

Approved: Feb. 21, 1997
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Mike Harris at 10:11 a.m. on February 12, 1997 in Room 514-S of the Capitol.

All members were present except: Senator Petty (excused)

Committee staff present: Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Revisor of Statutes
Mary Blair, Committee Secretary (excused)

Conferees appearing before the committee: Kathy Taylor, The Kansas Bankers Association (KBA)

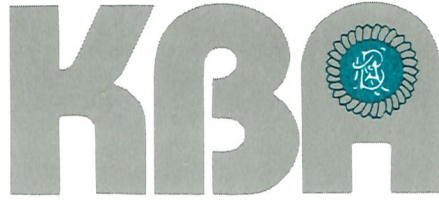
Others attending:

SB 140 - Enforcement of child support uniform interstate family support act

Conferee Taylor, KBA, commented on New Section 5 of **SB 140** which provides for recoupment of costs complying with the act and requested amendments to Subsections (a)1 and (a)2. (Attachment 1) Discussion followed with comments from Jamie Corkhill, Attorney with the SRS.

Written testimony on **SB 140** from Matthew Goddard, representing Heartland Community Bankers Association, was submitted. (Attachment 2). No action was taken at this time.

Meeting adjourned at 10:25 a.m. The next scheduled meeting is Thursday, February 13, 1997.



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

To: Senate Committee on Judiciary

From: Kathy Taylor
Kansas Bankers Association

Date: February 10, 1997

Re: SB 140/Child Support Enforcement

Mr. Chairman and Members of the Committee:

Thank you for allowing the Kansas Bankers Association to make these comments regarding SB 140. Our comments really focus on the provisions of New Section 5. That is the section which requires the Secretary to develop and operate a data match system with financial institutions to try to locate accounts of parents owing child support payments.

It is our understanding that the details of what type of system will actually be used and how the information will be shared between the Department of Social Services and financial institutions will be ironed out in the writing of the regulations. However, the KBA would like to offer a few suggestions for amendments to the existing sections and one suggestion for a new section.

The amendments we are requesting to *subsection (a)* affect two issues:

Subsection (1): It will be difficult for many banks, especially in the rural areas of the state, to have the equipment necessary to upload information to the SRS office. Rather than force each bank to upgrade their equipment to be able to perform this one function for the state, we would like to have language which would allow the SRS and the financial institution to agree that the institution will send a list to the SRS quarterly, and then the SRS will process that information as needed.

Subsection (2): We understand that the SRS must have the ability to attach any funds discovered through the process. Our amendments to this section merely affirm that any such attachment will be subject to any existing liens or any right of setoff the financial institution may have against such assets. In other words, the right to proceed against the customer's assets would not supercede the rights already existing and granted to the financial institution.

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The new section which we would ask to have amended to SB 140 would allow a financial institution to be reimbursed for the costs of complying with the requirements of this act. We would ask five cents per name. We believe without really knowing just what type of technology will be required and how much time will be required of employee's of the financial institution that this is a reasonable fee which could be modified if necessary next year.

Thank you again for considering our comments as you consider the passage of SB 140.

- 4 New Sec. 5. (a) Upon request, the secretary shall enter into agree-
5 ments with financial institutions doing business in this state:
6 (1) To develop and operate, in coordination with such financial in-
7 stitutions, a data match system, using automated data exchanges to the
8 maximum extent feasible, in which each such financial institution is re-
9 quired to provide for each calendar quarter the name, record address,
10 social security number or other taxpayer identification number and other
11 identifying information for each responsible parent, as identified by the
12 secretary by name and social security number or other taxpayer identifi-
13 cation number, who maintains an account at such financial institution and
14 who owes arrearages;
15 (2) to encumber, restrict transfer of or surrender cash assets of any
16 responsible parent in response to any notice of lien, order to restrict
17 transfer or order to disburse received by the financial institution from the
18 secretary; and
19 (3) to address any other matters related to the title IV-D program.
20 (b) No financial institution that is a party to an agreement under this
21 section shall be liable to any person:
22 (1) For any disclosure of information made pursuant to the agree-
23 ment;
24 (2) for encumbering, restricting transfer of or surrendering any prop-
25 erty in response to any notice of lien, order to restrict transfer or order
26 to disburse received pursuant to the agreement; or
27 (3) for any other action taken in good faith to comply with the agree-
28 ment.
29 (c) Agreements entered into pursuant to this section shall not be con-
30 strued to be contracts for the performance of support enforcement serv-
31 ices pursuant to K.S.A. 75-5365 and amendments thereto. Nothing in
32 such an agreement or in this section shall be construed as requiring the
33 secretary to implement or modify any automated system.
34 (d) As used in this section, the term "responsible parent" shall have
35 the meaning given such term in section 9 and amendments thereto.
36 (e) This section shall be part of and supplemental to article 7 of chap-
37 ter 39 of the Kansas Statutes Annotated.

SB 140

Suggested amendments to New Section 5

Subsection (a)(1):

After the word, "arrearages":

, or in the alternative, in which a financial institution may elect to send a list of its depositors, including name, record address and social security number or other taxpayer identification number, to the secretary at the beginning of each quarter, and the secretary shall be responsible for processing and comparing that information pursuant to the requirements of this act;

Subsection (a)(2):

After the word "secretary";

subject to any existing liens or any right of setoff the financial institution may have against such assets;

New Subsection:

A financial institution shall be entitled to reimbursement in the amount of five cents per name for the costs associated with designing and implementing a system for compliance with the requirements of this act.



Matthew S. Goddard, Vice President

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To: Chairman Mike Harris
Senate Committee on Judiciary

From: Matthew Goddard
Heartland Community Bankers Association

Date: February 11, 1997

Re: Senate Bill 140; Welfare Reform

The Heartland Community Bankers Association would like to take this opportunity to share with you our concerns regarding SB 140. I apologize for not appearing at the hearing last Friday, but hope you will still take our concerns under advisement.

HCBA represents savings institutions in Kansas, Colorado, Nebraska and Oklahoma. We are a Kansas-based organization that has grown to include other states. In Kansas our membership includes 20 thrifts with \$7.6 billion in assets. Our members have over 130 branch offices in Kansas.

Kansas thrifts support welfare reform and efforts to make parents fulfill their child support obligations. We are willing to do what we can to help in this effort. However, we are concerned with some of the details contained in SB 140 concerning the role of financial institutions.

New Section Five of the bill begins by saying that "the secretary shall enter into agreements with financial institutions doing business in this state." The legislation then goes on to create a data match system whereby institutions would compare, on a quarterly basis, their account owner list with a SRS provided list of parents owing arrearages. The reference to "agreements" is vague. We would like to see that clarified to include financial compensation to the institution for performing a data match.

Performing a data match is a mandate by the state on a private business. While we are willing to comply, we would like to be compensated for it. At present, if a garnishment order is placed on someone's account, the institution is allowed by law to charge the defendant (the account holder) a \$10 administrative fee. Under the provisions of SB 140, the state would give our members a list of delinquent parents in Kansas and they would then be expected to data match the entire list. This means that Neodesha Savings and Loan Association, located in Neodesha with 8 full-time employees and less than \$14 million in assets, would be required to data match people on the other side of the state living in Hays. We doubt Neodesha has enough "deadbeat" parents to pay the cost of data matching the rest of the state.

It should be noted that the Personal Responsibility and Work Opportunity Act of 1996, the federal welfare law, allows that "the state agency may pay a reasonable fee to a financial institution for

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conducting the data match... not to exceed the actual costs incurred by financial institutions." That is essentially what we are asking for in this situation. In Colorado, their welfare reform legislation offers financial institutions reimbursement of five cents per name per quarter. We would respectfully ask that the Judiciary Committee consider adding a similar provision to SB 140. I have attached the relevant sections of the Colorado bill.

Data matches require computers, software programs and employees. Senate Bill 140 adds up to be an expensive mandate. In the case of our industry, it also diverts resources from our primary mission, residential home mortgage lending.

One possible alternative is that an institution could provide SRS with a list of account owners and the state could then do the data match itself. Our primary concern with that, however, is that most if not all of our members do not want to surrender to the state, or anyone else for that matter, a list of all their customers. That is information which we do not care to advertise. While submitting a list of account holders may be the preferred option for some institutions, we do not feel it should be the only option. That returns us to financial reimbursement for institutions.

I appreciate your taking the time to review our concerns with SB 140 and we hope they can be addressed during the bill's mark-up. Should you have any questions, please feel free to contact me at 232-8215. Thanks.

Attachments

1 AMENDED, AND FOR WHICH A SUPPORT ORDER HAS BEEN ESTABLISHED OR
 2 MODIFIED, THE STATE CASE REGISTRY SHALL INCLUDE THE BASIC
 3 INFORMATION LISTED IN SUBSECTION (2) OF THIS SECTION AND THE
 4 FOLLOWING ADDITIONAL INFORMATION:

5 (a) THE AMOUNT OF MONTHLY SUPPORT OWED UNDER THE ORDER
 6 AND OTHER AMOUNTS OWED, INCLUDING ARREARS, INTEREST, OR LATE
 7 PAYMENT PENALTIES AND FEES, DUE OR PAST-DUE, UNDER THE ORDER;

8 (b) THE DISTRIBUTION OF COLLECTED AMOUNTS;

9 (c) THE DATE OF BIRTH OF ANY CHILD FOR WHOM THE ORDER
 10 REQUIRES THE PAYMENT OF SUPPORT;

11 (d) THE AMOUNT OF ANY LIEN IMPOSED WITH RESPECT TO THE
 12 ORDER PURSUANT TO SECTION 14-10-122 (1.5), C.R.S.

13 **26-13-128. Agreements with financial institutions - data match**
 14 **system - limited liability.** (1) THE GENERAL ASSEMBLY AUTHORIZES THE
 15 STATE DEPARTMENT TO DESIGN AND IMPLEMENT A PROGRAM PURSUANT
 16 TO WHICH THE STATE DEPARTMENT SHALL ENTER INTO AGREEMENTS WITH
 17 FINANCIAL INSTITUTIONS DOING BUSINESS IN THE STATE. TO EFFECTUATE
 18 THE PURPOSE OF THIS SECTION, THE EXECUTIVE DIRECTOR MAY REQUEST
 19 AND SHALL RECEIVE FROM SUCH FINANCIAL INSTITUTIONS OR ANY STATE
 20 ENTITY, SUCH AS A DEPARTMENT, BOARD, OR AGENCY OF THE STATE OR
 21 ANY OF ITS POLITICAL SUBDIVISIONS, THE INFORMATION AND ACTION
 22 DESCRIBED IN THIS SECTION.

23 (2) THE PURPOSE OF THE PROGRAM AUTHORIZED BY THIS SECTION
 24 SHALL BE TO DEVELOP AND OPERATE, IN COORDINATION WITH SUCH
 25 FINANCIAL INSTITUTIONS AND STATE ENTITIES, A DATA MATCH SYSTEM,
 26 USING AUTOMATED DATA EXCHANGES, TO THE MAXIMUM EXTENT

1 FEASIBLE, IN WHICH EACH SUCH FINANCIAL INSTITUTION OR STATE ENTITY
2 IS REQUIRED TO PROVIDE FOR EACH CALENDAR QUARTER THE NAME,
3 RECORD ADDRESS, AND SOCIAL SECURITY NUMBER, OR OTHER TAXPAYER
4 IDENTIFICATION NUMBER, OF ANY ACCOUNT HOLDER OR CUSTOMER THAT
5 MAINTAINS AN ACCOUNT AT SUCH INSTITUTION OR ENTITY AND WHO OWES
6 PAST-DUE CHILD SUPPORT, AS IDENTIFIED BY THE STATE BY NAME AND
7 SOCIAL SECURITY NUMBER, OR OTHER TAXPAYER IDENTIFICATION
8 NUMBER. THE FINANCIAL INSTITUTION OR STATE ENTITY SHALL HAVE
9 FORTY-FIVE DAYS AFTER THE RECEIPT OF THE INFORMATIONAL
10 ELECTRONIC DATA TAPE FROM THE CHILD SUPPORT ENFORCEMENT AGENCY
11 TO TRANSMIT THE DATA REQUIRED BY THIS SUBSECTION (2). IN THE
12 ALTERNATIVE, A FINANCIAL INSTITUTION MAY ELECT TO SEND A LIST OF
13 ITS DEPOSITORS, INCLUDING NAME, RECORD ADDRESS, AND SOCIAL
14 SECURITY NUMBER OR OTHER TAXPAYER IDENTIFICATION NUMBER, TO THE
15 CHILD SUPPORT ENFORCEMENT AGENCY AT THE BEGINNING OF EACH
16 QUARTER, AND THE CHILD SUPPORT ENFORCEMENT AGENCY SHALL BE
17 RESPONSIBLE FOR PROCESSING AND COMPARING THAT INFORMATION
18 PURSUANT TO THE REQUIREMENTS OF THIS SUBSECTION (2). THE CHILD
19 SUPPORT ENFORCEMENT AGENCY SHALL MAKE A REASONABLE EFFORT TO
20 ACCOMMODATE THOSE FINANCIAL INSTITUTIONS UPON WHICH THE
21 REQUIREMENTS OF THIS SECTION WOULD POSE A HARDSHIP. THE
22 FINANCIAL INSTITUTION OR ENTITY, IN RESPONSE TO A NOTICE OF LIEN OR
23 LEVY FROM THE STATE DEPARTMENT, SHALL ENCUMBER OR SURRENDER
24 ASSETS HELD BY SUCH INSTITUTION OR ENTITY ON BEHALF OF ANY
25 NONCUSTODIAL PARENT WHO IS SUBJECT TO A CHILD SUPPORT LIEN,
26 SUBJECT TO ANY RIGHT OF SETOFF THE FINANCIAL INSTITUTION MAY HAVE

1 AGAINST SUCH ASSETS.

2 (3) NOTWITHSTANDING ANY OTHER PROVISION OF FEDERAL OR
3 STATE LAW, A FINANCIAL INSTITUTION OR STATE ENTITY SHALL NOT BE
4 LIABLE UNDER ANY FEDERAL, STATE, OR LOCAL LAW TO ANY PERSON FOR
5 ANY DISCLOSURE OF INFORMATION TO THE STATE DEPARTMENT FOR THE
6 PURPOSE OF ESTABLISHING, MODIFYING, OR ENFORCING A CHILD SUPPORT
7 OBLIGATION OF AN INDIVIDUAL, OR FOR ENCUMBERING, HOLDING,
8 REFUSING TO RELEASE TO THE OBLIGOR, SURRENDERING, OR
9 TRANSFERRING ANY ASSETS HELD BY SUCH FINANCIAL INSTITUTION OR
10 STATE ENTITY IN RESPONSE TO A NOTICE OF LIEN OR LEVY ISSUED BY THE
11 STATE DEPARTMENT PURSUANT TO SECTION 14-10-122 (1.5), C.R.S., OR
12 FOR ANY OTHER ACTION TAKEN IN GOOD FAITH TO COMPLY WITH THE
13 REQUIREMENTS OF THIS SECTION REGARDLESS OF WHETHER SUCH ACTION
14 WAS SPECIFICALLY AUTHORIZED OR DESCRIBED BY THIS SECTION. A
15 FINANCIAL INSTITUTION SHALL NOT BE REQUIRED TO GIVE NOTICE TO AN
16 ACCOUNT HOLDER OR CUSTOMER OF THE FINANCIAL INSTITUTION
17 CONCERNING WHOM THE FINANCIAL INSTITUTION HAS PROVIDED
18 INFORMATION OR TAKEN ANY ACTION PURSUANT TO THIS SECTION. THE
19 FINANCIAL INSTITUTION SHALL NOT BE LIABLE FOR THE FAILURE TO
20 PROVIDE SUCH NOTICE.

21 (4) THE STATE DEPARTMENT SHALL NOT DISCLOSE ANY
22 INFORMATION IT RECEIVES PURSUANT TO THIS SECTION FROM ANY
23 FINANCIAL INSTITUTION TO ANY PERSON OR ENTITY EXCEPT FOR THE
24 PURPOSES OF ESTABLISHING, MODIFYING, OR COLLECTING SUPPORT.

25 (5) A FINANCIAL INSTITUTION SHALL BE ENTITLED TO
26 REIMBURSEMENT IN THE AMOUNT OF FIVE CENTS PER NAME PER QUARTER

1 FOR THE COSTS ASSOCIATED WITH DESIGNING AND IMPLEMENTING A
2 SYSTEM FOR COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE.

3 (6) FOR PURPOSES OF THIS SECTION:

4 (a) "ACCOUNT" MEANS A DEMAND DEPOSIT ACCOUNT, CHECKING
5 OR NEGOTIABLE WITHDRAWAL ORDER ACCOUNT, SAVINGS ACCOUNT, TIME
6 DEPOSIT ACCOUNT, OR MONEY MARKET MUTUAL FUND ACCOUNT.
7 "ACCOUNT" SHALL NOT INCLUDE PROPERTY, INCLUDING FUNDS, HELD IN
8 OR PAYABLE FROM ANY PENSION OR RETIREMENT PLAN OR DEFERRED
9 COMPENSATION PLAN, INCLUDING A PLAN IN WHICH THE DEBTOR HAS
10 RECEIVED BENEFITS OR PAYMENTS, HAS THE PRESENT RIGHT TO RECEIVE
11 BENEFITS OR PAYMENTS, OR HAS THE RIGHT TO RECEIVE BENEFITS OR
12 PAYMENTS IN THE FUTURE AND INCLUDING A PENSION OR PLAN THAT
13 QUALIFIES UNDER THE FEDERAL "EMPLOYEE RETIREMENT INCOME
14 SECURITY ACT OF 1974" AS AN EMPLOYEE PENSION BENEFIT PLAN, AS
15 DEFINED IN 29 U.S.C. SEC. 1002, ANY INDIVIDUAL RETIREMENT ACCOUNT,
16 AS DEFINED IN 26 U.S.C. SEC. 408, AND ANY PLAN AS DEFINED IN 26 U.S.C.
17 SEC. 401 AND AS THESE PLANS MAY BE AMENDED FROM TIME TO TIME.

18 (b) "FINANCIAL INSTITUTION" MEANS A DEPOSITORY INSTITUTION,
19 AS DEFINED IN SECTION 3(c) OF THE "FEDERAL DEPOSIT INSURANCE ACT",
20 12 U.S.C. SEC. 1817(j), AN INSTITUTION-AFFILIATED PARTY, AS DEFINED
21 IN SECTION 3(u) OF THE "FEDERAL DEPOSIT INSURANCE ACT", ANY
22 FEDERAL CREDIT UNION OR STATE CREDIT UNION, AS DEFINED IN SECTION
23 101 OF THE "FEDERAL CREDIT UNION ACT", 12 U.S.C. SEC. 1781,
24 INCLUDING AN INSTITUTION-AFFILIATED PARTY OF SUCH A CREDIT UNION,
25 AS DEFINED IN SECTION 206(r) OF SUCH ACT, AND ANY BENEFIT
26 ASSOCIATION, INSURANCE COMPANY, SAFE DEPOSIT COMPANY,

1 MONEY-MARKET MUTUAL FUND, STOCK BROKERAGE, STATE REPOSITORY
2 OF MONEYS HELD FOR INDIVIDUALS, OR SIMILAR ENTITY AUTHORIZED TO
3 DO BUSINESS IN THE STATE.

4 (c) "FINANCIAL RECORD" HAS THE MEANING GIVEN SUCH TERM IN
5 SECTION 1101 OF THE FEDERAL "RIGHT TO FINANCIAL PRIVACY ACT OF
6 1978", 12 U.S.C. SEC. 3401.

7 **SECTION 56.** 26-13.5-105 (1) (d) and (3), Colorado Revised
8 Statutes, 1989 Repl. Vol., as amended, are amended, and the said
9 26-13.5-105 is further amended BY THE ADDITION OF A NEW
10 SUBSECTION, to read:

11 **26-13.5-105. Negotiation conference - issuance of order of**
12 **financial responsibility - filing of order with district court.** (1) Every
13 obligor who has been served with a notice of financial responsibility
14 pursuant to section 26-13.5-104 shall appear at the time and location
15 stated in the notice for a negotiation conference or shall reschedule a
16 negotiation conference prior to the date and time stated in the notice. The
17 negotiation conference shall be scheduled not more than thirty days after
18 the date of the issuance of the notice of financial responsibility. A
19 negotiation conference shall not be rescheduled more than once and shall
20 not be rescheduled for a date more than ten days after the date and time
21 stated in the notice without good cause as defined in rules and regulations
22 promulgated pursuant to section 26-13.5-113. If a negotiation conference
23 is continued, the obligor shall be notified of such continuance by
24 first-class mail or by hand delivery. If a stipulation is agreed upon at the
25 negotiation conference as to the obligor's duty of support, the delegate
26 child support enforcement unit shall issue an administrative order of