proposed SRS April 9 balloon language was in response to the Governor's office because this bill was tied to a money issue. The governor's office felt that the state finance council was more appropriate to deal with this issue.

Representative Presta made a motion to insert a conceptual sunset provision in either section 83 or new section 84 that if the state of Kansas or any of its agencies are fined or have TANF block grants, funds or title IV-CSE funding in excess of 5 million dollars withheld in any one fiscal year, this act shall sunset on June 30 of the fiscal year so affected. Representative Howell seconded. The motion carries with a vote of 10 in favor and 9 opposing.

Representative Pauls referred to page 8, lines 9 and 10 in new section 9 of the bill and stated that this is another place defining IV-D and requested that "as in effect on May 1, 1997" be inserted to be consistent with other changes made in the bill.

A motion was made by Representative Pauls, second by Representative Ruff to insert "to have in effect May 1, 1997" into New Section 9, page 8, subsection (j) of the bill. The motion carries.

Representative Adkins made a motion, second by Representative Kirk to amend **SB 140** by making it effective on publication of resolution by State Finance Council and publication in the statute book per SRS balloon. The motion carries with 10 in favor and 9 opposing with the Chair voting in favor of the motion.

Representative Krehbiel spoke to the Committee requesting to amend **HB 2382** into **SB 140**. Representative Krehbiel stated that **HB 2382** addresses procedures by the Kansas Department of Human Resources to make hearings on appeals more convenient for employers. Representative Krehbiel stated that **HB 2382** would correspond with the Tax Equity and Fairness Act. Representative Krehbiel stated that this bill allows in case of recovery provisions for refund. Representative Krehbiel stated that in respect to hearings this bill changes the place of hearing from Topeka to the county of the principle place where the employer is located. Representative Krehbiel stated that this bill places a 90 day time limit on when the decisions are due.

A motion was made by Representative Krehbiel, second by Representative Shriver to amend **HB 2382** into **SB 140**. The motion carries with 14 voting in favor and 4 voting in opposition.

Representative Pauls made a motion to amend **SB 140** concerning reports to Human Resources by redefining the definition of filing to the date it was mailed. Representative Ruff seconded the motion.

Representative Adkins made a substitute motion to pass the bill. The Chair ruled that the motion was not in order because of the rule of the Chair not to except substitute motions on this bill.

Representative Pauls' motion carries.

Representative Garner addressed the Committee expressing concerns with the changes made to this bill including the deletion of sections 4, 5, 6. Representative Garner suggested that good faith efforts could be

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 9:10 a.m. on April 30, 1997.

made to meet those requirements while still protecting the privacy rights of individuals.

Representative Garner made a motion to table the bill until after first adjournment tomorrow to allow for more time to consider the changes. Representative Shriver seconded the motion. The motion fails with 9 voting in favor and 10 opposing with the Chair voting in opposition.

Representative Garner made a motion to reinstate and amend section 6 so that a social security number, driver's license number or ID number may be used on documents required. The motion was seconded by Representative Pauls. The motion fails with a vote of 7 in favor and 11 opposing.

Representative Adkins made a motion, second by Representative Carmody to move substitute for **SB 140** favorably. The motion fails.

A motion was made by Representative Mays, second by Representative Kirk to pass substitute **SB 140** without recommendation. The motion carries.

The Chair thanked the Committee members for the all the time and work the Committee put in on considering **SB 140**.

The Chair stated that this concludes the Committee work for this session. The Chair adjourned the meeting at 9:15 p.m.

The next meeting not scheduled.



## HOUSE SUBSTITUTE FOR SENATE BILL NO. 140

By Committee on Judiciary

AN ACT concerning child support enforcement; the uniform interstate family support act; income withholding act; amending K.S.A. 23-4,101, 23-4,106, 23-4,107, 23-4,108, 23-4,109, 23-4,110, 23-4,111, 23-4,129, 23-4,133, 23-4,146, 23-9,101, 23-9,202, 23-9,205, 23-9,206, 23-9,207, 23-9,301, 23-9,304, 23-9,305, 23-9,306, 23-9,307, 23-9,311, 23-9,313, 23-9,401, 23-9,501, 23-9,605, 23-9,606, 23-9,607, 23-9,609, 23-9,610, 23-9,611, 23-9,801, 23-9,902, 32-930, 38-1113, 38-1131, 39-702, 39-753, 39-758, 39-759, 44-514, 60-2202, 60-2401 and 75-3306 and K.S.A. 1996 Supp. 38-1115, 38-1119, 38-1121, 38-1137, 38-1138, 60-1610, 74-146, 74-147 and 79-3234 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (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 newly hired employee's address during the quarter such employee was hired. 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.

(b) The state directory of new hires shall receive, retain and, to the extent permitted by federal law, make information reported to the directory available pursuant to subsection (c).

(c) Except as otherwise permitted by federal law, any agency receiving information from the state directory of new hires shall

House Judiciary Comm  
Attach #1  
4/30/97



handle the information as confidential information for use in administering the programs for which it was received. The state directory of new hires shall make information available:

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

(2) to the secretary of social and rehabilitation services for use in administering an eligibility verification system and, not later than May 1, 1998, the title IV-D program.

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

New Sec. 2. (a) If the court in any support enforcement proceeding finds that 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 has or may have an occupational, professional or driver's license, the court may impose such sanctions under this section as the court deems appropriate until the person has complied with the warrant or subpoena. As used in this section, "support enforcement proceeding" means any civil proceeding to:

(1) Establish paternity; or

(2) establish, modify or enforce the duty to provide child support or maintenance.

(b) If the obligor is or may be authorized to practice a profession by 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. 74-147 and amendments thereto be served on the licensing body. If the obligor 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 obligor may be licensed.

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

New Sec. 3. The secretary and any title IV-D agency of another state upon order of a Kansas court 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) 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) Any employer shall promptly provide information on the employment, compensation and benefits of any individual employed by such person or entity as an employee or contractor.

(c) 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) A financial institution shall promptly provide information upon request about an individual or the individual's property or liabilities.

(e) Confidential information received by the secretary under this section shall be subject to the safeguards of K.S.A. 39-759 and amendments thereto.

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

Sec. 4. 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 parent 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 interests 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 court 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.

Sec. 5. K.S.A. 1996 Supp. 38-1121 is hereby amended to read as follows: 38-1121. (a) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes, but if any person necessary to determine the existence of a father and child relationship for all purposes has not been joined as a party, a determination of the paternity of the child shall have only the force and effect of a finding of fact necessary to determine a duty of support.

(b) If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a new birth certificate be issued, but only if any man named as the father on the birth certificate is a party to the action.

(c) Upon adjudging that a party is the parent of a minor child, the court shall make provision for support and education of the child including the necessary medical expenses incident to the birth of the child. The court may order the support and education expenses to be paid by either or both parents for the minor child. When the child reaches 18 years of age, the support shall terminate unless: (1) The parent or parents agree, by written agreement approved by the court, to pay support beyond that time; (2) the child reaches 18 years of age before completing the child's high school education in which case the support shall not automatically terminate, 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 (3) 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 (c)(3), 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 (c)(2), 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 (c)(2). If an agreement approved by the court prior to July 1, 1992, provides for termination of support before the date provided by subsection (c)(3), 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 (c)(3). 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). The judgment shall specify the terms of payment and shall require payment to be made through the clerk of the district court or the court trustee except for good cause shown. The judgment may require the party to provide a bond with sureties to secure payment. The court may at any time during the minority of the child modify or change the order of support, including any order issued in a title IV-D case, within three years of the date of the original order or a modification order, as required by the best interest of the child. If more

than three years has passed since the date of the original order or modification order, a requirement that such order is in the best interest of the child need not be shown. The court may make a modification of 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.

(d) If both parents are parties to the action, the court shall enter such orders regarding custody and visitation as the court considers to be in the best interest of the child.

(e) In entering an original order for support of a child under this section, the court may award an additional judgment to reimburse the expenses of support and education of the child from the date of birth to the date the order is entered. If the determination of paternity is based upon a presumption arising under K.S.A. 38-1114 and amendments thereto, the court shall award an additional judgment to reimburse all or part of the expenses of support and education of the child from at least the date the presumption first arose to the date the order is entered, except that no additional judgment need be awarded for amounts accrued under a previous order for the child's support.

(f) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall consider all relevant facts including, but not limited to, the following:

- (1) The needs of the child.
- (2) The standards of living and circumstances of the parents.
- (3) The relative financial means of the parents.
- (4) The earning ability of the parents.
- (5) The need and capacity of the child for education.
- (6) The age of the child.
- (7) The financial resources and the earning ability of the

child.

(8) The responsibility of the parents for the support of others.

(9) The value of services contributed by the custodial parent.

(g) The provisions of K.S.A. 23-4,107, and amendments thereto, shall apply to all orders of support issued under this section.

(h) An order granting visitation rights pursuant to this section may be enforced in accordance with K.S.A. 23-701, and amendments thereto.

New Sec. 6. (a) Nothing in sections 6 through 21 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.

(b) Sections 6 through 21 and amendments thereto shall be part of and supplemental to article 7 of chapter 39 of the Kansas Statutes Annotated.

New Sec. 7. The following definitions shall apply in any IV-D administrative proceeding related to sections 6 through 21 and amendments thereto, except where the context requires otherwise.

(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 otherwise, 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.

(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, Puerto Rico, the United States Virgin Islands 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. With respect to support orders entered in this state, the courts are the tribunals in Kansas.

New Sec. 8. (a) The powers and remedies provided in this section are cumulative and do not affect any other powers of the secretary or the availability of remedies under other law.

(b) In any case for which the secretary is providing IV-D services, the secretary, subject to de novo court review as provided in subsection (c), may:

- (1) Obtain access to information as authorized by law;
- (2) subpoena records pursuant to section 13 and amendments thereto;



(3) order genetic tests pursuant to section 14 and amendments thereto;

(4) order minimum payments to defray arrearages pursuant to section 15 and amendments thereto;

(5) enforce any duty of support by income withholding pursuant to the income withholding act and section 16 et seq. and amendments thereto;

(6) enforce any duty of support by administrative levy pursuant to section 19 and amendments thereto;

(7) perfect any lien against property;

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

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

(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 K.S.A. 75-3306, and amendments thereto.

(d) In any action by the secretary pursuant to subsection (b), the secretary shall give written notice to the party, clearly and conspicuously, of the right to a de novo court review pursuant to subsection (c).

(e) The secretary may designate employees of the secretary to serve as authorized agents to exercise powers of the secretary

in IV-D administrative proceedings. By written contract, the secretary may designate other persons to serve as authorized agents to exercise specific powers of the secretary in IV-D cases.

New Sec. 9. (a) The secretary shall have jurisdiction over:

- (1) Any person receiving IV-D services from the secretary;
- (2) any person within or without this state who may be made subject to the jurisdiction of the courts of this state for the purpose of determining the person's duty of support or for establishing or enforcing a support order;
- (3) any person without this state who may be made subject to the jurisdiction of the secretary for IV-D purposes by the laws of the jurisdiction in which the person resides or may be found; and
- (4) any person who may be made subject to the jurisdiction of the courts of this state because the person is or may be in possession or control of property of the responsible parent, is or may be indebted to the responsible parent or is or may be the responsible parent's payor as defined in the income withholding act and amendments thereto.

(b) The jurisdiction of the secretary over any person shall commence at the time the person is served with an initial notice or order in any IV-D administrative proceeding or, for a person receiving IV-D services from the secretary, at the time the secretary's IV-D services begin. "Initial notice or order" includes a subpoena, an order for genetic tests, a notice of lien, an income withholding order and an order to restrict transfer.

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

(c) Except as provided in subsection (d) or as otherwise specifically required by law, service of any subpoena, notice or

order in any IV-D administrative proceeding upon any person shall be by regular mail addressed to the person's last known address. Service by mail is complete upon mailing. Nothing in this subsection shall prevent the secretary and any person from agreeing to an alternative method of service, including but not limited to electronic data transfer. Any person accepting an alternative method of service under this subsection shall not be liable to any person solely because of the method of service.

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

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

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

After commencement of any IV-D administrative proceeding, service upon the secretary of any notice or document in the same IV-D administrative proceeding at any address other than the current address provided by the secretary shall not be effective service upon or notice to the secretary.

New Sec. 10. Except to the extent precluded by another provision of law, a person may waive any right conferred upon that person with respect to any IV-D proceeding. Anyone seeking waiver shall advise the person of the right to seek independent legal advice. Such waiver may be revoked in writing within 20

days following the date of such waiver.

New Sec. 11. (a) The provisions of this section shall apply to all orders entered by an authorized agent of the secretary in any IV-D administrative proceeding under sections 6 through 21 and amendments thereto.

(b) Every administrative order entered shall specify:

(1) Identifying information about the IV-D case;

(2) the mailing address of the Kansas office providing IV-D services;

(3) any finding of fact required by law; and

(4) when review of the administrative order is available and how to request review.

(c) Each administrative order shall be signed and dated by the secretary's authorized agent. The date of entry shall be the date the administrative order is signed by the secretary's authorized agent. The administrative order shall be effective as of the date of entry except to the extent that the order's effectiveness is stayed.

(d) A copy of the administrative order shall be served on each person required to comply with the administrative order, on the responsible parent, and on any other person required by law to receive a copy of the administrative order.

(e) The secretary may correct any technical error arising from oversight or omission or any clerical mistake that is discovered in any administrative order. Except as otherwise provided in this section, the amendment may be made at any time upon the secretary's own initiative or upon request of any person and after such notice, if any, that the secretary determines appropriate. If a review is pending, an amendment under this section may be made only with leave of the presiding officer. The amendment shall relate back to the date of the original administrative order, except that any person who has relied in good faith upon the original administrative order shall not be prejudiced by the relation back of any amendment under this section. A copy of the amended administrative order shall be

served upon the same parties as the original administrative order, with a statement explaining the change, when review of the amended administrative order is available and how to request review. For the purpose of determining whether review of the amended order is available, the date the amended order was served upon the person requesting review shall be treated as the date the amended administrative order was entered.

New Sec. 12. (a) Subject to subsection (b), an administrative subpoena or order whose effect has not been stayed shall be enforceable 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, from the date of the subpoena's issuance or the order's entry.

(b) A subpoena issued pursuant to section 13 and amendments thereto or an order to restrict transfer or to verify information entered pursuant to section 19 and amendments thereto shall not be enforceable more than two years after the date of issuance or entry, as shown on the face of the subpoena or order.

New Sec. 13. (a) In any title IV-D case, the secretary may issue a subpoena pursuant to this section to obtain 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 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 14 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. 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. 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: (1) An administrative hearing to review all or part of the subpoena by complying with procedures established by the secretary for requesting such a review; or (2) a de novo court review pursuant to section 8, and amendments thereto. 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) 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.

New Sec. 14. (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 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. 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.

(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 3 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: (1) 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; or (2) a de novo court review pursuant to section 8, and amendments thereto. 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.

New Sec. 15. (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 order shall 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 3 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: (1) 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; or (2) a de novo court review pursuant to section 8, and amendments thereto. 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.

New Sec. 16. (a) Except as otherwise provided in K.S.A. 23-4,107 or section 18, and amendments thereto, 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 seven 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 may 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) 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 3 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 17. (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 payer. The provisions of this

subsection shall apply only to income withholding orders issued pursuant to section 16, and amendments thereto, including any modifications of such orders.

(c) The secretary shall provide notice of any proposed modification to the responsible parent by first class mail at least 14 days before entry of the modified income withholding order. The responsible parent may request: (1) 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; or (2) a de novo court review pursuant to section 8, and amendments thereto. 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 16 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 16 and amendments thereto, relating 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 Sec. 18. (a) The responsible parent may request: (1) 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 16 and amendments thereto by complying with procedures established by the secretary within seven days after service of the notice of intent; or (2) a de novo court review pursuant to section 8, and amendments thereto. 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 identity of the responsible parent.

(c) Except as otherwise provided in this subsection, 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 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. 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 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.

New Sec. 19. (a) Upon determining that arrearages exist in a title IV-D case, the secretary may enforce the support order by an administrative levy upon the responsible parent's cash assets. 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) To initiate an administrative levy under this section, the secretary shall serve an order to restrict transfer upon 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 (i), the order to restrict transfer shall be served in any manner permitted for service of summons and petition pursuant to article 3 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 attachable cash assets is less than \$25 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.

(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. Neither the holder nor the secretary shall be liable to the joint owners if the ownership of the cash assets is later proven not to be the responsible parent's.

(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 simultaneously send notice to the responsible parent by first class mail. The notice shall state when review



is available and how to request review.

(g) 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 14 days of receipt.

(h) If the time allowed to request 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.

(i) If the holder is a financial institution that has entered into an agreement with the secretary, the agreement may provide for alternative methods of: (1) Notifying the financial institution to restrict transfer of cash assets or to disburse proceeds of the order; (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.

(j) The exemptions contained in article 23 of chapter 60 shall apply to any attachment under this section.

(k) 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: (1) 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; or (2) a de novo court review pursuant to section 8, and amendments thereto. If the order is served on the person by mail, the person's time for requesting review shall be extended by three days.

(1) Except as otherwise provided in this subsection, the effect of an order to restrict transfer may be stayed pending resolution of any 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.

(m) 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.

New Sec. 20. (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 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 the court or other payer by first class mail. The secretary shall serve 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 been 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. 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 may at any time request 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: (1) An administrative hearing pursuant to K.S.A. 75-3306, and amendments thereto, by complying with procedures established by the secretary within 10 days after entry of the order being contested; or (2) a de novo court review pursuant to section 8, and amendments thereto. 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 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 the 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.

New Sec. 21. If arrearages have accrued under a support order entered by or registered with a court of this state, the secretary may issue execution pursuant to K.S.A. 60-2401 and amendments thereto.

Sec. 22. K.S.A. 23-4,101 is hereby amended to read as follows: 23-4,101. (a) If the attorney general finds that reciprocal provisions are available in a foreign nation or a state of a foreign nation for the enforcement of support orders issued in this state, the attorney general may declare the foreign nation or state of a foreign nation to be a reciprocating state for the purpose of ~~K.S.A. 23-451 et seq. and amendments thereto.~~

~~(b) establishing or enforcing any duty of support.~~ A declaration made pursuant to this ~~section~~ subsection may be

revoked by the attorney general.

(b) The attorney general shall review any declaration made pursuant to subsection (a) to determine whether the declaration should be revoked if all or part of the same jurisdiction was declared a foreign reciprocating country by the United States secretary of state and the declaration by the United States secretary of state has been revoked.

Sec. 23. K.S.A. 23-4,106 is hereby amended to read as follows: 23-4,106. As used in the income withholding act:

(a) "Arrearage" means the total amount of unpaid support which is due and unpaid under an order for support, based upon the due date specified in the order for support or, if no specific date is stated in the order, the last day of the month in which the payment is to be made. If the order for support includes a judgment for reimbursement, an arrearage equal to or greater than the amount of support payable for one month exists on the date the order for support is entered.

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

~~(b)~~ (c) "Health benefit plan" means any benefit plan, other than public assistance, which is able to provide hospital, surgical, medical, dental or any other health care or benefits for a child, whether through insurance or otherwise, and which is available through a parent's employment or other group plan.

~~(c)~~ (d) "Income" means any form of periodic payment to an individual, regardless of source, including, but not limited to, wages, salary, trust, royalty, commission, bonus, compensation as an independent contractor, annuity and retirement benefits, workers compensation and any other periodic payments made by any person, private entity or federal, state or local government or any agency or instrumentality thereof. "Income" does not include: (1) Any amounts required by law to be withheld, other than creditor claims, including but not limited to federal and state taxes, social security tax and other retirement and disability contributions; (2) any amounts exempted by federal law; (3)

public assistance payments; and (4) unemployment insurance benefits except to the extent otherwise provided by law. Any other state or local laws which limit or exempt income or the amount or percentage of income that can be withheld shall not apply. Workers compensation shall be considered income only for the purposes of child support and not for the purposes of maintenance.

~~(d)~~ (e) "Income withholding order" means an order issued under this act which requires a payor to withhold income to satisfy an order for support or to defray an arrearage.

~~(e)~~ (f) "Medical child support order" means an order requiring a parent to provide coverage for a child under a health benefit plan and, where the context requires, may include an order requiring a payor to enroll a child in a health benefit plan.

~~(f)~~ (g) "Medical withholding order" means an income withholding order which requires an employer, sponsor or other administrator of a health benefit plan to enroll a child under the health coverage of a parent.

~~(g)~~ (h) "Nonparticipating parent" means, if one parent is a participating parent as defined in this section, the other parent.

~~(h)~~ (i) "Obligee" means the person or entity to whom a duty of support is owed.

~~(i)~~ (j) "Obligor" means any person who owes a duty to make payments or provide health benefit coverage under an order for support.

~~(j)~~ (k) "Order for support" means any order of a court, or of an administrative agency authorized by law to issue such an order, which provides for payment of funds for the support of a child, or for maintenance of a spouse or ex-spouse, and includes an order which provides for modification or resumption of a previously existing order; payment of uninsured medical expenses; payment of an arrearage accrued under a previously existing order; a reimbursement order, including but not limited to an

order established pursuant to K.S.A. 39-718a or 39-718b, and amendments thereto; an order established pursuant to K.S.A. 23-451 et seq. and amendments thereto; or a medical child support order.

~~(k)~~ (l) "Participating parent" means a parent who is eligible for single coverage under a health benefit plan as defined in this section, regardless of the type of coverage actually in effect, if any.

~~(l)~~ (m) "Payor" means any person or entity owing income to an obligor or any self-employed obligor and includes, with respect to a medical child support order, the sponsor or administrator of a health benefit plan.

~~(m)~~ (n) "Public office" means any elected or appointed official of the state or any political subdivision or agency of the state, or any subcontractor thereof, who is or may become responsible by law for enforcement of, or who is or may become authorized to enforce, an order for support, including but not limited to the department of social and rehabilitation services, court trustees, county or district attorneys and other subcontractors.

~~(n)~~ (o) "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, as in effect on May 1, 1997. "Title IV-D cases" means those cases required by ~~part-D-of-title-IV-of-the-federal-social-security-act-(42-U.S.C.-§-651-et-seq.)~~, as amended, title IV-D to be processed by the department of social and rehabilitation services under the state's plan for ~~support-enforcement~~ providing title IV-D services.

Sec. 24. K.S.A. 23-4,107 is hereby amended to read as follows: 23-4,107. (a) Any new or modified order for support ~~entered-on-or-after-January-1, 1986~~, shall include a provision for the withholding of income to enforce the order for support. ~~Except--as--otherwise--provided--in--subsection--(b)--or--(c), withholding--shall--take--effect--only--if--there--is--(1)--An--arrearage--in--an--amount--equal--to--or--greater--than--the--amount--of--support~~

~~payable for one month, and (2) compliance with requirements of subsections (d) and (h).~~

(b) Except as otherwise provided ~~in this subsection or~~ in subsection (j), (k) or ~~(m)~~ (l), all new or modified orders for support ~~entered on or after October 1, 1990, in title IV-D cases and all new or modified orders for support entered on or after July 1, 1993, in all other cases~~ shall provide for immediate issuance of an income withholding order. ~~Prior to July 1, 1993, whenever an order of support is entered or modified in a case other than a title IV-D case, the court shall have discretion to order immediate issuance of an income withholding order.~~ The income withholding order shall be issued without further notice to the obligor specifying and shall specify an amount sufficient to satisfy the order for support and to defray any arrearage. The income withholding order shall be issued regardless of whether a payor subject to the jurisdiction of this state can be identified at the time the order for support is entered.

(c) ~~If the provisions of subsection (b) do not apply, the obligee or public office may file a motion in a title IV-D case requesting that an income withholding order be issued regardless of the amount of the arrearage. If no arrearage existed as of the date the notice pursuant to subsection (h) was served upon the obligor, the motion shall only be granted if the court finds that good cause exists for issuing the income withholding order or if the obligor consents to issuance of an income withholding order. If the motion is granted, an~~ Except as otherwise provided in this subsection or subsections (j) or (l), if no income withholding order is in effect to enforce the support order, an income withholding order shall be issued by the court upon request of the obligee or public office, provided that the obligor accrued an arrearage equal to or greater than the amount of support payable for one month and the requirements of subsections (d) and (h) have been met. The income withholding order shall be issued without further notice to the obligor specifying and shall specify an amount sufficient to satisfy the order for support and



to defray any arrearage. The income withholding order ~~may~~ shall be issued regardless of whether a payor subject to the jurisdiction of this state can be identified at the time the income withholding order is issued.

(d) ~~(1)~~ Not less than seven days after the obligee or public office has served a notice ~~of--intent--to--apply--for--an--income withholding--order~~ pursuant to subsection (h), the obligee or public office may initiate income withholding pursuant to paragraph (1) or (2).

(1) The obligee or public office may apply for an income withholding order by filing with the court an affidavit stating: (A) The date that the notice was served on the obligor and the manner of service; (B) that the obligor has not filed a motion to stay issuance of the income withholding order or, if a motion to stay has been filed, the reason an income withholding order must be issued immediately; (C) a specified amount to be withheld by the payor to satisfy the order of support and to defray any arrearage; (D) whether the income withholding order is to include a medical withholding order; and (E) ~~except-in-title-IV-D--cases,~~ that the amount of the arrearage as of the date the notice to the obligor was prepared was equal to or greater than the amount of support payable for one month. In addition to any other penalty provided by law, the filing of such an affidavit with knowledge of the falsity of a material declaration is punishable as a contempt.

~~(2)~~ Upon the filing of ~~an~~ the affidavit ~~pursuant--to paragraph-(1),~~ the income withholding order shall be issued without further notice to the obligor, hearing or amendments of the support order. Payment of all or part of the arrearage before issuance of the income withholding order shall not prevent issuance of the income withholding order, unless the arrearage is paid in full and the order for support does not include an amount for the current support of a person. No affidavit is required if the court, upon hearing a motion to stay issuance of the income withholding order or otherwise, issues an income withholding

order.

(2) In a title IV-D case, the IV-D agency may issue an income withholding order as authorized by section 16, and amendments thereto. Any such income withholding order shall be considered an income withholding order issued pursuant to this act.

(e) (1) An income withholding order shall be directed to any payor of the obligor. Notwithstanding any other requirement of this act as to form or content, any income withholding order prepared in a standard format prescribed by the secretary of social and rehabilitation services shall be deemed to be in compliance with this act.

(2) An income withholding order which does not include a medical withholding order shall require the payor to withhold from any income due, or to become due, to the obligor a specified amount sufficient to satisfy the order of support and to defray any arrearage and shall include notice of and direction to comply with the provisions of K.S.A. 23-4,108 and 23-4,109, and amendments thereto.

(3) An income withholding order which consists only of a medical withholding order shall include notice of the medical child support order and shall conform to the requirements of K.S.A. 23-4,121 and amendments thereto. The medical withholding order shall include notice of and direction to comply with the requirements of K.S.A. 23-4,108, 23-4,109, 23-4,119 and 23-4,122 and amendments thereto.

(4) An income withholding order which includes both a medical withholding order and an income withholding order for cash support shall meet the requirements of paragraphs (2) and (3).

(f)(1) Upon written request and without the requirement of further notice to the obligor, the clerk of the district court shall cause a copy of the income withholding order to be served on the payor in any manner permitted for service of summons and petition by the statutes contained in article 3 of chapter 60 of

the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto.

(2) Without the requirement of further notice to the obligor, the IV-D agency may cause a copy of any income withholding order to be served on the payor by first class mail, by any means permitted for service of summons and petition by the statutes contained in article 3 of chapter 60 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto or by any alternate method acceptable to the payor. No payor shall be liable to any person solely because of the method of service accepted by the payor.

(3) As used in this section, "copy of the income withholding order" means any document or notice, regardless of format, that advises the payor of the same general duties, requires the same amount to be withheld from income and requires medical withholding to the same extent as the original income withholding order.

(g) An income withholding order shall be binding on any existing or future payor on whom a copy of the order is served and shall require the continued withholding of income from each periodic payment of income until further order of the court or agency that issued the income withholding order. At any time following issuance of an income withholding order, ~~the obligee, obligor or public office may request service of~~ a copy of the income withholding order may be served on any payor without the requirement of further notice to the obligor.

(h) Except as provided in subsection (k), or (l) or (m), at any time following entry of an order for support the obligee or public office may serve upon the obligor a written notice of intent to ~~apply for issuance of an~~ initiate income withholding order. If any notice in the court record indicates that title IV-D services are being provided in the case, whether or not the IV-D services include enforcement of current support, the person or public office requesting issuance of the income withholding order shall obtain the consent of the IV-D agency to the terms of

the proposed income withholding order.

The notice of intent to initiate income withholding shall be served on the obligor by first-class mail or in the manner for service of a summons pursuant to the statutes contained in article 3 of chapter 60 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto ~~at--least--seven--days before--the--date--the--affidavit--is--filed.~~ The notice served on the obligor must state: (1) The terms of the order of support and the total arrearage as of the date the notice was prepared; (2) the amount of income that will be withheld, not including premiums to satisfy a medical withholding order; (3) whether a medical withholding order will be ~~requested~~ included; (4) that the provision for withholding applies to any current or subsequent payor; (5) the procedures available for contesting the withholding and that the only basis for contesting the withholding is a mistake of fact concerning the amount of the support order, the amount of the arrearage, the amount of income to be withheld or the proper identity of the obligor; (6) the period within which the obligor must ~~file-a-motion~~ act to stay issuance of the income withholding order and that failure to take such action within the specified time will result in payors' being ordered to begin withholding; and (7) the action which will be taken if the obligor contests the withholding.

The obligor may, at any time, waive in writing the notice required by this subsection.

(i) On request of an obligor, the court shall issue an income withholding order which shall be honored by a payor regardless of whether there is an arrearage. Nothing in this subsection shall limit the right of the obligee to request modification of the income withholding order.

(j) (1) Before entry of a new or modified order for support, a party may request that no income withholding order be issued pursuant to subsection (b) if notice of the request has been served on all interested parties and: (A) The party demonstrates, and the court finds, that there is good cause not

to require immediate income withholding, or (B) a written agreement among all interested parties provides for an alternative arrangement. In a title IV-D case, the determination that there is good cause not to require immediate income withholding must include a finding that immediate income withholding would not be in the child's best interests and, if an obligor's existing obligation is being modified, proof of timely payment of previously ordered support.

(2) Notwithstanding the provisions of subsection (j)(1), the court shall issue an income withholding order when an affidavit pursuant to subsection (d) is filed if an arrearage exists in an amount equal to or greater than the amount of support payable for one month.

(3) If a notice pursuant to subsection (h) has been served in a title IV-D case, there is no arrearage or the arrearage is less than the amount of support payable for one month, and the obligor files a motion to stay issuance of the income withholding order based upon the court's previous finding of good cause not to require immediate income withholding pursuant to subsection (j)(1), the obligor must demonstrate the continued existence of good cause. Unless the court again finds that good cause not to require immediate income withholding exists, the court shall issue the income withholding order.

(4) If a notice pursuant to subsection (h) has been served in a title IV-D case, there is no arrearage or the arrearage is less than the amount of support payable for one month, and the obligor files a motion to stay issuance of an income withholding order based upon a previous agreement of the interested parties for an alternative arrangement pursuant to subsection (j)(1), the court shall issue an income withholding order, notwithstanding any previous agreement, if the court finds that:

(A) The agreement was not in writing;

(B) the agreement was not approved by all interested parties;

(C) the terms of the agreement or alternative arrangement

are not being met;

(D) the agreement or alternative arrangement is not in the best interests of the child; or

(E) the agreement or alternative arrangement places an unnecessary burden upon the obligor, obligee or a public office.

(5) The procedures and requirements of K.S.A. 23-4,110 and amendments thereto apply to any motion pursuant to paragraph (3) or (4) of this subsection (j).

(k) (1) An ex parte interlocutory order for support may be enforced pursuant to subsection (b) ~~or (c)~~ only if the obligor has consented to the income withholding in writing.

(2) An ex parte interlocutory order for support may be enforced pursuant to subsection ~~(d)~~ (c) only if 10 or more days have elapsed since the order for support was served on the obligor.

(3) Any other interlocutory order for support may be enforced by income withholding pursuant to this act in the same manner as a final order for support.

(4) No bond shall be required for the issuance of an income withholding order to enforce an interlocutory order pursuant to this act.

~~(l) If the provisions of subsection (b) do not apply and the case is not a title IV-D case, a notice of intent to apply for issuance of an income withholding order may be served on the obligor only if there is an arrearage, as of the date the notice is prepared, in an amount equal to or greater than the amount of support payable for one month.~~

~~(m)~~ (1) All new or modified orders for maintenance of a spouse or ex-spouse, except orders for a spouse or ex-spouse living with a child for whom an order of support is also being enforced, entered on or after July 1, 1992, shall include a provision for the withholding of income to enforce the order of support. Unless the parties consent in writing to earlier issuance of a withholding order, withholding shall take effect only after there is an arrearage in an amount equal to or greater

than the amount of support payable for two months and after service of a notice as provided in subsection (h).

Sec. 25. K.S.A. 23-4,108 is hereby amended to read as follows: 23-4,108. (a) It shall be the affirmative duty of any payor to respond within 10 days to written requests for information presented by the public office concerning: (1) The full name of the obligor; (2) the current address of the obligor; (3) the obligor's social security number; (4) the obligor's work location; (5) the number of the obligor's claimed dependents; (6) the obligor's gross income; (7) the obligor's net income; (8) an itemized statement of deductions from the obligor's income; (9) the obligor's pay schedule; (10) the obligor's health insurance coverage; and (11) whether or not income owed the obligor is being withheld pursuant to this act. This is an exclusive list of the information that the payor is required to provide under this section.

(b) It shall be the duty of any payor who has been served an income withholding order for payment of an order for cash support to deduct and pay over income as provided in this section. The payor shall begin the required deductions no later than the next payment of income due the obligor after 14 days following service of the order on the payor.

(c) Within ~~10~~ seven business days of the time the obligor is normally paid, the payor shall pay the amount withheld as directed by the income withholding agency pursuant to K.S.A. 23-4,109 and amendments thereto, ~~otherwise-to-the-clerk-of--court or--court--trustee~~ as directed by the income withholding order or by a rule of the Kansas supreme court. The payor shall identify each payment with the name of the obligor, the county and case number of the income withholding order, and the date the income was withheld from the obligor. A payor subject to more than one income withholding order ~~from-a-single-county~~ payable to the same payee may combine the amounts withheld into a single payment, but only if the amount attributable to each income withholding order is clearly identified. Premiums required for a child's coverage

under a health benefit plan shall be remitted as provided in the health benefit plan and shall not be combined with any other support payment required by the income withholding order.

(d) The payor shall continue to withhold income as required by the income withholding order until further order of the court or agency.

(e) From income due the obligor, the payor may withhold and retain to defray the payor's costs a cost recovery fee of \$5 for each pay period for which income is withheld or \$10 for each month for which income is withheld, whichever is less. Such cost recovery fee shall be in addition to the amount withheld as support.

(f) The entire sum withheld by the payor, including the cost recovery fee and premiums due from the obligor which are incurred solely because of a medical withholding order, shall not exceed the limits provided for under section 303(b) of the consumer credit protection act (15 U.S.C. § 1673(b)). If amounts of earnings required to be withheld exceed the maximum amount of earnings which may be withheld according to the consumer credit protection act, priority shall be given to payment of current and past due support, and the payor shall promptly notify the holder of the limited power of attorney of any nonpayment of premium for a health benefit plan on the child's behalf. An income withholding order issued pursuant to this act shall not be considered a wage garnishment as defined in subsection (b) of K.S.A. 60-2310 and amendments thereto. If amounts of earnings required to be withheld in accordance with this act are less than the maximum amount of earnings which could be withheld according to the consumer credit protection act, the payor shall honor garnishments filed by other creditors to the extent that the total amount taken from earnings does not exceed consumer credit protection act limitations.

(g) The payor shall promptly notify the ~~clerk--of--the district--court--or--the--court--trustee~~ court or agency that issued the income withholding order of the termination of the obligor's



employment or other source of income, or the layoff of the obligor from employment, and provide the obligor's last known address and the name and address of the individual's current employer, if known.

(h) ~~Payment as required by an income withholding order issued under this act shall be a complete defense by the payor against any claims of the obligor or the obligor's creditors as to the sums paid.~~ A payor who complies with an income withholding order that is regular on its face shall not be subject to civil liability to any person or agency for conduct in compliance with the income withholding order.

(i) Except as provided further, if any payor violates the provisions of this act, the court ~~shall~~ may enter a judgment against the payor for the total amount which should have been withheld and paid over ~~and may enter judgment against the payor to the extent of the total arrearage, as defined in K.S.A. 23-4,106, and amendments thereto, owed.~~ If the payor, without just cause or excuse, intentionally fails to pay over income within the time established in subsection (c) and the obligee files a motion to have such income paid over, the court shall enter a judgment against the payor and in favor of the obligee for three times the amount of the income owed and reasonable attorney fees.

(j) Any In addition to any judgment authorized by subsection (i), a payor who intentionally discharges, refuses to employ or takes disciplinary action against an obligor solely because of an income withholding order issued under this act shall be subject to a civil penalty not exceeding \$500 and such other equitable relief as the court considers proper if the payor: (1) Discharges, refuses to employ or takes disciplinary action against an obligor subject to an income withholding order because of such withholding and the obligations or additional obligations which it imposes upon the payor; or (2) fails to withhold support from income or to pay such amounts in the manner required by this act.

Sec. 26. K.S.A. 23-4,109 is hereby amended to read as follows: 23-4,109. (a) An income withholding order ~~issued--under this--act~~ shall have priority over any other legal process under state law against the same income. Withholding of income under this section shall be made without regard to any prior or subsequent garnishments, attachments, wage assignments or other claims of creditors.

(b) Except as provided by ~~this--act~~ K.S.A. 60-2310, and amendments thereto, any state law which limits or exempts income from legal process or the amount or percentage of income that can be withheld shall not apply to withholding income under this act.

(c) ~~If~~ Subject to the provisions of section 50 and amendments thereto, if more than one income withholding order requires withholding from the same source of income of a single obligor, the payor shall withhold and disburse as ordered the total amount required by all income withholding orders if such amount does not exceed the limits of subsection (f) of K.S.A. 23-4,108 and amendments thereto, as shown in the withholding order which specifies the highest percentage of income allowed to be withheld. If the total amount required by all income withholding orders, including premiums due from the obligor which are incurred solely because of a medical withholding order, exceeds such limits, the payor shall withhold the amount permitted to be withheld under such limits and from the amount withheld the payor shall retain any cost recovery fee charged by the payor. The remaining funds shall first be prorated by the payor among all income withholding orders for the obligor that require payment of current support. When all current support for the month has been satisfied, any remaining funds shall be prorated among all income withholding orders for the obligor that require payment of an amount for arrearages. ~~The~~ With respect to a medical withholding order, the payor shall promptly notify the affected holder of the limited power of attorney of any nonpayment of premium. The payor may request assistance from the income withholding agency in determining the amount to be

disbursed for each income withholding order, but such assistance shall not relieve the payor from any responsibility under this act. Upon request of a public office or of any obligee whose income withholding order is affected by this subsection, the payor shall provide the county, case number and terms of all the obligor's income withholding orders.

(d) The provisions of this section as amended by this act shall apply to all income withheld on or after July 1, 1992, regardless of when the applicable income withholding order was entered or modified.

Sec. 27. K.S.A. 23-4,110 is hereby amended to read as follows: 23-4,110. This section shall not apply if the notice of intent to initiate income withholding was issued by the IV-D agency pursuant to section 19 and amendments thereto.

(a) A motion to stay issuance of the income withholding order must be filed with the court and a copy served on the obligee or public office within seven days after service on the obligor of a notice pursuant to subsection (h) of K.S.A. 23-4,107 and amendments thereto. Except as provided in subsection (j) of K.S.A. 23-4,107 and amendments thereto, the grounds for obtaining the stay shall be limited to a mistake of fact in the notice concerning the amount of the order for support, the amount of the arrearage, the amount of income to be withheld or the proper identity of the obligor. The motion shall specify the mistake of fact alleged to be the basis for the motion. If the amount of the order for support or the amount of the arrearage is challenged, the motion shall specify the amount of the order for support or the arrearage which is uncontested. In addition to any other penalty provided by law, filing a motion to stay with knowledge of the falsity of any material declaration or without specifying the uncontested amount of the order for support or the arrearage, when required, is punishable as a contempt.

(b) The court, upon notice of the date, time and place of hearing to the obligor and the obligee or public office, shall hear the matter within 14 days after the motion to stay issuance

of the income withholding order is filed with the court.

(c) (1) If a motion to stay has been filed and the identity of the obligor is not contested, the obligee, obligor or public office may apply for immediate issuance of an income withholding order pursuant to subsection (d) of K.S.A. 23-4,107 and amendments thereto pending resolution of the contested issues. The affidavit shall specify an amount sufficient to satisfy the order for support or the arrearage only to the extent that the amount of the order for support or the arrearage is not contested. A copy of the affidavit shall be served on the obligor.

(2) Whenever an affidavit has been filed as provided in this subsection, the court shall immediately issue the income withholding order.

(d) If the court cannot promptly resolve all issues, the court may continue the hearing on the unresolved issues, provided that within 45 days of the date the notice was served on the obligor the court notifies the obligor and the obligee or public office of whether or not the withholding is to occur. If the court upholds the issuance of an income withholding order in a contested case, the court must include in its order notice of the time within which the withholding will begin and the information given to the payor as required in K.S.A. 23-4,108 and 23-4,109, and amendments thereto.

(e) In addition to any other circumstances warranting issuance of an income withholding order, if the court finds that a notice of intent to ~~apply-for-issuance-of--an~~ initiate income withholding ~~order~~ was served on the obligor and that there was an arrearage, 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 court shall issue an income withholding order. The provisions of this subsection shall only apply to an order for support of a spouse or ex-spouse if the spouse or ex-spouse is living with a child for whom an order of support is also being enforced.

Sec. 28. K.S.A. 23-4,111 is hereby amended to read as follows: 23-4,111. This section shall not apply if the income withholding order was issued by the IV-D agency pursuant to section 16 or 17 and amendments thereto, unless IV-D services are no longer being provided with respect to either current support or arrearages.

(a) At any time upon motion the court shall: (1) Modify or terminate the income withholding order because of a modification or termination of the underlying order for support; (2) modify the amount of income withheld to reflect payment in full of the arrearage by income withholding or otherwise; or (3) 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) On request of the obligee or public office, the court shall issue an order which modifies the amount of income withheld, subject to the limitations of subsection (f) of K.S.A. 23-4,108 and amendments thereto.

(c) The obligor may file a motion to terminate an income order for cash support if: (1) The withholding order has not previously been terminated under this subsection and subsequently initiated; and (2) there is a written agreement among all interested parties which provides for an alternative arrangement. Under this subsection, the court may terminate the income withholding order unless it finds good cause for denying the motion because of the obligor's payment history or otherwise. If an income withholding order is terminated for any reason and the obligor subsequently becomes delinquent in the payment of the order for support, the obligee or public office may obtain another income withholding order by complying with all requirements for notice and service pursuant to this act.

(d) 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 by the court.

(e) If support payments are undeliverable to the obligee, any such payments shall be held in trust by the court until the payments can be delivered.

(f) The clerk of court shall cause to be served on the payor a copy of any order entered pursuant to this section that affects the duties of the payor.

Sec. 29. K.S.A. 23-4,129 is hereby amended to read as follows: 23-4,129. (a) Upon receiving a support order of another jurisdiction with the documentation specified in subsection (b) from an agency of another jurisdiction operating pursuant to title IV, part D, of the federal social security act (42 U.S.C. § 651 et seq.), as amended, the agency shall proceed under section 16 and amendments thereto or file the documents with the clerk of the court in which withholding is being sought. Upon receipt of the documents the clerk of court, without payment of a filing fee or other costs, shall file them in a registry of foreign support orders. Such filing shall constitute entry of the support order under K.S.A. 23-4,125 through 23-4,137 and amendments thereto. Nothing in this subsection shall be construed to create an attorney-client relationship between an attorney representing the department of social and rehabilitation services and any party other than the department of social and rehabilitation services.

(b) The following documentation is required for the entry of a support order of another jurisdiction under the interstate income withholding act:

(1) A certified copy of the support order with all modifications;

(2) a certified statement of child support owed and paid, including dates of payment and to whom paid;

(3) a certified copy of an income withholding notice or order, if any, still in effect;

(4) a copy of the portion of the income withholding statute

of the jurisdiction which issued the support order which states the requirements for obtaining income withholding under the law of that jurisdiction;

(5) a sworn statement of the obligee or agency of the arrearages and the assignment of support rights, if any; and

(6) a statement of:

(A) The name, address and social security number of the obligor, if known;

(B) the name and address of the obligor's employer or of any other source of income of the obligor derived in this state against which income withholding is sought; and

(C) the name and address of the agency or person to whom support payments collected by income withholding shall be transmitted.

(c) If the documentation received under subsection (a) does not conform to the requirements of subsection (b), the agency shall remedy any defect which it can without the assistance of the requesting agency. If the agency is unable to make such corrections, the requesting agency shall immediately be notified of the necessary additions or corrections. In neither case shall the documentation be returned. The agency and court shall accept the documentation required by subsections (a) and (b) even if it is not in the usual form required by state or local rules, so long as the substantive requirements of these subsections are met.

(d) An obligee not receiving services from any agency operating pursuant to title IV, part D, of the federal social security act (42 U.S.C. 651 et seq.), as amended, may file the documents specified in subsection (b) with the clerk of the court in which withholding is being sought. If the documents are filed by an attorney, they shall be filed by an attorney licensed to practice law in the state of Kansas or authorized in accordance with supreme court rule 116.

(e) A support order entered under subsection (a) or (d) shall be enforceable by income withholding against income derived

in this state in the manner and with the effect as set forth in ~~K.S.A. 23-4,105 through 23-4,118 and 23-4,130 through 23-4,137~~ the income withholding act and the interstate income withholding act and amendments thereto. Entry of the order shall not confer jurisdiction on the courts of this state for any purpose other than income withholding.

Sec. 30. K.S.A. 23-4,133 is hereby amended to read as follows: 23-4,133. The provisions of K.S.A. 23-4,107 and 23-4,108 and amendments thereto, including the notice to the payor, penalties and sanctions against noncomplying payors, payor fees, protection against payor retaliation, payment directions and ability to issue a single check, apply to income withholding based on a support order of another jurisdiction entered under K.S.A. 23-4,129 and amendments thereto.

Sec. 31. K.S.A. 23-4,146 is hereby amended to read as follows: 23-4,146. (a) Whenever there is an arrearage in payment of an order of support in an amount equal to or greater than the amount of support payable for one month, ~~the obligee, the secretary of social and rehabilitation services or the secretary's contractors, if the right to support has been assigned to the secretary, may establish~~ a lien shall arise by operation of law upon certain personal property of the obligor. The lien may be perfected as follows:

(1) In the case of a vehicle, ~~the obligee or secretary may establish a~~ secretary may perfect a lien on the vehicle by filing a notice of lien with the division of vehicles of the department of revenue. The perfection of the lien shall not be in effect until the notation of the lien is actually placed upon the certificate of title for the vehicle. The notice shall be in a form prescribed by the division, or on a federal form as required by title IV-D, and shall contain a description of the vehicle, the name and address of the obligee or secretary, the name and last known address of the obligor and any other information required by the division. ~~An affidavit of the obligee or person designated by the secretary shall be filed with the notice and~~



~~shall state that there is an arrearage in an amount~~ The notice shall state the amount of the arrearage and that the arrearage is equal to or greater than the amount of support payable for one month ~~and that a.~~ A copy of the notice of lien has been sent shall be sent by first-class mail to the obligor at the obligor's last known address.

Upon the filing of the notice of lien in accordance with this subsection (a)(1) and payment to the division of a fee of \$5, the division shall be authorized to demand in writing the surrender of the title certificate from the owner of the vehicle for the purpose of recording the lien on the title certificate. Once the lien is properly recorded and perfected by actually noting it on the certificate of title, a transfer of title is not valid unless the lien has been released in the manner provided by K.S.A. 8-135 and amendments thereto or the transfer has been consented to in writing by the lienholder. If the obligor fails to surrender the title certificate within 15 days after the written demand by the division of vehicles, the division shall notify the ~~person or entity seeking the lien.~~ Such person or entity secretary seeking to perfect the lien. The secretary may obtain an order of the court which issued the support order requiring the obligor to surrender the title certificate ~~to the court~~ so that a the lien may be properly recorded.

(2) In the case of a vessel or aircraft, the obligee ~~or secretary may establish~~ may perfect a lien on the vessel or aircraft by filing a notice of lien with the office where filing is required by K.S.A. 84-9-401 and amendments thereto to perfect a security interest in the vessel or aircraft. The perfection of the lien shall not be in effect until the notation of the lien is actually placed upon the appropriate documentation of title for the vessel or aircraft. The notice shall contain a description of the make, model designation and serial number of the vessel or aircraft, including its identification or registration number, if any; the name and address of the obligee ~~or secretary~~; and the name and last known address of the obligor. ~~An affidavit of the~~

~~obligee or person designated by the secretary shall be filed with the notice and shall state that there is an arrearage in an amount~~ The notice shall state the arrearage and that the arrearage is equal to or greater than the amount of support payable for one month and that a . A copy of the notice of lien has been sent shall be sent simultaneously by first-class mail to the obligor at the obligor's last known address.

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

(3) In any case filed under chapter 60 or 61 of the Kansas Statutes Annotated, the obligee may perfect a lien on the obligor's interest in any judgment or settlement in the case by filing a notice of lien with the clerk of the district court. Copies shall be served on appropriate parties to the action. The notice of lien shall have the effect of attaching the obligor's interest in any judgment or settlement in the case. Any person holding property or funds to satisfy any judgment or settlement in the obligor's favor shall be prohibited from transferring to the obligor any of such property or funds without the written consent of the obligee. At the time that the holder would otherwise be required to transfer property to the obligor, such property shall be transferred to the obligee unless the lien on the property has been released. Nothing in this subsection shall

be construed to require the holder to transfer any property to the obligee any sooner than the holder would have been required to transfer property to the obligor. To the extent that an attorney's lien on the obligor's interest in any settlement or judgment is perfected before service of the notice of lien under this section, the attorney's lien shall have priority. If the property or funds are insufficient to satisfy all liens, the court shall conduct a hearing to determine the division of such property or funds for payment on each lien.

Any person affected by the notice of lien who is or will be a payor as defined in the income withholding act and amendments thereto may request that the obligee proceed under the income withholding act and release the lien perfected pursuant to this section.

(4) If the obligor is or may become entitled to workers compensation benefits, the obligee may perfect a lien on the benefits by serving a notice of lien on the obligor. Copies shall be served on appropriate persons, including but not limited to the director of workers compensation. The notice of lien shall have the effect of attaching the obligor's interest in the workers compensation benefits. Any person holding property or funds to satisfy the obligor's interest shall be prohibited from transferring to the obligor any of such property or funds without the written consent of the obligee. At the time that the holder would otherwise be required to transfer property to the obligor, such property shall be transferred to the obligee unless the lien on the property has been released. Nothing in this subsection shall be construed to require the holder to transfer any property to the obligee any sooner than the holder would have been required to transfer property to the obligor. To the extent that attorney fees are allowed by K.S.A. 44-501 et seq. and amendments thereto, the attorney fees shall have priority subject to the current limitations provided in K.S.A. 44-720, and amendments thereto.

Any person affected by the notice of lien who is or will be a

payor as defined in the income withholding act and amendments thereto may request that the obligee proceed under the income withholding act and release the lien perfected pursuant to this section.

(b) As used in this section:

(1) "Aircraft" has the meaning provided by K.S.A. 3-201 and amendments thereto.

(2) "Vehicle" has the meaning provided by K.S.A. 8-126 and amendments thereto.

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

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

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

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

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

Sec. 32. K.S.A. 23-9,101 is hereby amended to read as follows: 23-9,101. In this act:

(a) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(b) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(c) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse or former spouse, including an unsatisfied obligation to provide support.

(d) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six

consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(e) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(f) "Income withholding order" means an order or other legal process directed to an obligor's employer, or other debtor, as defined by the income withholding act, K.S.A. 23-4,105 and amendments thereto, to withhold support from the income of the obligor.

(g) "Initiating state" means a state ~~in~~ from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this act or a law or procedure substantially similar to this act, the uniform reciprocal enforcement of support act or the revised uniform reciprocal enforcement of support act ~~is-filed-for-forwarding--to a-responding-state.~~

(h) "Initiating tribunal" means the authorized tribunal in an initiating state.

(i) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(j) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

(k) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(l) "Obligee" means:

(1) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(2) a state or political subdivision to which the rights under a duty of support or support order have been assigned or

which has independent claims based on financial assistance provided to an individual obligee; or

(3) an individual seeking a judgment determining parentage of the individual's child.

(m) "Obligor" means an individual, or the estate of a decedent:

(1) Who owes or is alleged to owe a duty of support;

(2) who is alleged, but has not been, adjudicated to be a parent of a child; or

(3) who is liable under a support order.

(n) "Register" means to file a support order or judgment determining parentage in the responding court.

(o) "Registering tribunal" means a tribunal in which a support order is registered.

(p) "Responding state" means a state ~~to~~ in which a proceeding is ~~forwarded~~ filed or to which a proceeding is forwarded for filing from an initiating state under this act or a law or procedure substantially similar to this act, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act.

(q) "Responding tribunal" means the authorized tribunal in a responding state.

(r) "Spousal support order" means a support order for a spouse or former spouse of the obligor.

(s) "State" means a state of the United States, the District of Columbia, ~~the Commonwealth of~~ Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes:

(1) An Indian tribe and includes; and

(2) a foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this act, the uniform reciprocal enforcement of support act or the revised uniform reciprocal enforcement of support act.

(t) "Support enforcement agency" means a public official or agency authorized to seek:

- (1) Enforcement of support orders or laws relating to the duty of support;
- (2) establishment or modification of child support;
- (3) determination of parentage; or
- (4) to locate obligors or their assets.

(u) "Support order" means a judgment, decree or order, whether temporary, final or subject to modification, for the benefit of a child, a spouse or a former spouse, which provides for monetary support, health care, arrearages or reimbursement, and may include related costs and fees, interest, income withholding, attorney fees and other relief.

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

Sec. 33. K.S.A. 23-9,202 is hereby amended to read as follows: 23-9,202. A tribunal of this state exercising personal jurisdiction over a nonresident under K.S.A. 23-9,201 and amendments thereto may apply K.S.A. 23-9,316 and amendments thereto (special rules of evidence and procedure) to receive evidence from another state, and K.S.A. 23-9,318 and amendments thereto (assistance with discovery) to obtain discovery through a tribunal of another state. In all other respects, K.S.A. 23-9,103, 23-9,201 through 23-9,209, 23-9,301 through 23-9,319, 23-9,401, 23-9,501, 23-9,502, 23-9,601 through 23-9,612 and 23-9,701 and amendments thereto do not apply and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by this act.

Sec. 34. K.S.A. 23-9,205 is hereby amended to read as follows: 23-9,205. (a) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

- (1) As long as this state remains the residence of the

obligor, the individual obligee or the child for whose benefit the support order is issued; or

(2) until ~~each-individual-party-has~~ all of the parties who are individuals have filed written ~~consent~~ consents with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(b) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to this act or to a law substantially similar to this act.

(c) If a child support order of this state is modified by a tribunal of another state pursuant to this act or to a law substantially similar to this act, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

- (1) Enforce the order that was modified as to amounts accruing before the modification;
- (2) enforce nonmodifiable aspects of that order; and
- (3) provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to this act or to a law substantially similar to this act.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that



order under the law of that state.

Sec. 35. K.S.A. 23-9,206 is hereby amended to read as follows: 23-9,206. (a) A tribunal of this state may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

(b) A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply K.S.A. 23-9,316 and amendments thereto (special rules of evidence and procedure) to receive evidence from another state and K.S.A. 23-9,318 and amendments thereto (assistance with discovery) to obtain discovery through a tribunal of another state.

(c) A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

Sec. 36. K.S.A. 23-9,207 is hereby amended to read as follows: 23-9,207. ~~(a) If a proceeding is brought under this act, and one or more child support orders have been issued in this or another state with regard to an obligor and a child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:~~

~~(1) If only one tribunal has issued a child support order, the order of that tribunal must be recognized.~~

~~(2) If two or more tribunals have issued child support orders for the same obligor and child, and only one of the tribunals would have continuing, exclusive jurisdiction under this act, the order of that tribunal must be recognized.~~

~~(3) If two or more tribunals have issued child support orders for the same obligor and child, and more than one of the tribunals would have continuing, exclusive jurisdiction under~~

~~this act, an order issued by a tribunal in the current home state of the child must be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued must be recognized.~~

~~(4) If two or more tribunals have issued child support orders for the same obligor and child, and none of the tribunals would have continuing, exclusive jurisdiction under this act, the tribunal of this state may issue a child support order, which must be recognized.~~

~~(b) The tribunal that has issued an order recognized under subsection (a) is the tribunal having continuing, exclusive jurisdiction.~~

(a) If a proceeding is brought under this act and only one tribunal has issued a child support order, the order of that tribunal controls and must be so recognized.

(b) If a proceeding is brought under this act, and two or more child support orders have been issued by tribunals of this state or another state with regard to the same obligor and child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) If only one of the tribunals would have continuing, exclusive jurisdiction under this act, the order of that tribunal controls and must be so recognized.

(2) If more than one of the tribunals would have continuing, exclusive jurisdiction under this act, an order issued by a tribunal in the current home state of the child controls and must be so recognized, but if an order has not been issued in the current home state of the child, the order most recently issued controls and must be so recognized.

(3) If none of the tribunals would have continuing, exclusive jurisdiction under this act, the tribunal of this state having jurisdiction over the parties shall issue a child support order, which controls and must be so recognized.

(c) If two or more child support orders have been issued for

the same obligor and child and if the obligor or the individual obligee resides in this state, a party may request a tribunal of this state to determine which order controls and must be so recognized under subsection (b). The request must be accompanied by a certified copy of every support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(d) The tribunal that issued the controlling order under subsection (a), (b) or (c) is the tribunal that has continuing, exclusive jurisdiction under K.S.A. 23-9,205 and amendments thereto.

(e) A tribunal of this state which determines by order the identity of the controlling order under subsection (b)(1) or (2) or which issues a new controlling order under subsection (b)(3) shall state in that order the basis upon which the tribunal made its determination.

(f) Within 30 days after issuance of an order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

Sec. 37. K.S.A. 23-9,301 is hereby amended to read as follows: 23-9,301. (a) Except as otherwise provided in this act, K.S.A. 23-9,301 through 23-9,319 and amendments thereto apply to all proceedings under this act.

(b) This act provides for the following proceedings:

(1) Establishment of an order for spousal support or child support pursuant to K.S.A. 23-9,401 and amendments thereto;

(2) enforcement of a support order and income withholding order of another state without registration pursuant to K.S.A. 23-9,501 and 23-9,502 and amendments thereto;

(3) registration of an order for spousal support or child

support of another state for enforcement pursuant to K.S.A. 23-9,601 through 23-9,612 and amendments thereto;

(4) modification of an order for child support or spousal support issued by a tribunal of this state pursuant to K.S.A. 23-9,203 through 23-9,206 and amendments thereto;

(5) registration of an order for child support of another state for modification pursuant to K.S.A. 23-9,601 through 23-9,612 and amendments thereto;

(6) determination of parentage pursuant to K.S.A. 23-9,701 and amendments thereto; and

(7) assertion of jurisdiction over nonresidents pursuant to K.S.A. 23-9,201 and 23-9,202 and amendments thereto.

(c) An individual petitioner or a support enforcement agency may commence a proceeding authorized under this act by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent.

Sec. 38. K.S.A. 23-9,304 is hereby amended to read as follows: 23-9,304. (a) Upon the filing of a petition authorized by this act, an initiating tribunal of this state shall forward three copies of the petition and its accompanying documents:

(a) (1) To the responding tribunal or appropriate support enforcement agency in the responding state; or

(b) (2) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(b) If a responding state has not enacted this act or a law or procedure substantially similar to this act, a tribunal of this state may issue a certificate or other document and make findings required by the law of the responding state. If the responding state is a foreign jurisdiction, the tribunal may specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding state.

Sec. 39. K.S.A. 23-9,305 is hereby amended to read as follows: 23-9,305. (a) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to subsection (c) of K.S.A. 23-9,301 and amendments thereto (proceedings under this act), it shall cause the petition or pleading to be filed and notify the petitioner ~~by first-class mail~~ , pursuant to article 3 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, where and when it was filed.

(b) A responding tribunal of this state, to the extent otherwise authorized by law, may do one or more of the following:

(1) Issue or enforce a support order, modify a child support order or render a judgment to determine parentage;

(2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) order income withholding;

(4) determine the amount of any arrearages, and specify a method of payment;

(5) enforce orders by civil or criminal contempt, or both;

(6) set aside property for satisfaction of the support order;

(7) place liens and order execution on the obligor's property;

(8) order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment and telephone number at the place of employment;

(9) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(10) order the obligor to seek appropriate employment by specified methods;

(11) award reasonable attorney fees and other fees and costs; and

(12) grant any other available remedy.

(c) A responding tribunal of this state shall include in a support order issued under this act, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this state may not condition the payment of a support order issued under this act upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this state issues an order under this act, the tribunal shall send a copy of the order by ~~first-class-mail~~ to the petitioner, pursuant to article 3 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, and the respondent and to the initiating tribunal, if any.

Sec. 40. K.S.A. 23-9,306 is hereby amended to read as follows: 23-9,306. If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner ~~by first-class-mail-and~~ , pursuant to chapter 60 of the Kansas Statutes Annotated, and amendments thereto, when the pleading was sent.

Sec. 41. K.S.A. 23-9,307 is hereby amended to read as follows: 23-9,307. (a) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this act.

(b) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(1) Take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(2) request an appropriate tribunal to set a date, time and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of

the parties;

(4) within two days, exclusive of Saturdays, Sundays and legal holidays, after receipt of a written notice from an initiating, responding or registering tribunal, send a copy of the notice ~~by first-class mail~~ , pursuant to article 3 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, to the petitioner;

(5) within two days, exclusive of Saturdays, Sundays and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication ~~by first-class mail~~ to the petitioner; and

(6) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) This act does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Sec. 42. K.S.A. 23-9,311 is hereby amended to read as follows: 23-9,311. (a) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under this act must verify the petition. Unless otherwise ordered under K.S.A. 23-9,312 and amendments thereto (nondisclosure of information in exceptional circumstances), the petition or accompanying documents must provide, so far as known, the name, residential address and social security numbers of the obligor and the obligee, and the name, sex, residential address, social security number and date of birth of each child for whom support is sought. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

(b) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

Sec. 43. K.S.A. 23-9,313 is hereby amended to read as follows: 23-9,313. (a) The petitioner may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney fees, other costs and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

(c) The tribunal ~~shall~~ may order the payment of costs and reasonable attorney fees if it determines that a hearing was requested primarily for delay. ~~In--a-proceeding-under-K.S.A-23-9,601--through--23-9,612--(enforcement--and--modification--of support--order-after-registration), a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.~~

Sec. 44. K.S.A. 23-9,401 is hereby amended to read as follows: 23-9,401. (a) If a support order entitled to recognition under this act has not been issued, a responding tribunal of this state may issue a support order if:

(1) The individual seeking the order resides in another state; or

(2) the support enforcement agency seeking the order is located in another state.

(b) The tribunal may issue a temporary child support order if:

(1) The respondent has signed a verified statement acknowledging parentage;

(2) the respondent has been determined by or pursuant to law to be the parent; or



(3) there is other clear and convincing evidence that the respondent is the child's parent.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to K.S.A. 23-9,305 and amendments thereto (duties and powers of responding tribunal).

Sec. 45. K.S.A. 23-9,501 is hereby amended to read as follows: 23-9,501. ~~(a) An income withholding order issued in another state may be sent by first-class mail to the person or entity defined as the obligor's employer under the income withholding act, K.S.A. 23-4,105 et seq. and amendments thereto without first filing a petition or comparable pleading or registering the order with a tribunal of this state. Upon receipt of the order, the employer shall:~~

~~(1) Treat an income withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state;~~

~~(2) immediately provide a copy of the order to the obligor; and~~

~~(3) distribute the funds as directed in the withholding order.~~

~~(b) An obligor may contest the validity or enforcement of an income withholding order issued in another state in the same manner as if the order had been issued by a tribunal of this state; K.S.A. 23-9,604 (choice of law) applies to the contest. The obligor shall give notice of the contest to any support enforcement agency providing services to the obligee and to:~~

~~(1) The person or agency designated to receive payments in the income withholding order; or~~

~~(2) if no person or agency is designated, the obligee.~~

New Sec. 46. (a) Upon receipt of an income withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(b) The employer shall treat an income withholding order

issued in another state which appears regular on its face as if it had been issued by a tribunal of this state.

(c) Except as otherwise provided in subsection (d) and section 50 and amendments thereto the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

(1) The duration and amount of periodic payments of current child support, stated as a sum certain;

(2) the person or agency designated to receive payments and the address to which the payments are to be forwarded;

(3) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(4) the amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(5) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(d) An employer shall comply with the law of the state of the obligor's principal place of employment with that employer for withholding from income with respect to:

(1) The employer's fee for processing an income withholding order;

(2) the maximum amount permitted to be withheld from the obligor's income; and

(3) the times within which the employer must implement the withholding order and forward the child support payment.

New Sec. 47. If an obligor's employer receives multiple income withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment with that employer to establish the priorities for withholding and allocating income withheld for multiple child support obligees.

New Sec. 48. An employer who complies with an income withholding order issued in another state in accordance with this article is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

New Sec. 49. An employer who willfully fails to comply with an income withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

New Sec. 50. (a) An obligor may contest the validity or enforcement of an income withholding order issued in another state and received directly by an employer in this state in the same manner as if the order had been issued by a tribunal of this state. K.S.A. 23-9,604 and amendments thereto (choice of law) applies to the contest.

(b) The obligor shall give notice of the contest to:

(1) A support enforcement agency providing services to the obligee;

(2) each employer that has directly received an income withholding order; and

(3) the person or agency designated to receive payments in the income withholding order or if no person or agency is designated, to the obligee.

Sec. 51. K.S.A. 23-9,605 is hereby amended to read as follows: 23-9,605. (a) When a support order or income withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. ~~Notice--must--be given--by--first-class,--certified--or--registered-mail-or-by-any means-of-personal-service-authorized-by-the-law--of--this--state.~~ Notice shall be given pursuant to article 3 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) The notice must inform the nonregistering party:

(1) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after the date of mailing or personal service of the notice;

(3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(4) of the amount of any alleged arrearages.

(c) Upon registration of an income withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to the income withholding act, K.S.A. 23-4,105 et seq. and amendments thereto.

Sec. 52. K.S.A. 23-9,606 is hereby amended to read as follows: 23-9,606. (a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within 20 days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to K.S.A. 23-9,607 and amendments thereto (contest of registration or enforcement).

(b) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties ~~by first-class mail~~ of the date, time and place of the hearing.

Sec. 53. K.S.A. 23-9,607 is hereby amended to read as

follows: 23-9,607. (a) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) The issuing tribunal lacked personal jurisdiction over the contesting party;

(2) the order was obtained by fraud;

(3) the order has been vacated, suspended or modified by a later order;

(4) the issuing tribunal has stayed the order pending appeal;

(5) there is a defense under the law of this state to the remedy sought;

(6) full or partial payment has been made; or

(7) the statute of limitations under K.S.A. 23-9,604 and amendments thereto (choice of law) precludes enforcement of some or all of the arrearages.

(b) If a party presents evidence establishing a full or partial defense under subsection (a), a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

(c) If the contesting party does not establish a defense under subsection (a) to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

Sec. 54. K.S.A. 23-9,609 is hereby amended to read as follows: 23-9,609. A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in K.S.A. 23-9,601 through 23-9,604 and amendments thereto if the order has not been registered. A petition for modification may be filed at the same time as a

request for registration, or later. The pleading must specify the grounds for modification.

Sec. 55. K.S.A. 23-9,610 is hereby amended to read as follows: 23-9,610. A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order may be modified only if the requirements of K.S.A. 23-9,611 and amendments thereto (modification of child support order of another state) have been met.

Sec. 56. K.S.A. 23-9,611 is hereby amended to read as follows: 23-9,611. (a) After a child support order issued in another state has been registered in this state, the responding tribunal of this state may modify that order only if, K.S.A. 23-9,613 and amendments thereto does not apply and after notice and hearing, it finds that:

(1) The following requirements are met:

(A) The child, the individual obligee and the obligor do not reside in the issuing state;

(B) a petitioner who is a nonresident of this state seeks modification; and

(C) the respondent is subject to the personal jurisdiction of the tribunal of this state; or

(2) ~~an individual party or~~ the child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this state and all of the ~~individual~~ parties who are individuals have filed a written ~~consent~~ consents in the issuing tribunal ~~providing--that~~ for a tribunal of this state may to modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under this act, the consent otherwise required of an individual residing in this state is not required for the tribunal of this state to assume jurisdiction to modify the child support order.

(b) Modification of a registered child support order is subject to the same requirements, procedures and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state. If two or more tribunals have issued child support orders for the same obligor and child, the order that controls and must be so recognized under K.S.A. 29-9,207 and amendments thereto establishes the aspects of the support order which are nonmodifiable.

(d) On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.

~~(e) Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal which had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows that earlier order has been registered.~~

New Sec. 57. (a) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(b) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of K.S.A. 23-9,101, 23-9,102, 23-9,103, 23-9,201 through 23-9,209, 23-9,601 through 23-9,611 and amendments thereto and sections 26 and 27 and amendments thereto, and the procedural and substantive law of this state to the proceeding for enforcement or modification. K.S.A. 23-9,301 et seq., 23-9,401, 23-9,501, 23-9,502, 23-9,701 and 23-9,801, 23-9,802 and amendments thereto do not apply.

New Sec. 58. Within 30 days after issuance of a modified

child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

Sec. 59. K.S.A. 23-9,801 is hereby amended to read as follows: 23-9,801. (a) For purposes of K.S.A. 23-9,801 and 23-9,802 and amendments thereto, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this act.

(b) The governor of this state may:

(1) Demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(2) on the demand by the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with this act applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

Sec. 60. K.S.A. 23-9,902 is hereby amended to read as follows: 23-9,902. ~~This act may be cited as the uniform interstate family support act. "Act" or "this act," as used in K.S.A. 23-9,101 through 23-9,103, 23-9,201 through 23-9,209, 23-9,301 through 23-9,319, 23-9,401, 23-9,501, 23-9,502, 23-9,601 through 23-9,612, 23-9,701, 23-9,801, 23-9,802 and 23-9,901~~



~~through 23-9,903, means the uniform interstate family support act. The provisions of K.S.A. 23-9,101 through 23-9,103, 23-9,201 through 23-9,209, 23-9,301 through 23-9,319, 23-9,401, 23-9,501, 23-9,502, 23-9,601 through 23-9,612, 23-9,701, 23-9,801, 23-9,802, 23-9,901 and 23-9,902 shall be effective on and after July 1, 1995. K.S.A. 23-9,101 to 23-9,903 and amendments thereto may be cited as the uniform interstate family support act.~~

Sec. 61. K.S.A. 32-930 is hereby amended to read as follows:  
 32-930. (a) Except as provided in subsection (b), the secretary or the secretary's designee is authorized to issue to any Kansas resident a lifetime fishing, hunting or combination hunting and fishing license upon proper application made therefor to the secretary or the secretary's designee and payment of a license fee as follows: (1) A total payment made at the time of purchase in the amount prescribed pursuant to K.S.A. 32-988 and amendments thereto; or (2) payment may be made over a two-year period in eight quarter-annual installments in the amount prescribed pursuant to K.S.A. 32-988 and amendments thereto. If payment is in installments, the license shall not be issued until the final installment has been paid. A person making installment payments shall not be required to obtain the appropriate annual license, and each installment payment shall be deemed to be such an annual license for a period of one year following the date of the last installment payment made. If an installment payment is not received within 30 days after it is due and owing, the secretary may consider the payments in default and may retain any payments previously received. Any lifetime license issued to a Kansas resident shall not be made invalid by reason of the holder thereof subsequently residing outside the state of Kansas. Any nonresident holder of a Kansas lifetime hunting or combination hunting and fishing license shall be eligible under the same conditions as a Kansas resident for a big game permit upon proper application to the secretary. Any nonresident holder of a lifetime fishing license issued before July 1, 1989, shall be eligible under the same conditions as a Kansas resident for a big

game permit upon proper application to the secretary.

(b) Upon request of the secretary of social and rehabilitation services, the secretary of wildlife and parks shall not issue a lifetime fishing, hunting or combination hunting and fishing license to an applicant except as provided in this subsection. The secretary of social and rehabilitation services may make such a request if, at the time of the request, the applicant owed arrearages under a support order in a title IV-D case being administered by the secretary of social and rehabilitation services or had outstanding a warrant or subpoena, directed to the applicant, in a title IV-D case being administered by the secretary of social and rehabilitation services.

Upon receiving a release from an authorized agent of the secretary of social and rehabilitation services, the secretary of wildlife and parks may issue the lifetime fishing, hunting or combination hunting and fishing license. The applicant shall have the burden of obtaining and delivering the release.

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

(1) The arrearages are paid in full or a tribunal of competent jurisdiction has determined that no arrearages are owed;

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

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

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

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

parks provides to the applicant.

"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, as in effect on May 1, 1997, relating to child support enforcement services.

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

Sec. 62. K.S.A. 38-1113 is hereby amended to read as follows: 38-1113. The parent and child relationship between a child and:

(a) The mother may be established by proof of her having given birth to the child or under this act.

(b) The father may be established under this act or, in the absence of a final judgment establishing paternity, by a voluntary acknowledgment of paternity meeting the requirements of K.S.A. 38-1138 and amendments thereto, unless the voluntary acknowledgment has been revoked pursuant to K.S.A. 38-1115 and amendments thereto.

(c) An adoptive parent may be established by proof of adoption.

Sec. 63. K.S.A. 1996 Supp. 38-1115 is hereby amended to read as follows: 38-1115. (a) A child or any person on behalf of such a child, may bring an action:

(1) At any time to determine the existence of a father and child relationship presumed under K.S.A. 38-1114 and amendments thereto; or

(2) at any time until three years after the child reaches the age of majority to determine the existence of a father and child relationship which is not presumed under K.S.A. 38-1114 and amendments thereto.

(b) When authorized under K.S.A. 39-755 or 39-756, and amendments thereto, the secretary of social and rehabilitation services may bring an action at any time during a child's minority to determine the existence of the father and child

relationship.

(c) This section does not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to the probate of estates or determination of heirship.

(d) Any agreement between an alleged or presumed father and the mother or child does not bar an action under this section.

(e) Except as otherwise provided in this subsection, if an acknowledgment of paternity ~~has been completed~~ pursuant to K.S.A. 65-2409a 1996 Supp. 38-1138, and amendments thereto, has been completed the man named as the father, the mother or the child may bring an action to revoke the acknowledgment of paternity at any time until one year after the child's date of birth. The legal responsibilities, including any child support obligation, of any signatory arising from the acknowledgment of paternity shall not be suspended during the action, except for good cause shown. If the person bringing the action was a minor at the time the acknowledgment of paternity was completed, the action to revoke the acknowledgment of paternity may be brought at any time until one year after that person attains age 18, unless the court finds that the child is more than one year of age and that revocation of the acknowledgment of paternity is not in the child's best interest.

The person requesting revocation must show, and shall have the burden of proving, that the acknowledgment of paternity was based upon fraud, duress or material mistake of fact unless the action to revoke the acknowledgment of paternity is filed before the earlier of 60 days after completion of the acknowledgment of paternity or the date of a proceeding relating to the child in which the signatory is a party, including but not limited to a proceeding to establish a support order.

If a court of this state has assumed jurisdiction over the matter of the child's paternity or the duty of a man to support the child, that court shall have exclusive jurisdiction to determine whether an acknowledgment of paternity may be revoked

under this subsection.

If an acknowledgment of paternity has been revoked under this subsection, it shall not give rise to a presumption of paternity pursuant to K.S.A. 38-1114 and amendments thereto. Nothing in this subsection shall prevent a court from admitting a revoked acknowledgment of paternity into evidence for any other purpose.

If there has been an assignment of the child's support rights pursuant to K.S.A. 39-709 and amendments thereto, the secretary of social and rehabilitation services shall be a necessary party to any action under this subsection.

Sec. 64. K.S.A. 1996 Supp. 38-1119 is hereby amended to read as follows: 38-1119. (a) Evidence relating to paternity may include any of the following:

(1) Evidence of sexual intercourse between the mother and alleged father at any possible time of conception.

(2) An expert's opinion concerning the statistical probability of the alleged father's paternity based upon the duration of the mother's pregnancy.

(3) Genetic test results of the statistical probability of the alleged father's paternity.

(4) Medical or anthropological evidence relating to the alleged father's paternity of the child based on tests performed by experts. The court may, and upon request of a party shall, require the child, the mother and the alleged father to submit to appropriate tests.

(5) Testimony, records and notes of a physician concerning the medical circumstances of the pregnancy and the condition and characteristics of the child upon birth. Such testimony, records and notes are not privileged.

(6) Any other evidence relevant to the issue of paternity of the child, including but not limited to voluntary acknowledgment of paternity made in accordance with K.S.A. ~~38-1130-or-65-2409a7~~ 1996 Supp. 38-1138 and amendments thereto.

(b) Testimony relating to sexual access to the mother by a man at a time other than the probable time of the conception of

the child is inadmissible in evidence.

(c) For any child whose weight at birth is equal to or greater than five pounds 12 ounces, or 2,608.2 grams, it shall be presumed that the child was conceived between 300 and 230 days prior to the date of the child's birth. A presumption under this section may be rebutted by clear and convincing evidence.

(d) Evidence consisting of the results of any genetic test that is of a type generally acknowledged as reliable by accreditation bodies designated by the United States secretary of health and human services shall be admissible if performed by a laboratory approved by such an accreditation body.

(e) Bills for pregnancy, childbirth and genetic tests are admissible as evidence without requiring third-party foundation testimony and shall constitute prima facie evidence of amounts incurred for such goods and services. As used in this section, the term "bills" includes, but is not limited to, insurance claim forms submitted by a provider and any record of claims submitted and paid by any fiscal agent of the secretary of social and rehabilitation services.

Sec. 65. K.S.A. 38-1131 is hereby amended to read as follows: 38-1131. (a) ~~After--filing-an-action-under-the-Kansas parentage-act,~~ The court, without requiring bond, may make and enforce orders which:

(1) Restrain the parties from molesting or interfering with the privacy or rights of each other;

(2) confirm the existing de facto custody of the child subject to further order of the court;

(3) appoint an expert to conduct genetic tests for determination of paternity as provided in K.S.A. 38-1118 and amendments thereto;

(4) order the mother and child and alleged father to contact the court appointed expert and provide ~~blood~~ tissue samples for testing within 30 days after service of the order; ~~or~~

(5) order the payment of temporary child support pursuant to subsection (c); or

~~(5)~~ (6) the court deems necessary to carry the provisions of the Kansas parentage act.

(b) (1) Interlocutory orders authorized by this section that relate to genetic testing may be issued ~~after~~ ex parte hearing, if:

(A) The appointed expert ~~shall be~~ is a paternity laboratory accredited by the American association of blood banks; and

(B) the order ~~may~~ does not require an adverse party to make advance payment toward the cost of the test.

(2) If such ex parte orders are issued, and if an adverse party requests modification thereof, the court will conduct a hearing within 10 days of such request.

(c) Upon request, the court shall enter an order for child support during the pendency of the action as provided in this subsection. The order shall be entered if the pleadings and the motion for temporary support, if separate from the pleadings, indicate there is only one presumed father and if probable paternity by the presumed father is indicated by clear and convincing evidence. For purposes of this subsection, "clear and convincing evidence" may be presented in any form, including, but not limited to, an uncontested allegation in the pleadings, an uncontested affidavit or an agreement between the parties. For purposes of this subsection, "clear and convincing evidence" means:

(1) The presumed father does not deny paternity;

(2) the mother and the presumed father were married to each other, regardless of whether the marriage was void or voidable, at any time between 300 days before the child's birth and the child's birth;

(3) a voluntary acknowledgment of paternity was completed by the mother and the presumed father more than 60 days before the motion was filed and no request to revoke the voluntary acknowledgment has been filed; or

(4) results of genetic tests show the probability of paternity by the presumed father is equal to or greater than 97%

and the report was received more than 20 days before the motion was filed, unless written notice of intent to challenge the validity of the report has been timely given.

(c) (d) The provisions of this section are part of and supplemental to the Kansas parentage act.

Sec. 66. K.S.A. 1996 Supp. 38-1137 is hereby amended to read as follows: 38-1137. (a) There is hereby established in this state a hospital based program for voluntary acknowledgment of paternity pursuant to K.S.A. 65-2409a, and amendments thereto, for newborn children of unwed mothers. Birthing hospitals shall participate in the program. Other hospitals and persons may participate in the program by agreement with the secretary of social and rehabilitation services.

(b) The secretary of social and rehabilitation services shall provide information and instructions to birthing hospitals for the hospital based program for voluntary acknowledgment of paternity. The secretary of social and rehabilitation services may adopt rules and regulations establishing procedures for birthing hospitals under the program.

(c) Subject to appropriations, the secretary of social and rehabilitation services is authorized to establish in this state a physicians' office-based program for voluntary acknowledgment of paternity pursuant to K.S.A. 65-2409a and amendments thereto for newborn children of unwed mothers. The secretary shall provide information and instructions to physicians' offices for the program and may adopt rules and regulations establishing procedures for physicians' offices under the program.

(d) As provided in section 2, the secretary of health and environment shall provide services for the voluntary acknowledgment of paternity, in appropriate circumstances, through the office of the state registrar. The secretary of health and environment may adopt rules and regulations to carry out the requirements of this section.

Sec. 67. K.S.A. 1996 Supp. 38-1138 is hereby amended to read as follows: 38-1138. (a) The state registrar of vital statistics,



in conjunction with the secretary of social and rehabilitation services, shall review and, as needed, revise acknowledgment of paternity forms for use under K.S.A. 38-1130 and , 65-2409a and section 2, and amendments thereto. The acknowledgment of paternity forms shall include or have attached a written description pursuant to subsection (b) of the rights and responsibilities of acknowledging paternity.

(b) A written description of the rights and responsibilities of acknowledging paternity shall state the following:

(1) An acknowledgment of paternity creates a permanent father and child relationship which can only be ended by court order. A person who wants to revoke the acknowledgment of paternity must file the request with the court before the child is one year old, unless the person was under age 18 when the acknowledgment of paternity was signed. A person under age 18 when the acknowledgment was signed has until one year after his or her 18th birthday to file a request, but if the child is more than one year old then, the judge will first consider the child's best interests.

The person will have to show that the acknowledgment was based on fraud, duress (threat) or an important mistake of fact, unless the request is filed within 60 days of signing the acknowledgment or before any court hearing about the child, whichever is earlier;

(2) both the father and the mother are responsible for the care and support of the child. If necessary, this duty may be enforced through legal action such as a child support order, an order to pay birth or other medical expenses of the child or an order to repay government assistance payments for the child's care. A parent's willful failure to support the parent's child is a crime;

(3) both the father and the mother have rights of custody and visitation with the child unless a court order changes their rights. If necessary, custody and visitation rights may be spelled out in a court order and enforced;

(4) both the father and the mother have the right to consent to medical treatment for the child unless a court order changes those rights;

(5) the child may inherit from the father and the father's family or from the mother and the mother's family. The child may receive public benefits, including, but not limited to, social security or private benefits, including, but not limited to, insurance or workers compensation because of the father-child or mother-child relationship;

(6) the father or the mother may be entitled to claim the child as a dependent for tax or other purposes. The father or the mother may inherit from the child or the child's descendants; and

(7) each parent has the right to sign or not sign an acknowledgment of paternity. Each parent has the right to talk with an attorney before signing an acknowledgment of paternity. Each parent has the right to be represented by an attorney in any legal action involving paternity or their rights or duties as a parent. Usually each person is responsible for hiring the person's own attorney.

(c) Any duty to disclose rights or responsibilities related to signing an acknowledgment of paternity shall have been met by furnishing the written disclosures of subsection (b). Any duty to disclose orally the rights or responsibilities related to signing an acknowledgment of paternity may be met by means of an audio recording of the disclosures of subsection (b).

(d) An acknowledgment of paternity completed without the written disclosures of subsection (b) is not invalid solely for that reason and may create a presumption of paternity pursuant to K.S.A. 38-1114 and amendments thereto. Nothing in K.S.A. 1996 Supp. 38-1136 through 38-1138 and amendments thereto shall decrease the validity, force or effect of an acknowledgment of paternity executed in this state prior to the effective date of this act.

(e) Upon request, the state registrar of vital statistics

shall provide a certified copy of the acknowledgment of paternity to an office providing IV-D program services.

Sec. 68. K.S.A. 39-702 is hereby amended to read as follows: 39-702. The following words and phrases when used in this act shall, for the purposes of this act, have the meanings respectively ascribed to them in this section:

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

(b) "Applicants" means all persons who, as individuals, or in whose behalf requests are made of the secretary for aid or assistance.

(c) "Social welfare service" may include such functions as giving assistance, the prevention of public dependency, and promoting the rehabilitation of dependent persons or those who are approaching public dependency.

(d) "Assistance" includes such items or functions as the giving or providing of money, food stamps or coupons, food, clothing, shelter, medicine or other materials, the giving of any service, including instructive or scientific, and the providing of institutional care, which may be necessary or helpful to the recipient in providing the necessities of life for the recipient and the recipient's dependents. The definitions of social welfare service and assistance in this section shall be deemed as partially descriptive and not limiting.

(e) "Aid to families with dependent children" means financial assistance with respect to or on behalf of a dependent child or dependent children and includes financial assistance for any month to meet the needs of the relative with whom any dependent child is living.

(f) "Medical assistance" means the payment of all or part of the cost of necessary: (1) Medical, remedial, rehabilitative or preventive care and services which are within the scope of services to be provided under a medical care plan developed by the secretary pursuant to this act and furnished by health care providers who have a current approved provider agreement with the

secretary, and (2) transportation to obtain care and services which are within the scope of services to be provided under a medical care plan developed by the secretary pursuant to this act.

(g) "Dependent children" means needy children under the age of 18, or who are under the age of 19 and are full-time students in secondary schools or the equivalent educational program or are full-time students in a program of vocational or technical training if they may be reasonably expected to complete the training before attaining age 19, who have been deprived of parental or guardian support or care by reasons of the death, continued absence from the home, or physical or mental incapacity of a parent or guardian, and who are living with any blood relative, including those of the half-blood, and including first cousins, uncles, aunts, and persons of preceding generations are denoted by prefixes of grand, great, or great-great, and including the spouses or former spouses of any persons named in the above groups, in a place of residence maintained by one or more of such relatives as their own home. The secretary may adopt rules and regulations which extend the deprivation requirement under this definition to include being deprived of parental or guardian support or care by reason of the unemployment of a parent or guardian. The term "dependent children" also includes children who would meet the foregoing requirements except for their removal from the home of a relative as a result of judicial determination to the effect that continuation therein would be contrary to the welfare of such children, for whose placement and care the secretary is responsible, who have been placed in a foster family home or child care institution as a result of such determination and who received aid to dependent children in or for the month in which court proceedings leading to such determination were initiated, or would have received such aid in or for such month if application had been made therefor, or in the case of a child who had been living with a relative specified above within six months prior to the month in which such

proceedings were initiated, would have received such aid in or for such month if in such month such child had been living with and removed from the home of such a relative and application had been made therefor.

(h) "The blind" means not only those who are totally and permanently devoid of vision, but also those persons whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential.

(i) "General assistance" means financial assistance in which the cost of such financial assistance is not participated in by the federal government. General assistance may be limited to transitional assistance in some instances as specified by rules and regulations adopted by the secretary.

(j) "Recipient" means a person who has received assistance under the terms of this act.

(k) "Intake office" means the place where the secretary shall maintain an office for receiving applications.

(l) "Adequate consideration" means consideration equal, or reasonably proportioned to the value of that for which it is given.

(m) "Transitional assistance" means a form of general assistance in which as little financial assistance as one payment may be made during each period of 12 consecutive calendar months to an eligible and needy person and all other persons for whom such person is legally responsible.

(n) "Title IV-D" means part D of title IV of the federal social security act (42 U.S.C. § 651, et seq.), or acts amendatory thereof or supplemental thereto, or federal regulations promulgated pursuant to part D of such act, or acts amendatory thereof or supplemental thereto.

Sec. 69. K.S.A. 39-753 is hereby amended to read as follows: 39-753. For the purpose of providing ~~support--collection,--parent locator--and--paternity--determination--services~~ title IV-D child support enforcement services, the secretary of social and rehabilitation services shall:

(a) Enter into contracts or agreements necessary to administer ~~this-act~~ title IV-D services.

(b) Maintain and operate a central registry, within the organizational unit of the department of social and rehabilitation services responsible for providing child support services, for the location of absent parents.

(c) Develop guidelines for coordinating activities of any governmental department, board, commission, bureau or agency in providing information necessary for the location of absent parents.

(d) Coordinate any activity on a state level in searching for an absent parent.

(e) Assist in the location of ~~an-absent~~ any parent or any other person ~~who-has-an-obligation-to-support-the-child-of-the-resident-parent~~ as required or permitted under title IV-D.

(f) Initiate and maintain legal actions necessary to implement the ~~provisions-of-this-act~~ requirements of title IV-D.

(g) Assist in establishing paternity and in securing and enforcing ~~court~~ orders for support in title IV-D cases.

(h) Utilize, in appropriate cases, support enforcement and collection and location services available through the federal department of health, ~~education-and-welfare~~ and human services, including but not limited to the services of federal courts, the federal parent locator services and the treasury department, if authorized or required by federal law.

(i) Accept, on behalf of the state, assignment of support rights ~~owed-to-persons-applying-for-or-receiving-aid-to-families-with-dependent-children~~ pursuant to K.S.A. 39-709 or 39-756 and amendments thereto.

(j) Adopt rules and regulations necessary to ~~carry-out-the-provisions-of-this-act~~ provide title IV-D services and to enable the state to meet requirements set forth in ~~part-D-of-title-IV-of-the-federal-social-security-act-(42-U.S.C.--651,et-seq.)~~, ~~or-acts-amendatory---thereof---or---supplemental---thereto,~~ ~~or-federal-regulations-promulgated-pursuant-to-part-D-of-such-act,~~ ~~or-acts~~

~~amendatory-thereof-or-supplemental-thereto~~ title IV-D.

(k) Maintain and operate an automated system to manage title IV-D information and to perform such activities as may be required or permitted by federal law. The automated system shall include a registry, to be known as the "state case registry," that contains such records with respect to each title IV-D case as may be required by federal law.

Sec. 70. K.S.A. 39-758 is hereby amended to read as follows:  
39-758. (a) State, county and local units of government, their officers and employees, shall cooperate with the secretary of social and rehabilitation services in locating absent parents or their assets and shall on request supply the secretary of social and rehabilitation services with available information about an absent parent or the absent parent's assets including but not limited to the location, employment status, income, date of birth and social security number of an the absent parent including or any information concerning medical or health insurance coverage for dependents.

(b) All federal and state agencies conducting activities under title IV-D shall have access to any system used by this state or any political subdivision to locate an individual for purposes relating to motor vehicles or law enforcement, including but not limited to the national law enforcement telecommunications system (NLETS) and the national crime information center (NCIC). For purposes of this section, the title IV-D agency shall be considered a law enforcement agency.

(c) The secretary of social and rehabilitation services or the secretary's designee shall have access pursuant to K.S.A. 79-3234 and amendments thereto to information in the records of the department of revenue concerning any person who has or may have a duty of support in a title IV-D case. The secretary of social and rehabilitation services or the secretary's designee may use the information in an appropriate administrative or judicial proceeding to establish, modify, or enforce a support obligation in the title IV-D case or may disclose the information

to another title IV-D agency for use in any administrative or judicial proceeding to establish, modify or enforce a support obligation in the title IV-D case. Except to the extent that disclosure of information is authorized by this subsection, any person receiving information pursuant to this subsection shall be subject to the provisions of subsections (b) and (d) of K.S.A. 79-3234 and amendments thereto.

~~(b)~~ (d) Information received by the secretary of social and rehabilitation services under this section shall be available upon request to persons authorized to receive such information in accordance with rules and regulations duly adopted by the secretary of social and rehabilitation services.

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

(e) 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.

(f) For purposes of this section, the secretary may enter into an agreement with any agency or official to permit 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.

Sec. 71. K.S.A. 39-759 is hereby amended to read as follows:  
 39-759. (a) Any With respect to information obtained by the secretary under K.S.A. 39-758 or section 4 and amendments thereto, any person who willfully requests, obtains or seeks to obtain any confidential information available under K.S.A. 39-758 under false pretenses or who willfully communicates or seeks to communicate such information to any person except in accordance with the provisions of this act and rules and regulations adopted pursuant thereto any law permitting such disclosure shall be guilty of a class B nonperson misdemeanor.



(b) Effective October 1, 1997, the secretary shall safeguard, to the extent required by title IV-D, any confidential information handled by the secretary. Unauthorized use or disclosure of information relating to proceedings or actions to establish paternity or to establish or enforce a support obligation is prohibited, except that nothing in this provision shall prevent the secretary or the secretary's designees from using or disclosing information, or authorizing use or disclosure of information, as needed in the administration of the IV-D program or as authorized by title IV-D.

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

Sec. 72. K.S.A. 44-514 is hereby amended to read as follows:  
44-514. (a) Except as provided in subsection (b), K.S.A. 23-4,146 or the income withholding act and amendments thereto, no claim for compensation, or compensation agreed upon, awarded, adjudged, or paid, shall be assignable or subject to levy, execution, attachment, garnishment, or any other remedy or procedure for the recovery or collection of a debt, and this exemption cannot be waived.

(b) Claims for compensation, or compensation agreed upon, adjudged or paid, which are paid to a worker on a weekly basis or by lump sum shall be subject to enforcement of an order for support by means of voluntary or involuntary assignment of a portion of the compensation.

(1) Any involuntary assignment shall be obtained by motion filed within the case which is the basis of the existing order of

support.

(A) Any motion seeking an involuntary assignment of compensation shall be served on the claimant and the claimant's counsel to the workers compensation claim, if known, the motion shall set forth:

- (i) The amount of the current support order to be enforced;
- (ii) the amount of any arrearage alleged to be owed under the support order;
- (iii) the identity of the payer of the compensation to the claimant, if known; and
- (iv) whether the assignment requested seeks to attach compensation for current support or arrearages or both.

(B) Motions for involuntary assignments of compensation shall be granted. The relief granted for:

- (i) Current support shall be collectible from benefits paid on a weekly basis but shall not exceed 25% of the workers gross weekly compensation excluding any medical compensation and rehabilitation costs paid directly to providers.
- (ii) Past due support shall be collectible from lump-sum settlements, judgments or awards but shall not exceed 40% of a lump sum, excluding any medical compensation and rehabilitation costs paid directly to providers.

(2) In any proceeding under this subsection, the court may also consider the modification of the existing support order upon proper notice to the other interested parties.

(3) Any order of involuntary assignment of compensation shall be served upon the payer of compensation and shall set forth the:

- (A) Amount of the current support order;
- (B) amount of the arrearage owed, if any;
- (C) applicable percentage limitations;
- (D) name and address of the payee to whom assigned sums shall be disbursed by the payer; and

(E) date the assignment is to take effect and the conditions for termination of the assignment.

(4) For the purposes of this section, "order for support" means any order of any Kansas court, authorized by law to issue such an order, which provides for the payment of funds for the support of a child or for maintenance of a spouse or ex-spouse, and includes such an order which provides for payment of an arrearage accrued under a previously existing order and reimbursement orders, including but not limited to, an order established pursuant to K.S.A. 39-718a and amendments thereto; K.S.A. 39-718b and amendments thereto; or an order established pursuant to ~~K.S.A. 23-451 et seq.~~ the uniform interstate family support act and amendments thereto.

(5) For all purposes under this section, each obligation to pay child support or order for child support shall be satisfied prior to satisfaction of any obligation to pay or order for maintenance of a spouse or ex-spouse.

Sec. 73. K.S.A. 60-2202 is hereby amended to read as follows: 60-2202. (a) Any judgment rendered in this state by a court of the United States or by a district court of this state in an action commenced under chapter 60 of the Kansas Statutes Annotated shall be a lien on the real estate of the judgment debtor within the county in which judgment is rendered. Except as provided in subsection (c), the lien shall be effective from the time at which the petition stating the claim against the judgment debtor was filed but not to exceed four months prior to the entry of the judgment. An attested copy of the journal entry of the judgment, together with a statement of the costs taxed against the judgment debtor in the case, may be filed in the office of the clerk of the district court of any other county upon payment of the fee prescribed by K.S.A. 28-170 and amendments thereto, and the judgment shall become a lien on the real estate of the debtor within that county from the date of filing the copy. The clerk shall enter the judgment on the appearance docket and index it in the same manner as if rendered in the court in which the clerk serves. Executions shall be issued only from the court in which the judgment is rendered.

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

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

(d) To the extent that any unpaid arrearages accruing under a support order rendered in another state give rise to a lien on

real property in the state where rendered, such arrearages shall become a lien on the real property of the obligor when the clerk of court in this state enters the order in the appearance docket. The clerk of court shall enter the order in the appearance docket upon receiving payment of the fee prescribed by K.S.A. 28-170 and amendments thereto and a legible copy of the support order or, in a title IV-D case, a notice of lien that describes the support order. The lien shall become a lien only upon the obligor's real property that is located in the county in which the filing is made, but a filing may be made in any county in which real property of the obligor is located. The lien shall cease to be a lien on the real property of the obligor at the time provided in article 24 of this chapter. As used in this section, "title IV-D case" means a case being administered pursuant to part D of title IV of the federal social security act (42 U.S.C. § 651 et seq.) and amendments thereto.

Sec. 74. K.S.A. 60-2401 is hereby amended to read as follows: 60-2401. (a) Definitions. A general execution is a direction to an officer to seize any nonexempt property of a judgment debtor and cause it to be sold in satisfaction of the judgment. A special execution or order of sale is a direction to an officer to effect some action with regard to specified property as the court determines necessary in adjudicating the rights of parties to an action. Notwithstanding the provisions of K.S.A. 60-706, and amendments thereto, executions served under this section shall be by personal service and not by certified mail return receipt requested. If personal service cannot be obtained, other forms of service of process are hereby authorized.

(b) By whom issued. Executions and orders of sale shall be issued by the clerk at the request of any interested person and directed to the appropriate officers of the counties where they are to be levied.

To the extent authorized by section 24 and amendments thereto, the secretary of social and rehabilitation services may

issue an order of execution, which shall be directed to the appropriate officer of the county where the execution is to be levied. The secretary shall deliver the execution to the appropriate officer, and a copy of the execution shall be filed with the clerk of the district court where the support order was entered or registered. The execution shall thereafter be treated in all respects as though it had been issued at the request of the secretary by the clerk of court where the support order was entered or registered.

(c) When returnable. The officer to whom any execution or order of sale is directed shall return it to the court from which it is issued within 60 days from the date thereof. If the execution was issued by the secretary of social and rehabilitation services, the return shall be made to the court where the underlying support order was entered or registered.

(d) Manner of levy. Except as provided in subsection (a), a general execution shall be levied upon any real or personal nonexempt property of the judgment debtor in the manner provided for the service and execution of orders of attachment under K.S.A. 60-706 through 60-710, and amendments thereto. Oil and gas leaseholds, for the purposes of this article, shall be treated as real property. Special executions or orders of sale shall be levied and executed as the court determines.

Sec. 75. K.S.A. 1996 Supp. 74-146 is hereby amended to read as follows: 74-146. (a) As used in K.S.A. 1996 Supp. 74-146 and 74-147 and amendments thereto:

(1) "Licensing body" means an official, agency, board or other entity of the state which authorizes individuals to practice a profession in this state and issues a license, certificate, permit or other authorization to an individual so authorized; and

(2) "licensee" means an individual who is or may be authorized to practice a profession in this state.

(b) All licensing bodies of this state shall have or adopt procedures for the suspension, termination, nonrenewal or denial

of a licensee's authority to practice a profession in this state if ~~the licensee has been found in contempt of court pursuant to subsection (f) of K.S.A. 20-1204a and amendments thereto and~~ the licensing body ~~has received~~ receives notice pursuant to K.S.A. 1996 Supp. 74-147 and amendments thereto.

Sec. 76. K.S.A. 1996 Supp. 74-147 is hereby amended to read as follows: 74-147. (a) ~~The~~ Any notice to a licensing body, served pursuant to K.S.A. 20-1204a and amendments thereto, shall have attached a copy of the court order finding the licensee in contempt of court in a child support proceeding. Any notice to a licensing body served pursuant to section 3 and amendments thereto shall have attached a copy of the warrant or subpoena outstanding against the licensee. The notice shall advise the licensing body of the duty to comply with K.S.A. 1996 Supp. 74-146 and 74-147 and amendments thereto; shall provide the name of the licensee and information which will assist the licensing body to identify the correct person; and shall provide the name, mailing address and telephone number of the person serving the notice. If inadequate identifying information is included in the notice, the licensing body shall promptly contact the person serving the notice to request additional information.

(b) If a licensing body receives a notice pursuant to subsection (a), the licensing body shall, within 30 days after receiving the notice, notify the licensee of the licensing body's intent to suspend or to withhold issuance or renewal of the licensee's authorization to practice a profession in this state and of the licensee's rights and duties under this section. If the licensing body does not receive sufficient information with the notice to identify the correct licensee, the 30 days shall commence when sufficient identifying information is received.

(c) If the licensing body receives a notice pursuant to subsection (a), the licensing body shall provide the licensee a temporary license, authorizing the individual to practice a profession in this state, if the licensee is otherwise eligible. The temporary license shall be valid for a period of six months

from the date the notice to the licensee pursuant to subsection (b) was issued. A temporary license issued under this section shall not be extended, except that the licensing body may extend the temporary license up to 30 days to prevent extreme hardship for a person being served by the licensee. If the licensee does not furnish a release pursuant to subsection (c) within the time required by the licensing body, the licensing body shall proceed to suspend, terminate, deny or refuse to renew the licensee's authority to practice a profession in this state.

(d) If an authorization to practice a profession in this state is suspended, denied or not renewed pursuant to this section, any funds paid by the licensee shall not be refunded by the licensing body.

(e) If a temporary license has been issued pursuant to subsection (c), the licensee shall obtain a release from the court ~~which found the licensee in contempt of court~~ that authorized the notice to the licensing body, as a condition for the issuance or renewal of the licensee's authorization to practice a profession in this state. ~~The licensing body may impose other conditions.~~ The licensing body may require the licensee to furnish the release before the temporary license expires.

(f) In any review of the licensing body's actions pursuant to K.S.A. 1996 Supp. 74-146 and 74-147 and amendments thereto, conducted by the licensing body at the request of the licensee, the issues shall be limited to the identity of the licensee, and the validity of notices pursuant to this section ~~and the validity of any additional conditions imposed by the licensing body if such conditions are otherwise subject to review.~~ ~~As between~~ The licensing body ~~and the court which found the licensee in contempt of court,~~ the court shall have exclusive no jurisdiction over ~~all~~ issues related to the support obligation of the licensee.

Sec. 77. K.S.A. 75-3306 is hereby amended to read as follows: 75-3306. (a) The secretary of social and rehabilitation services, except as set forth in the Kansas administrative



procedure act and subsections (f), (g), (h) and (i), shall provide a fair hearing for any person who is an applicant, client, inmate, other interested person or taxpayer who appeals from the decision or final action of any agent or employee of the secretary. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

It shall be the duty of the secretary of social and rehabilitation services to have available in all intake offices, during all office hours, forms for filing complaints for hearings, and appeal forms with which to appeal from the decision of the agent or employee of the secretary. The forms shall be prescribed by the secretary of social and rehabilitation services and shall have printed on or as a part of them the basic procedure for hearings and appeals prescribed by state law and the secretary of social and rehabilitation services.

(b) The secretary of social and rehabilitation services shall have authority to investigate (1) any claims and vouchers and persons or businesses who provide services to the secretary of social and rehabilitation services or to welfare recipients, (2) the eligibility of persons to receive assistance and (3) the eligibility of providers of services.

(c) The secretary of social and rehabilitation services shall have authority, when conducting investigations as provided for in this section, to issue subpoenas; compel the attendance of witnesses at the place designated in this state; compel the production of any records, books, papers or other documents considered necessary; administer oaths; take testimony; and render decisions. If a person refuses to comply with any subpoena issued under this section or to testify to any matter regarding which the person may lawfully be questioned, the district court of any county, on application of the secretary, may issue an order requiring the person to comply with the subpoena and to testify, and any failure to obey the order of the court may be punished by the court as a contempt of court. Unless incapacitated, the person placing a claim or defending a

privilege before the secretary shall appear in person or by authorized representative and may not be excused from answering questions and supplying information, except in accordance with the person's constitutional rights and lawful privileges.

(d) The presiding officer may close any portion of a hearing conducted under the Kansas administrative procedure act when matters made confidential, pursuant to federal or state law or regulation are under consideration.

(e) Except as provided in subsection (d) of K.S.A. 77-511 and amendments thereto and notwithstanding the other provisions of the Kansas administrative procedure act, the secretary may enforce any order prior to the disposition of a person's application for an adjudicative proceeding unless prohibited from such action by federal or state statute, regulation or court order.

(f) Decisions Except as provided in this subsection, decisions and final actions relating to the administration of the support enforcement program set forth in K.S.A. 39-753 et seq. and amendments thereto ~~except-for-federal-debt-set-off-activities~~ shall be exempt from the provisions of the Kansas administrative procedure act and subsection (a). Decisions and final actions relating to the support enforcement program may be reviewed pursuant to this section if the decision or final action relates directly to federal debt set-off activities or the person is specifically permitted by statute to request a fair hearing under this section.

(g) Decisions relating to administrative disqualification hearings shall be exempt from the provisions of the Kansas administrative procedure act and subsection (a).

(h) The department of social and rehabilitation services shall not have jurisdiction to determine the facial validity of a state or federal statute. The administrative hearings section of the department of social and rehabilitation services shall not have jurisdiction to determine the facial validity of an agency rule and regulation.

(i) The department of social and rehabilitation services shall not be required to provide a hearing if: (1) The department of social and rehabilitation services lacks jurisdiction of the subject matter; (2) resolution of the matter does not require the department of social and rehabilitation services to issue an order that determines the applicant's legal rights, duties, privileges, immunities or other legal interests; (3) the matter was not timely submitted to the department of social and rehabilitation services pursuant to regulation or other provision of law; or (4) the matter was not submitted in a form substantially complying with any applicable provision of law.

Sec. 78. K.S.A. 1996 Supp. 79-3234 is hereby amended to read as follows: 79-3234. (a) All reports and returns required by this act shall be preserved for three years and thereafter until the director orders them to be destroyed.

(b) Except in accordance with proper judicial order, or as provided in subsection (c) or in K.S.A. 17-7511, K.S.A. 39-758, subsection (g) of K.S.A. 46-1106, K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be unlawful for the director, any deputy, agent, clerk or other officer, employee or former employee of the department of revenue or any other state officer or employee or former state officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information required under this act; and it shall be unlawful for the director, any deputy, agent, clerk or other officer or employee engaged in the administration of this act to engage in the business or profession of tax accounting or to accept employment, with or without consideration, from any person, firm or corporation for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the state of Kansas, by any other state or by the United States government, or to accept any employment for the purpose of advising, preparing material or data, or the auditing of books or records to be used in an effort

to defeat or cancel any tax or part thereof that has been assessed by the state of Kansas, any other state or by the United States government.

(c) Nothing herein shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection of returns by the attorney general or other legal representatives of the state. Nothing in this section shall prohibit the post auditor from access to all income tax reports or returns in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto. Nothing in this section shall be construed to prohibit the disclosure of the taxpayer's name, social security number, last known address and total tax liability, including penalty and interest, from income tax returns to a debt collection agency contracting with the secretary of revenue pursuant to K.S.A. 75-5140 through 75-5143, and amendments thereto. Nothing in this section shall be construed to prohibit the disclosure of job creation and investment information derived from tax schedules required to be filed under the Kansas income tax act to the secretary of commerce. Nothing in this section shall be construed to prohibit the disclosure of the taxpayer's name, last known address and residency status to the department of wildlife and parks to be used solely in its license fraud investigations. Any person receiving any information under the provisions of this subsection shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (d).

(d) Any violation of subsection (b) or (c) is a class B misdemeanor and, if the offender is an officer or employee of the state, such officer or employee shall be dismissed from office.

(e) Notwithstanding the provisions of this section, the secretary of revenue may permit the commissioner of internal revenue of the United States, or the proper official of any state imposing an income tax, or the authorized representative of

either, to inspect the income tax returns made under this act and the secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal government, or their authorized representatives, information contained in income tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the income tax laws, as the secretary may consider proper, but such information shall not be used for any other purpose than that of the administration of tax laws of such state, the state of Kansas or of the United States.

(f) Notwithstanding the provisions of this section, the secretary of revenue may:

(1) Communicate to the executive director of the Kansas lottery information as to whether a person, partnership or corporation is current in the filing of all applicable tax returns and in the payment of all taxes, interest and penalties to the state of Kansas, excluding items under formal appeal, for the purpose of determining whether such person, partnership or corporation is eligible to be selected as a lottery retailer;

(2) communicate to the executive director of the Kansas racing commission as to whether a person, partnership or corporation has failed to meet any tax obligation to the state of Kansas for the purpose of determining whether such person, partnership or corporation is eligible for a facility owner license or facility manager license pursuant to the Kansas parimutuel racing act; and

(3) provide such information to the president of Kansas, Inc. as required by K.S.A. 1996 Supp. 74-8017, and amendments thereto. The president and any employees or former employees of Kansas, Inc. receiving any such information shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (d).

Sec. 79. K.S.A. 23-4,101, 23-4,106, 23-4,107, 23-4,108, 23-4,109, 23-4,110, 23-4,111, 23-4,129, 23-4,133, 23-4,146,

23-9,101, 23-9,202, 23-9,205, 23-9,206, 23-9,207, 23-9,301,  
23-9,304, 23-9,305, 23-9,306, 23-9,307, 23-9,311, 23-9,313,  
23-9,401, 23-9,501, 23-9,605, 23-9,606, 23-9,607, 23-9,609,  
23-9,610, 23-9,611, 23-9,801, 23-9,902, 32-930, 38-1113, 38-1131,  
39-702, 39-753, 39-758, 39-759, 44-514, 60-2202, 60-2401 and  
75-3306 and K.S.A. 1996 Supp. 38-1115, 38-1119, 38-1121, 38-1137,  
38-1138, 60-1610, 74-146, 74-147 and 79-3234 are hereby repealed.

Sec. 80. This act shall take effect and be in force from and after its publication in the statute book and publication in the Kansas register of a proclamation issued by the governor which states that this act shall take effect upon the publication of such proclamation.



KANSAS DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES

915 SW HARRISON STREET, TOPEKA, KANSAS 66612

ROCHELLE CHRONISTER, SECRETARY

April 28, 1997

The Honorable Carla Stovall  
Attorney General  
Kansas Judicial Center  
301 SW Tenth Street  
Topeka, KS 66612

RE: Attorney General Opinion #97-39

Dear Attorney General Stovall:

Thank you for your recent review of Senate Bill 140 on Child Support Enforcement. In the opinion you noted that section 76, concerning real estate liens based on out-of-state support orders, does not satisfy due process requirements of the Fourteenth Amendment for notice and opportunity for hearing.

A balloon for section 76 has been drafted (copy attached). Would these changes provide the requisite guarantees of due process? As you will note, the Kansas clerk of court would not enter any out-of-state lien unless the sworn statement concerning notice and opportunity for hearing were received.

Additional language has been drafted as subsection (b) of a new section (copy attached). Is this further remedy necessary for the lien provision in section 76 to meet Fourteenth Amendment concerns?

Thank you for reviewing these materials on short notice. If anything further is needed, please let me know.

Sincerely,

*Rochelle Chronister*

Rochelle Chronister  
Secretary

RC:JLC  
JLC:Letters\STOVAL28 047  
Attachment

*House Judiciary Comm  
Attach # 26  
4/30/97*

4-24-97

28

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.



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 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.

# 25



State of Kansas  
Office of the Attorney General  
301 S.W. 10TH AVENUE, TOPEKA 66612-1597

cc: John Badger

215

CARLA J. STOVALL  
ATTORNEY GENERAL

April 30, 1997

FAX: 296-6296  
TTY: 291-3767

Rochelle Chronister, Secretary  
Kansas Department of Social and  
Rehabilitation Services  
915 S.W. Harrison Street  
Topeka, Kansas 66612

STATE DEPARTMENT OF  
SOCIAL & REHAB. SERVICES  
APR 30 1997  
RECEIVED  
LEGAL DIVISION

Dear Secretary Chronister:

You request our opinion concerning whether a proposed amendment to 1997 Senate Bill No. 140 regarding certain due process procedures satisfies the Fourteenth Amendment to the United States Constitution. In Attorney General Opinion No. 97-39, we reviewed Senate Bill No. 140 and concluded that Section 76, which allows a lien from another state to become a lien on real property in the state of Kansas, may be deficient under the Fourteenth Amendment to the extent that adequate due process proceedings are not available in the state where the lien arises.

Section 76(d) provides that if unpaid arrearages accrue under a support order rendered in another state giving rise to a lien on real property in that state, such arrearages shall become a lien on the real property of an obligor in the state of Kansas upon paying a filing fee with the clerk of the district court and filing a copy of the support order or, in a Title IV-D case, a notice of lien that describes the support order. The proposed amendment which we are asked to review precludes the clerk of the district court from entering the order unless the obligee also submits:

"[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. . . ."

In *Connecticut v. Doehr*, 501 U.S. 1, 115 L.Ed.2d. 1, 111 S.Ct. 2105 (1991), the Court concluded that state procedures for creating and enforcing attachments, as with liens, are subject to the strictures of due process. See *Reardon v. United States*, 947 F.2d. 1509 (1st Cir. 1991) (lien on real property created by federal statute amounts to a deprivation of a significant property interest within the meaning of the 14th Amendment's Due Process Clause); *Cobb v. Saturn Land Co.*, 966 F.2d. 1334 (10th Cir. 1992) (oil and gas liens constitute a deprivation of property sufficient to require procedural due process protections).

House Judiciary Comm.  
Attach. #3  
4/30/97

Rochelle Chronister  
Page 2

In *Cobb v. Saturn Land Co.*, *supra*, the 10th Circuit Court of Appeals upheld an Oklahoma statute that created an oil and gas lien on a leasehold where the lienor had performed services or provided supplies. The lien statute required a public filing of the notice of lien, notice to the owner and a hearing on the merits, if requested. The court concluded that in light of the fact that the lienor already possessed a lien by operation of law, this "preexisting right in the encumbered property" heightened the creditor's interest that justified the summary enforcement procedures provided in the statute.

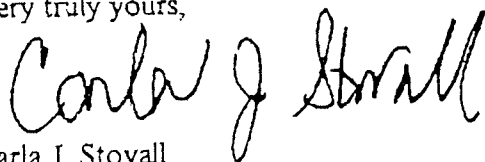
It is our opinion that the proposed amendment comports with the Fourteenth Amendment to the United States Constitution because Section 76(d) creates a preexisting right to real property of a parent who is in arrears on a child support obligation and the proposed amendment provides the obligor parent with notice and an opportunity to contest the proposed filing of the lien that originated in the state where the support order first issued.

You also inquire whether another amendment to 1997 Senate Bill No. 140 is necessary to provide additional procedural protection to an obligor parent when a lien based upon an out-of-state support order becomes a lien on real property in this state. This amendment provides as follows:

"A person named as the debtor in a notice of lien filed pursuant to subsection (d) of K.S.A. 60-2202 [Section 76(d) of 1997 Senate Bill 140] . . . 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 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 mailing or personal service of the notice."

K.S.A. 60-1002 provides a right of action by a person claiming an interest in real property against any other person who claims an adverse interest. This action is commonly referred to as a quiet title action and would provide an option for an obligor parent or anyone with an interest in the subject property to contest the obligee's interest. Consequently, we believe that this amendment is duplicative of the remedy already provided by K.S.A. 60-1002. As far as providing additional due process protections for an obligor parent who owns real property in this state which may be subject to a lien arising from an out-of-state support order, we have previously concluded that the proposed amendment to Section 76(d) is sufficient to comply with the Fourteenth Amendment to the United States Constitution.

Very truly yours,



Carla J. Stovall  
Attorney General of Kansas



KANSAS DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES

915 SW HARRISON STREET, TOPEKA, KANSAS 66612

ROCHELLE CHRONISTER, SECRETARY

April 29, 1997

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

RE: Senate Bill 140  
Child Support Enforcement

Dear Representative Carmody:

Yesterday I received the attached Action Transmittal from the federal Office of Child Support Enforcement. It is a nuts-and-bolts outline of the procedures and consequences if a IV-D (Child Support Enforcement) state plan is disapproved.

The text in the next to last paragraph is of particular concern:

"Section 402(a)(2) of the Act (as amended by PRWORA) provides that the chief executive officer of a State must certify that it will operate a child support enforcement program under an approved IV-D plan **as a condition of eligibility for a TANF block grant** under title IV-A of the Act."  
(emphasis added)

As you know, the TANF block grant replaced the federal funding for Aid to Families with Dependent Children (AFDC). The Kansas TANF block grant is \$100,000,000 for fiscal year 1996.

While we anticipated that \$29 million in IV-D (CSE) funding and up to 5% of the TANF grant (\$5 million) would be in jeopardy if our IV-D state plan were disapproved, it was not clear until now that the entire TANF block grant could also be at risk.

Along with the Action Transmittal, I received a timetable and list of items that will be considered in reviewing IV-D state plans. Items that were included in S.B. 140 have

House Judiciary Comm.  
Attach # 4  
4/30/97

Representative Carmody  
April 29, 1997  
Page 2

been underlined for quick reference.

I want to take this opportunity to thank you and the members of the Judiciary committee again for the time and effort that have been devoted to Senate Bill 140. We clearly share the common goal of safeguarding the well-being of children, who are the future of Kansas. I firmly believe that the final result will reflect the care and thought that have been given by all concerned.

Sincerely,



Rochelle Chronister  
Secretary

RC:JLC

JLC:Letters\ CARMOD29.047

Attachments

cc: Members of the House Judiciary Committee

ADMINISTRATION FOR CHILDREN AND FAMILI  
370 L'Enfant Promenade, S.W.  
Washington, D.C. 20447

PROGRAM INSTRUCTION

ACTION TRANSMITTAL

OCSE-AT-97-05

April 28, 1997

TO: STATE AGENCIES ADMINISTERING CHILD SUPPORT  
ENFORCEMENT PLANS APPROVED UNDER TITLE IV-D  
OF THE SOCIAL SECURITY ACT AND OTHER INTERESTED  
INDIVIDUALS

SUBJECT: Procedures for Determining That a State IV-D Plan is Disapproved

BACKGROUND: Title III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-193, made a number of amendments to sections 454 and 466 of the Social Security Act (the Act), requiring States to either establish new, or modify existing, procedures effective either October 1, 1996, March 1, 1997 or October 1, 1997. For States which require legislation in order to conform their State IV-D plans to the revised statute, section 395(b)(2) of PRWORA provides a grace period until not later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of enactment of PRWORA (August 22, 1996). In cases which require that the State constitution be amended, section 395(c) of PRWORA provides a grace period until one year after the effective date of the State constitutional amendment, but no later than five years after the date of enactment of PRWORA.

OCSE is tracking the progress of each of the States in enacting the new State plan requirements and mandatory laws, and is noting the date when each State's 1997 legislative session ends in order to ascertain when these laws are required to be in effect and when the State must submit new or amended State plan material for approval by OCSE in order to operate a Child Support Enforcement program according to the requirements of title IV-D of the Act. If a State fails to submit the necessary State plan amendments, OCSE will have to determine that the State does not have an approvable State plan. A determination that a State IV-D plan is disapproved will result in immediate suspension of all Federal payments for the State's child support enforcement program, and such payments will continue to be withheld until the State IV-D plan can be approved by OCSE.



STATUTORY  
AUTHORITY:

Section 455(a)(1)(A) of the Act specifies that funds appropriated under title IV-D shall be paid to States with approved State IV-D plans. There is no authority to expend Federal funds under title IV-D of the Act for the operation of a Child Support Enforcement program unless such State has an approved State IV-D plan.

Section 466 of the Act requires that all States, as a condition for approval of their State IV-D plan, must have in effect laws requiring the use of mandatory procedures to increase the effectiveness of their Child Support Enforcement programs. As a condition for State plan approval, section 454(20) of the Act provides that, to the extent required by section 466, States must have laws in effect and implement the procedures prescribed in or pursuant to such laws.

Section 454 of the Act sets the statutory requisites for the State IV-D plan. In addition, regulations at 45 CFR 301.10 define the State IV-D plan as a comprehensive statement submitted by the IV-D agency describing the nature and scope of its program. The State IV-D plan contains all the information necessary for the Office of Child Support Enforcement (OCSE) to determine whether the plan can be approved, as a basis for Federal financial participation in the State IV-D program.

Section 452(a)(3) of the Act requires that OCSE review and approve State plans for Child Support Enforcement programs under title IV-D of the Act. The authority to approve State plans is delegated to the Regional Office, but OCSE retains authority for determining that a State IV-D plan is not approvable.

As stated above, a determination that a State IV-D plan is disapproved will result in immediate suspension of all Federal payments for the State's child support enforcement program, and such payments will continue to be withheld until the State IV-D plan can be approved by OCSE. If a State is dissatisfied with OCSE's decision, reconsideration may be requested pursuant to 45 CFR 301.14. Withholding of Federal payments cannot be stayed pending reconsideration.

Section 402(a)(2) of the Act (as amended by PRWORA) provides that the chief executive officer of a State must certify that it will operate a child support enforcement program under an approved IV-D plan as a condition of eligibility for a TANF block grant under title IV-A of the Act. Therefore, States should be aware that TANF funds may also be at risk.

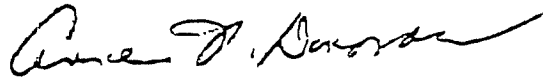
Although it is not required under Title IV-D of the Act, OCSE will give States an advance notice of "Intent to Disapprove" a previously

approved State IV-D plan. The State will then be permitted the opportunity to waive reconsideration of the OCSE's final decision and to exercise, prior to the State plan approval/disapproval decision, the right to a hearing under the procedures set forth in 45 CFR Part 213. If the State elects to pursue its hearing rights prior to issuance of OCSE's decision, no further administrative appeal will be allowed.

ATTACHMENT: Instructions for State Plan Disapproval  
Timetable of Effective Dates  
1997 Legislative Calendar

SUPERSEDED  
MATERIAL: OCSE-AT-86-21

INQUIRIES: ACF Regional Administrators



Anne F. Donovan  
Acting Deputy Director  
Office of Child Support Enforcement

## INSTRUCTIONS FOR STATE PLAN DISAPPROVAL

### I. NOTICE OF INTENT TO DISAPPROVE

OCSE will issue a Notice of Intent to Disapprove a State Plan to the State umbrella agency head when it has been determined that either of the following situations exist:

- A. Pursuant to the requirements at 45 CFR 301.13(d) the State IV-D plan no longer meets the requirements for an approved State plan based on relevant Federal statutes and guidelines.
- B. Pursuant to the requirements at 45 CFR 301.13(e) or (f) the State IV-D plan or amendment submitted for approval does not meet the requirements under title IV-D of the Act and regulations issued pursuant to the Act.

### II. NOTICE OF OPPORTUNITY FOR HEARING

The Notice of Intent to Disapprove will provide opportunity for the State to request a hearing prior to the issuance of the final decision if the State waives its right to a reconsideration of OCSE's decision under 45 CFR 301.14. The State must request a hearing within 60 days of the date of the Notice of Intent to Disapprove. If the State does not request a hearing, OCSE shall proceed according to the procedures set forth under Determination to Withhold outlined below.

Upon request of the State for a hearing, OCSE will issue a Notice of Hearing which will state the time and place of the hearing, the issues which will be considered, and shall be published in the Federal Register. The hearing procedures contained in regulations at 45 CFR Part 213 shall apply to these proceedings.

### III. NEGOTIATIONS

As provided in regulations at 45 CFR 213.1(b) the hearing process does not preclude or limit negotiations between OCSE and the State, whether before, during or after the hearing to resolve the issues which are, or otherwise would be, considered at the hearing. Such negotiations and resolution of the issues are not part of the hearing, and are not governed by the hearing procedures, except as expressly provided for in such procedures.

### IV. DETERMINATION TO WITHHOLD

If OCSE concludes that the State does not have an approved State IV-D plan under section I of these instructions, it will notify the State that further Federal payments under title IV-D of the Act will not be made to the State until a State IV-D plan is submitted and approved. Until a State IV-D plan is approved, no further Federal payments under title IV-D will be made to the State for any child support enforcement activities. Pursuant to

45 CFR 213.33, the effective date for the withholding of Federal funds shall not be earlier than the date of OCSE's decision and shall not be later than the first day of the next calendar quarter following such decision.

V. RECONSIDERATION

Any State which has not waived its right to reconsideration and is dissatisfied with OCSE's decision that the State does not have an approvable State plan may request reconsideration of the decision pursuant to regulations at 45 CFR 301.14. Funding, however, will be suspended and may not be restored unless OCSE subsequently determines that the original decision to withhold Federal IV-D funding was incorrect.

# CHILD SUPPORT LEGISLATION IN 104TH CONGRESS TIMETABLE OF EFFECTIVE DATES FOR STATE REQUIREMENTS

Based on Dates in Text of Title III of PL 104-193  
Personal Responsibility and Work Opportunity Reconciliation Act of 1996

Section 395 states that, except as specifically provided in the legislation, the effective date for provisions of PL 104-193 is 10/1/96 for provisions under §§454 & 466 of the Act. Section 395 allows a grace period for State law changes and State constitutional amendments. For State law changes, the grace period is until the effective date of the State implementing provisions, but no later than the first day of the first quarter after the close of the first regular legislative session that begins after enactment of PL 104-193. For State constitutional amendments, the grace period is until one year after the effective date of the State constitutional amendment, but no later than five years after enactment of PL 104-193.

## Requirements Effective 10/1/96

- Income withholding [§314] - §466(a)(1) and (b)
- Locator networks; access to motor vehicle and law enforcement data [§315] - §466(a)(12)
- SSNs on applications for professional, commercial drivers, occupational and marriage licenses; on records of divorce decrees, support orders, and paternity determinations; and death records & certificates [§317] - §466(a)(13)
- Administrative enforcement in interstate cases [§323] - §466(a)(14)
- State laws providing expedited procedures, including:

Ordering genetic testing for paternity establishment; Issuing subpoenas for information and impose penalties for failure to respond; Requiring all entities in a State to promptly respond to inquiries by State agency and sanction failure to respond; Obtaining access to records of other State and local government agencies and records held by private entities including public utilities and financial institutions; Changing payee in cases subject to an assignment; Ordering income withholding; Securing assets to satisfy arrearages by intercepting or seizing periodic or lump-sum payments from a State or local agency and judgments, settlements, and lotteries; attach assets held by financial institutions; attach retirement funds; and impose liens; Increasing the amount of monthly support payments to include amounts for arrearages; Filing of information on location/identity of parties in State case registry upon entry of order; Statewide jurisdiction over orders and transfer of cases between local jurisdictions without additional filing; and Using of automated system to maximum extent feasible to implement expedited administrative procedures  
[§325] - §§466(c) & 454A(h)

- State laws concerning paternity establishment, including:

18

Establish paternity before age 21 (retroactive to 8/16/84); Genetic tests in contested cases upon request w/sworn affidavits; Payment for genetic testing; Provide for a simple civil process for voluntarily acknowledging paternity with prior explanation/written notice to parents; Birth record agency must offer voluntary paternity establishment services, and other may; Name of father included on birth record only if both mother and father have signed an acknowledgment, or court or administrative authority has adjudicated paternity; Development of affidavit for voluntary acknowledgment of paternity which must be given full faith and credit in any other State; Procedures where voluntary acknowledgments and adjudication of paternity are filed with the State registry of birth records for comparison with State case registry; Admissibility of test results if performed by accredited laboratory; Rescission timeframe of 60 Days for signed voluntary paternity acknowledgments; elimination of judicial/administrative ratification proceedings on unchallenged paternity acknowledgments; Default orders; No right to jury trial in paternity cases; Issuance of temporary support orders in paternity cases; Evidentiary treatment of birth expenses/bills; and Opportunity for putative fathers to initiate paternity proceedings [§331(a)] – §466(a)(5)

- State plan requirements for paternity outreach activities [§332] – §454(23)
- Cooperation/good cause [§333] -- §454(29)
- State use of definitions for collecting & reporting data [§343(b)] – §454(30)
- Simplified review & adjustment process [§351] – §466(a)(10)
- Voiding of fraudulent transfers [§364] – §466(g)
- Work requirement for persons owing child support [§365] – §466(a)(15)
- Reporting arrearages to credit bureaus [§367] -- §466(a)(7)
- Liens on real/personal property by operation of law, full faith and credit to liens without registration of order [§368] – §466(a)(4)
- State law authorizing the suspension of licenses [§369] – §466(a)(16)
- International CSE – State treatment of international requests [§371(b)] – §454(32)
- Financial institution data matches [§372] – §466(a)(17)
- Enforcing orders against grandparents in cases of minors [§373] – §466(a)(18)
- State cooperative agreements with Indian Tribes [§375(a)] – §454(33)

- Enforcement of orders for health care coverage [§382] -- §466(a)(19)
- Explicit statutory requirement that Title IV-D services be provided to nonresident applicants; enforce child support & support due on behalf of child's custodian [§301(a)] -- §§454(4)&(6)
- Continuation of IV-D services for former recipients of IV-A assistance [301(b)] -- §454(25)

#### Requirements Effective 3/1/97

- Use of forms by States in interstate cases [§324(b)] -- §454(9)(E)

#### Requirements Effective 10/1/97

- Annual State self-reviews & reports [§342(a)] -- §454(15)
- Data submitted on compliance with Federal performance requirements [§342(a)] -- §454(15)
- State privacy safeguards [§303(a)] -- §454(26)
- State procedures-notices & copies of orders [§304(b)] -- 454(12)
- State directory of new hires [§313] -- 454 (28)
- ADP systems meeting all IV-D requirements enacted on or before Family Support Act [§344] -- §454(24)
- Denial/restriction/revocation of passport if arrears greater than \$5000 [§370] -- §§452(k) & 454(31)

#### Requirements Effective 1/1/98

- Adoption of UIFSA (with modifications) [§321] -- §466(f) (Uniform Interstate Family Support Act)

#### Requirements Effective 10/1/98

- All support orders established or modified on or after 10/1/98 included in State central registry, which must be in place by 10/1/2000 [§311 and §344(a)(2)] -- §454A
- Centralized automated unit for collections and disbursements [§312] -- §454(27)

- Collection through State centralized collection unit of orders under wage withholding [§312] - §454B
- State new hire reporting systems in existence prior to P.L. 104-193 must meet rest of new requirements [§313] - §454(28)

Requirements Effective 10/1/99

End of optional exception period for local court collection of child support in lieu of State centralized collection unit [§312] - §454B

Requirements Effective 10/1/2000

ADP systems must meet all IV-D requirements enacted on or before this law (with additional time tied to regulation issuance) [§344(A)(4)] - §454(24)



# 1997 LEGISLATIVE SESSION CALENDAR

\*Legislature meets throughout the year

STATES	DATES	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	N
ALABAMA	Feb. 4-May 19												
ALASKA	Jan. 13-May 13												
ARIZONA	Jan. 13-April 26												
ARKANSAS	Jan. 13-mid-March												
CALIFORNIA	Jan. 6-mid-Sept.												
COLORADO	Jan. 8-May 8												
CONNECTICUT	Jan. 8-June 4												
DELAWARE	Jan. 14-June 30												
FLORIDA	March 4-May 7												
GEORGIA	Jan. 13-late March												
HAWAII	Jan. 15-early May												
IDAHO	Jan. 6-late March												
ILLINOIS	Jan. 8*												
INDIANA	Jan. 7-April 29												
IOWA	Jan. 13-late April												
KANSAS	Jan. 13-late May												
KENTUCKY	No regular session Organizational session Jan. 7												
LOUISIANA	March 31-June 23												
MAINE	Dec. 4, 1996-June 18												
MARYLAND	Jan. 1-April 7												
MASSACHUSETTS	Jan. 1*												
MICHIGAN	Jan. 15*												
MINNESOTA	Jan. 7-May 19												
MISSISSIPPI	Jan. 7-April 6												
MISSOURI	Jan. 8-May 30												
MONTANA	Jan. 6-mid-April												
NEBRASKA	Jan. 8-early June												
NEVADA	Jan. 20-early July												
NEW HAMPSHIRE	Jan. 8-mid-June												
NEW JERSEY	Jan. 14*												
NEW MEXICO	Jan. 21-March 22												
NEW YORK	Jan. 8*												
NORTH CAROLINA	Jan 29-mid-July												
NORTH DAKOTA	Jan. 7-mid-April												
OHIO	Jan. 6*												
OKLAHOMA	Feb. 2-May 30 Organizational session Jan. 7												
OREGON	Jan. 13-late June												
PENNSYLVANIA	Jan. 7*												
RHODE ISLAND	Jan. 7-early July												
SOUTH CAROLINA	Jan. 14-June 5												
SOUTH DAKOTA	Jan. 14-mid-March												
TENNESSEE	Feb. 3-late May Organizational session Jan. 14												
TEXAS	Jan. 14-June 2												
UTAH	Jan. 20-March 5												
VERMONT	Jan. 8-late May												
VIRGINIA	Jan. 8-Feb. 22												
WASHINGTON	Jan. 13-April 27												
WEST VIRGINIA	Feb. 12-April 12 Organizational session Jan. 8												
WISCONSIN	Jan. 6*												
WYOMING	Jan. 14-March 10												
PUERTO RICO	Jan. 13-May 30 Resumes Sept-Oct												
DISTRICT OF COLUMBIA	Jan. 2*												

## National Conference of State Legislatures

WASHINGTON OFFICE: 444 North Capital Street, Suite 515 • Washington, D.C. 20001 • (202) 624-5400 FAX (202) 737-1069  
 DENVER OFFICE: 1560 Broadway, Suite 700 • Denver, Colorado 80202 • (303) 830-2200 FAX (303) 863-8003

5

**OFFICE OF THE SECRETARY**  
**Kansas Department of Social and Rehabilitation Services**  
**915 S.W. Harrison, Docking State Office Bldg., Room 611-N, Topeka, KS 66612-1570**  
**Charles Underwood      Voice: 913-296-4723      Fax: 913-296-4685**

**M E M O R A N D U M**

**To:** Secretary Chronister

**Date:** April 29, 1997

**From:** Charles Underwood *CU*

**Subject:** Child Support Enforcement -  
State Plan

This responds to your request this morning for information from eight other states regarding changes in state child support enforcement laws. This preliminary report summarizes information received from five states. I will revise this memo when I receive return calls from the others.

I have received the following information.

State	Session Ended?	Believe in Compliance?	Notice to Disapprove
Arkansas	Yes. Laws passed	Yes	No
Idaho	Yes. Some laws passed, some did not.	Yes	No
Utah	Yes.	Yes, with interpretation	No
Wyoming	Yes	Yes	No. See Note 1.
S. Dakota	Yes	Yes, 95%.	No

Note 1: The Wyoming Legislature at first did not pass the new hire registry. Following consultation with the federal government and an advisory letter (not a notice to disapprove) from them regarding FFP, the Wyoming child support agency issued instructions to the field to prepare for a reduction in force. Following public reaction the legislature reconsidered and passed the new hire legislation.

Note 2: Some states had their proposed child support changes embedded in several separate bills - Arkansas had five, Idaho several. Though all their bills did not pass, these states believe they are in compliance. None of the five has received a written approval, though Arkansas had their regional review their bills and accommodated suggested changes prior to passage.

*House Judiciary Comm  
Attach 5  
4/30/97*