

Approved: 4-2-99
Date

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Michael R. O'Neal at 3:30 p.m. on March 18, 1999 in Room 313-S of the Capitol.

All members were present except:

Representative Clark Shultz - Excused
Representative David Adkins - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes
Cindy Wulfkuhle, Committee Secretary

SB 161 - D.A.R.E. program, authority of attorney general

Representative Long made the motion to report SB 161 favorably for passage. Representative Rehorn seconded the motion. The motion carried.

SB 150 - legal custody and residency arrangements in divorce and separate maintenance

Representative Powell made the motion to report SB 150 favorably for passage. Representative Carmody seconded the motion.

Representative Powell made the substitute motion to amend in the balloon (Attachment 1), which is HB 2002 as worked by the Committee minus the grandparents amendment. Representative Carmody seconded the motion. The motion carried.

Representative Pauls made the motion to amend the provisions of the bill to give grandparents status as an interested party, and a copy of the petition be mailed to them. Representative Ruff seconded the motion. The motion carried.

Representative Gregory made the motion to amend the list of items that can be mediated to include property division. (Attachment 2) Representative Carmody seconded the motion. The motion carried.

Representative Gregory made the motion to shift the burden of proof to the residential parent to show that the non-residential parent did not have the children during an extended period of time. Representative Pauls seconded the motion. The motion carried.

Representative Klein made the motion to strike in New Section 31, "or community" and add the move away language to Section 13. Representative Rehorn seconded the motion. The motion carried.

Representative Carmody made the motion to report Substitute SB 150 favorably for passage. Representative Powell seconded the motion. The motion carried.

SB 87 - claims for relief set forth in a pleading

No interest was shown by the committee to work the bill.

SB 95 - power of arrest of juvenile by court services officers

No interest was shown by the committee to work the bill.

SB 306 - filing and status of foreign judgements

Representative Loyd made the motion to report SB 306 favorably for passage. Representative Rehorn seconded the motion.

Representative Loyd made the substitute motion to amend in the provision of HB 2371- civil procedure, garnishment, orders, answers of garnishee, forms, HB 2428 - limited action, garnishment, & HB 2332 -

civil procedure, writs of execution upon property, with the following changes: **HB 2428** amended to have the clerk of the court send out the notice & **HB 2332** amended by removing Section 1 (b) (c) & modifying the form in Section 2. Representative Rehorn seconded the motion. The motion carried.

Representative Powell made the motion to amend in **HB 2083 - court, debt and restitution collection**, but delete lines 16 & 17. Representative Loyd seconded the motion. The motion carried 9-8.

Representative Powell made the motion to report **Substitute SB 306** favorably for passage. Representative Pauls seconded the motion. The motion carried 8-7.

SB 4 - clarifying that a DUI diversion is to be considered as a prior conviction

Representative Carmody made the motion to report **SB 4** favorably for passage. Representative Pauls seconded the motion.

Representative Carmody made the substitute motion to amend in the balloon amendment regarding the usage of ignition interlock devices. (Attachment 3) Representative Pauls seconded the motion. The motion carried 9-8.

Representative Carmody made the motion to report **SB 4** favorably for passage, as amended. Representative Wells seconded the motion. The motion carried 9-8.

The committee meeting adjourned at 6:15 p.m. The next meeting is scheduled for March 22, 1999.

HOUSE BILL No. 2002

By Special Committee on Judiciary

12-15

9 AN ACT concerning children; relating to joint shared child custody and
 10 parenting time; ~~concerning child support~~ amending K.S.A. 20-164, 21-
 11 3422, 21-3422a, 23-601, 23-602, 23-701, 38-1302, 38-1309, 38-1310,
 12 38-1597, 60-1612, 60-1614, 60-1617 and 75-720 and K.S.A. 1998 Supp.
 13 5-509, 20-302b, 23-9,305, 23-1001, 23-1002, 38-1121, ~~38-1138, 38-~~ 38-1132,
 14 1563, 38-1569, 38-1583, 38-1641, 38-1664, 38-16,119, 60-1607, 60-
 15 1610, 60-1616, ~~60-1621, 60-3107~~ and 74-7334 and repealing the exist-
 16 ing sections. ~~60-3106,~~

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

18 Section 1. K.S.A. 1998 Supp. 5-509 is hereby amended to read as
 19 follows: 5-509. (a) The following types of cases may be accepted for dis-
 20 pute resolution by an approved program or individual:

21 (1) Civil claims and disputes, including, but not limited to, consumer
 22 and commercial complaints, disputes involving allegations of shoplifting,
 23 disputes between neighbors, disputes between business associates, dis-
 24 putes between landlords and tenants, disputes involving matters under
 25 the small claims procedure act, farmer-lender disputes, and disputes
 26 within communities;

27 (2) disputes concerning child custody and ~~visitation rights~~ parenting
 28 time and other areas of domestic relations;

29 (3) juvenile offenses and disputes involving juveniles;

30 (4) disputes between victims and offenders, in which the victims vol-
 31 untarily agree to participate in mediation;

32 (5) disputes involving allegations of unlawful discrimination under
 33 state or federal laws;

34 (6) disputes referred by county attorneys or district attorneys;

35 (7) disputes involving employer and employee relations under K.S.A.
 36 72-5413 through 72-5432, and amendments thereto, or K.S.A. 75-4321
 37 through 75-4337, and amendments thereto; and

38 (8) disputes referred by a court, an attorney, a law enforcement of-
 39 ficer, a social service agency, a school or any other interested person or
 40 agency, including the request of the parties involved.

41 (b) A case may be referred prior to the commencement of formal
 42 judicial proceedings or may be referred as a pending court case. If a court
 43 refers a case, information shall be provided to the court as to whether an

1-8

1 agreement was reached and, if available, a copy of the signed agreement
2 shall be provided to the court.

3 (c) Before the dispute resolution process begins, the neutral person
4 conducting the process shall provide the parties with a written statement
5 setting forth the procedures to be followed.

6 Sec. 2. K.S.A. 20-164 is hereby amended to read as follows: 20-164.

7 (a) The supreme court shall establish by rule an expedited judicial process
8 which shall be used in the establishment, modification and enforcement
9 of orders of support pursuant to the Kansas parentage act; K.S.A. 23-451
10 *et seq.*, 39-718a, 39-755, 60-1610, and amendments thereto, or K.S.A. 39-
11 718b, and amendments thereto; K.S.A. 38-1542, 38-1543 or 38-1563, and
12 amendments thereto; or K.S.A. 23-4,105 through 23-4,118 and amend-
13 ments thereto; or K.S.A. 23-4,125 through 23-4,137, and amendments
14 thereto.

15 (b) The supreme court shall establish by rule an expedited judicial
16 process for the enforcement of court orders granting a parent ~~visitation~~
17 ~~rights to parenting time~~ with the parent's child.

18 Sec. 3. K.S.A. 1998 Supp. 20-302b is hereby amended to read as

19 follows: 20-302b. (a) A district magistrate judge shall have the jurisdiction,
20 power and duty, in any case in which a violation of the laws of the state
21 is charged, to conduct the trial of traffic infractions, cigarette or tobacco
22 infractions or misdemeanor charges and the preliminary examination of
23 felony charges. In civil cases, a district magistrate judge shall have con-
24 current jurisdiction, powers and duties with a district judge, except that,
25 unless otherwise specifically provided in subsection (b), a district magis-
26 trate judge shall not have jurisdiction or cognizance over the following
27 actions:

28 (1) Any action, other than an action seeking judgment for an unse-
29 cured debt not sounding in tort and arising out of a contract for the
30 provision of goods, services or money, in which the amount in contro-
31 versy, exclusive of interests and costs, exceeds \$10,000, except that in
32 actions of replevin, the affidavit in replevin or the verified petition fixing
33 the value of the property shall govern the jurisdiction; nothing in this
34 paragraph shall be construed as limiting the power of a district magistrate
35 judge to hear any action pursuant to the Kansas probate code or to issue
36 support orders as provided by paragraph (6) of this subsection;

37 (2) actions against any officers of the state, or any subdivisions
38 thereof, for misconduct in office;

39 (3) actions for specific performance of contracts for real estate;

40 (4) actions in which title to real estate is sought to be recovered or
41 in which an interest in real estate, either legal or equitable, is sought to
42 be established, except that nothing in this paragraph shall be construed

43 as limiting the right to bring an action for forcible detainer as provided

1-3

1 in the acts contained in article 23 of chapter 61 of the Kansas Statutes
2 Annotated, and any acts amendatory thereof or supplemental thereto; and
3 nothing in this paragraph shall be construed as limiting the power of a
4 district magistrate judge to hear any action pursuant to the Kansas probate
5 code;

6 (5) actions to foreclose real estate mortgages or to establish and fore-
7 close liens on real estate as provided in the acts contained in article 11 of
8 chapter 60 of the Kansas Statutes Annotated, and any acts amendatory
9 thereof or supplemental thereto;

10 (6) actions for divorce, separate maintenance or custody of minor
11 children, except that nothing in this paragraph shall be construed as lim-
12 iting the power of a district magistrate judge to: (A) Hear any action
13 pursuant to the Kansas code for care of children or the Kansas juvenile
14 justice code; (B) establish, modify or enforce orders of support, including,
15 but not limited to, orders of support pursuant to the Kansas parentage
16 act, K.S.A. 23-451 *et seq.*, 39-718a, 39-718b, 39-755 or 60-1610 or K.S.A.
17 23-4,105 through 23-4,118, 23-4,125 through 23-4,137, 38-1542, 38-1543
18 or 38-1563, and amendments thereto; or (C) enforce orders granting a
19 parent ~~visitation rights to~~ *parenting time with* the parent's child;

20 (7) habeas corpus;

21 (8) receiverships;

22 (9) change of name;

23 (10) declaratory judgments;

24 (11) mandamus and quo warranto;

25 (12) injunctions;

26 (13) class actions;

27 (14) rights of majority;

28 (15) actions pursuant to the protection from abuse act; and

29 (16) actions pursuant to K.S.A. 59-29a01 *et seq.* and amendments
30 thereto.

31 (b) Notwithstanding the provisions of subsection (a), in the absence,
32 disability or disqualification of a district judge, a district magistrate judge
33 may:

34 (1) Grant a restraining order, as provided in K.S.A. 60-902 and
35 amendments thereto;

36 (2) appoint a receiver, as provided in K.S.A. 60-1301 and amend-
37 ments thereto;

38 (3) make any order authorized by K.S.A. 60-1607 and amendments
39 thereto; and

40 (4) grant any order authorized by the protection from abuse act.

41 (c) In accordance with the limitations and procedures prescribed by
42 law, and subject to any rules of the supreme court relating thereto, any
43 appeal permitted to be taken from an order or final decision of a district

H-1

1 magistrate judge shall be tried and determined *de novo* by a district judge,
2 except that in civil cases where a record was made of the action or pro-
3 ceeding before the district magistrate judge, the appeal shall be tried and
4 determined on the record by a district judge.

5 (d) Upon motion of a party, the administrative judge may reassign an
6 action from a district magistrate judge to a district judge.

7 Sec. 4. K.S.A. 21-3422 is hereby amended to read as follows: 21-
8 3422. (a) Interference with parental custody is leading, taking, carrying
9 away, decoying or enticing away any child under the age of 16 years with
10 the intent to detain or conceal such child from its parent, guardian, or
11 other person having the lawful charge of such child.

12 (b) It is not a defense to a prosecution under this section that the
13 defendant is a parent entitled to joint *shared* custody of the child either
14 on the basis of a court order or by virtue of the absence of a court order.

15 (c) (1) Interference with parental custody is a class A person mis-
16 demeanor if the perpetrator is a parent entitled to joint *shared* custody
17 of the child either on the basis of a court order or by virtue of the absence
18 of a court order.

19 (2) Interference with parental custody is a severity level 10, person
20 felony in all other cases.

21 Sec. 5. K.S.A. 21-3422a is hereby amended to read as follows: 21-
22 3422a. (a) Aggravated interference with parental custody is:

23 (1) Hiring someone to commit the crime of interference with paren-
24 tal custody, as defined by K.S.A. 21-3422 and amendments thereto; or

25 (2) the commission of interference with parental custody, as defined
26 by K.S.A. 21-3422 and amendments thereto, by a person who:

27 (A) Has previously been convicted of the crime;

28 (B) commits the crime for hire;

29 (C) takes the child outside the state without the consent of either the
30 person having custody or the court;

31 (D) after lawfully taking the child outside the state while exercising
32 ~~visitation~~ *parenting time* or custody rights, refuses to return the child at
33 the expiration of the rights;

34 (E) at the expiration of ~~visitation~~ *parenting time* or custody rights
35 outside the state, refuses to return or impedes the return of the child; or

36 (F) detains or conceals the child in an unknown place, whether inside
37 or outside the state.

38 (b) Aggravated interference with parental custody is a severity level
39 7, person felony.

40 (c) This section shall be a part of and supplemental to the Kansas
41 criminal code.

42 Sec. 6. K.S.A. 23-601 is hereby amended to read as follows: 23-601.
43 Mediation under this section is the process by which a neutral mediator

1 appointed by the court, or by a hearing officer in a proceeding pursuant
2 to K.S.A. 23-701, *and amendments thereto*, assists the parties in reaching
3 a mutually acceptable agreement as to issues of child custody and ~~visita-~~
4 ~~tion~~ *parenting time*. The role of the mediator is to aid the parties in
5 identifying the issues, reducing misunderstandings, clarifying priorities,
6 exploring areas of compromise and finding points of agreement. An agree-
7 ment reached by the parties is to be based on the decisions of the parties
8 and not the decisions of the mediator.

9 Sec. 7. K.S.A. 23-602 is hereby amended to read as follows: 23-602.

10 (a) The court may order mediation of any contested issue of child custody
11 or ~~visitation~~ *parenting time* at any time, upon the motion of a party or on
12 the court's own motion. A hearing officer in a proceeding pursuant to
13 K.S.A. 23-701 may order mediation of a contested issue of ~~child~~ *visitation*
14 *parenting time* in such a proceeding.

15 (b) If the court or hearing officer orders mediation under subsection
16 (a), the court or hearing officer shall appoint a mediator, taking into con-
17 sideration the following:

18 (1) An agreement by the parties to have a specific mediator appointed
19 by the court or hearing officer;

20 (2) the nature and extent of any relationships the mediator may have
21 with the parties and any personal, financial or other interests the mediator
22 may have which could result in bias or a conflict of interest;

23 (3) the mediator's knowledge of (A) the Kansas judicial system and
24 the procedure used in domestic relations cases, (B) other resources in the
25 community to which parties can be referred for assistance, (C) child de-
26 velopment, (D) clinical issues relating to children, (E) the effects of di-
27 vorce on children and (F) the psychology of families; and

28 (4) the mediator's training and experience in the process and tech-
29 niques of mediation.

30 Sec. 8. K.S.A. 23-701 is hereby amended to read as follows: 23-701.

31 (a) The purpose of this section is to enhance the enforcement of child
32 ~~visitation rights~~ *parenting time* granted by court order by establishing an
33 expedited procedure which is simplified enough to provide justice without
34 necessitating the assistance of legal counsel ~~and to provide civil penalties~~
35 ~~against persons denying or interfering with a parent's parenting time.~~

36 (b) If a parent has been granted ~~visitation rights~~ *parenting time* pur-
37 suant to K.S.A. 38-1121 or 60-1616, and amendments thereto, and such
38 rights are denied or interfered with by ~~the other parent~~ *any person*, the
39 parent having ~~visitation rights~~ *parenting time* may file with the clerk of
40 the district court a motion for enforcement of such rights. Such motion
41 shall be filed on a form provided by the clerk of the court. Upon the filing
42 of the motion, the administrative judge of the district court shall assign a
43 judge of the district court or the court's master or a hearing officer to hear

07-1

1 the motion. The hearing officer shall immediately:

2 (1) Issue ^{ex parte} an order for mediation in accordance with K.S.A.
3 23-601 *et seq.*, and amendments thereto; or

4 (2) set a time and place for a hearing on the motion, which shall be
5 not more than 21 days after the filing of the motion.

6 ~~[(c)]~~ If mediation ordered pursuant to subsection (b) is completed, the
7 mediator shall submit a summary of the parties' understanding to the
8 hearing officer within five days after it is signed by the parties. Upon
9 receipt of the summary, the hearing officer shall enter an order in ac-
10 cordance with the parties' agreement or set a time and place for a hearing
11 on the matter, which shall be not more than 10 days after the summary
12 is received by the hearing officer.

13 (d) If mediation ordered pursuant to subsection (b) is terminated
14 pursuant to K.S.A. 23-604 and amendments thereto, the mediator shall
15 report the termination to the hearing officer within five days after the
16 termination. Upon receipt of the report, if the hearing officer is a district
17 judge, such judge shall set the matter for hearing. If the hearing officer
18 is a district magistrate judge or a court trustee, the administrative judge
19 shall assign the matter to a district judge who shall set the matter for
20 hearing. Any such hearing shall be not more than 10 days after the me-
21 diator's report of termination is received by the hearing officer.

22 (e) Notice of the hearing date set by the hearing officer shall be given
23 to all interested parties by certified mail, return receipt requested, or as
24 the court may order.

25 ~~(f)~~ ~~[(d)]~~ If, upon a hearing pursuant to subsection (b), ~~(e) or (d)~~, the
26 hearing officer or the judge finds that visitation rights the parenting time
27 of one parent have been unreasonably has been denied or interfered with
28 by the other parent, the hearing officer or any person, the judge may shall
29 enter an order providing for one or more of the following:

- 30 (1) A specific visitation parenting time schedule;
- 31 (2) compensating visitation parenting time for the visitation parenting
32 time denied or interfered with, which time shall be of the same type (e.g.,
33 holiday, weekday, weekend, summer) as that denied or interfered with
34 and shall be at the convenience of the parent whose visitation parenting
35 time was denied or interfered with;

36 (3) the posting of a bond, either cash or with sufficient sureties, con-
37 ditioned upon compliance with the order granting visitation rights par-
38 enting time;

39 (4) assessment of reasonable attorney fees, mediation costs and costs
40 of the proceedings to enforce visitation rights parenting time against the
41 parent who unreasonably person who denied or interfered with the other
42 a parent's visitation rights parenting time;

43 (5) attendance of one or both parents the person who denied or in-

(1) Issue

Reinsert the following:

(c) If mediation ordered pursuant to subsection (b) is completed, the mediator shall submit a summary of the parties' understanding to the hearing officer within five days after it is signed by the parties. Upon receipt of the summary, the hearing officer shall enter an order in accordance with the parties' agreement or set a time and place for a hearing on the matter, which shall be not more than 10 days after the summary is received by the hearing officer.

(d) If mediation ordered pursuant to subsection (b) is terminated pursuant to K.S.A. 23-604 and amendments thereto, the mediator shall report the termination to the hearing officer within five days after the termination. Upon receipt of the report, if the hearing officer is a district judge, such judge shall set the matter for hearing. If the hearing officer is a district magistrate judge, the administrative judge shall assign the matter to a district judge who shall set the matter for hearing. Any such hearing shall be not more than 10 days after the mediator's report of termination is received by the hearing officer.

(e)

(f)

(c) or (d)

mediation costs

5-1

1 *terfered with a parent's parenting time* at counseling or educational ses-
2 sions which focus on the impact of ~~visitation~~ *parenting time* disputes on
3 children. *Expenses shall be assessed to the person who denied or interfered*
4 *with a parent's parenting time;*

supervised parenting; or

5 (6) ~~supervised visitation; or~~
6 (7) ~~any other remedy which the~~ hearing officer or ~~judge~~ considers
7 appropriate; except that, if a hearing officer is a district magistrate judge
8 or court trustee, the hearing officer shall not enter any order which grants,
9 or modifies a previous order granting, child support, child custody or
10 maintenance.

(7) any other remedy which the hearing officer or judge considers appropriate, except that, if a hearing officer is a district magistrate judge, the hearing officer shall not enter any order which grants or modifies a previous order granting child support, child custody or maintenance.

11 (g) ~~Decisions of district magistrate judges or court trustees appointed~~
12 ~~pursuant to this section shall be subject to review by a district judge on~~
13 ~~the motion of any party filed within 10 days after the order was entered.~~

(g) Decisions of district magistrate judges appointed pursuant to this section shall be subject to review by a district judge on the motion of any party filed within 10 days after the order was entered.

14 ~~(h) (e) In addition to any other legal or equitable remedies, the court~~
15 ~~may assess civil penalties as listed below against the person who denied~~
16 ~~or interfered with a parent's parenting time:~~

- 17 (1) ~~First offense, not more than \$100, or~~
- 18 (2) ~~second or subsequent offense, not more than \$250.~~

(h)

19 (f) ~~The court shall also consider a request for modification of custody~~
20 ~~as a result of continued denial or interference with a parent's parenting~~
21 ~~time.~~ In no case shall final disposition of a motion filed pursuant to this
22 section take place more than 45 days after the filing of such motion.

23 Sec. 9. K.S.A. 1998 Supp. 23-9,305 is hereby amended to read as
24 follows: 23-9,305. (a) When a responding tribunal of this state receives a
25 petition or comparable pleading from an initiating tribunal or directly
26 pursuant to subsection (c) of K.S.A. 23-9,301 and amendments thereto
27 (proceedings under this act), it shall cause the petition or pleading to be
28 filed and notify the petitioner only by personal service or registered mail,
29 return receipt requested where and when it was filed.

30 (b) A responding tribunal of this state, to the extent otherwise au-
31 thorized by law, may do one or more of the following:

- 32 (1) Issue or enforce a support order, modify a child support order or
- 33 render a judgment to determine parentage;
- 34 (2) order an obligor to comply with a support order, specifying the
- 35 amount and the manner of compliance;
- 36 (3) order income withholding;
- 37 (4) determine the amount of any arrearages, and specify a method of
- 38 payment;
- 39 (5) enforce orders by civil or criminal contempt, or both;
- 40 (6) set aside property for satisfaction of the support order;
- 41 (7) place liens and order execution on the obligor's property;
- 42 (8) order an obligor to keep the tribunal informed of the obligor's
- 43 current residential address, telephone number, employer, address of em-

1 ployment and telephone number at the place of employment;

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

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

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

8 (12) grant any other available remedy.

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

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

15 (e) If a responding tribunal of this state issues an order under this
16 act, the tribunal shall send a copy of the order to the petitioner only by
17 personal service or registered mail, return receipt requested and the re-
18 spondent and to the initiating tribunal, if any.

19 Sec. 10. K.S.A. 1998 Supp. 23-1001 is hereby amended to read as
20 follows: 23-1001. Case management under this act is the process by which
21 a neutral case manager appointed by the court, or by a hearing officer in
22 a proceeding pursuant to K.S.A. 23-701, and amendments thereto, or
23 through agreement by the parties, assists the parties by providing a pro-
24 cedure, other than mediation, which facilitates negotiation of a plan for
25 child custody or ~~visitation~~ *parenting time*. In the event that the parties
26 are unable to reach an agreement, the case manager shall make recom-
27 mendations to the court.

28 Sec. 11. K.S.A. 1998 Supp. 23-1002 is hereby amended to read as
29 follows: 23-1002. (a) The court may order case management, when ap-
30 propriate, of any contested issue of child custody or ~~visitation~~ *parenting*
31 *time* at any time, upon the motion of a party or on the court's own motion.
32 A hearing officer in a proceeding pursuant to K.S.A. 23-701, and amend-
33 ments thereto, may order case management, if appropriate, of a contested
34 issue of ~~child~~ ~~visitation~~ *parenting time* in such a proceeding.

35 (b) Cases in which case management is appropriate shall include one
36 or more of the following circumstances:

37 (1) Private or public neutral dispute resolution services have been
38 tried and failed to resolve the disputes;

39 (2) other neutral services have been determined to be inappropriate
40 for the family;

41 (3) repetitive conflict occurs within the family, as evidenced by the
42 parties filing at least two motions in a six-month period for enforcement,
43 modification or change of ~~visitation~~ *parenting time* or custody which are

6-1

- 1 denied by the court; or
- 2 (4) a parent exhibits diminished capacity to parent.
- 3 (c) If the court or hearing officer orders case management under
- 4 subsection (a), the court or hearing officer shall appoint a case manager,
- 5 taking into consideration the following:
- 6 (1) An agreement by the parties to have a specific case manager ap-
- 7 pointed by the court or hearing officer;
- 8 (2) the financial circumstances of the parties and the costs assessed
- 9 by the case manager;
- 10 (3) the case manager's knowledge of (A) the Kansas judicial system
- 11 and the procedure used in domestic relations cases, (B) other resources
- 12 in the community to which parties can be referred for assistance, (C)
- 13 child development, (D) clinical issues relating to children, (E) the effects
- 14 of divorce on children and (F) the psychology of families; and
- 15 (4) the case manager's training and experience in the process and
- 16 techniques of alternative dispute resolution and case management.
- 17 (d) To qualify as an appointed case manager, an individual shall:
- 18 (1) Be qualified to conduct mediation;
- 19 (2) have experience as a mediator;
- 20 (3) attend a workshop, approved by the district court in which the
- 21 case is filed, on case management; and
- 22 (4) participate in continuing education regarding management issues.
- 23 Sec. 12. K.S.A. 1998 Supp. 38-1121 is hereby amended to read as
- 24 follows: 38-1121. (a) The judgment or order of the court determining the
- 25 existence or nonexistence of the parent and child relationship is deter-
- 26 minative for all purposes, but if any person necessary to determine the
- 27 existence of a father and child relationship for all purposes has not been
- 28 joined as a party, a determination of the paternity of the child shall have
- 29 only the force and effect of a finding of fact necessary to determine a
- 30 duty of support.
- 31 (b) If the judgment or order of the court is at variance with the child's
- 32 birth certificate, the court shall order that a new birth certificate be is-
- 33 sued, but only if any man named as the father on the birth certificate is
- 34 a party to the action.
- 35 (c) Upon adjudging that a party is the parent of a minor child, the
- 36 court shall make provision for support and education of the child includ-
- 37 ing the necessary medical expenses incident to the birth of the child. The
- 38 court may order the support and education expenses to be paid by either
- 39 or both parents for the minor child. When the child reaches 18 years of
- 40 age, the support shall terminate unless: (1) The parent or parents agree,
- 41 by written agreement approved by the court, to pay support beyond that
- 42 time; (2) the child reaches 18 years of age before completing the child's
- 43 high school education in which case the support shall not automatically

1 terminate, unless otherwise ordered by the court, until June 30 of the
2 school year during which the child became 18 years of age if the child is
3 still attending high school; or (3) the child is still a bona fide high school
4 student after June 30 of the school year during which the child became
5 18 years of age, in which case the court, on motion, may order support
6 to continue through the school year during which the child becomes 19
7 years of age so long as the child is a bona fide high school student and
8 the parents jointly participated or knowingly acquiesced in the decision
9 which delayed the child's completion of high school. The court, in ex-
10 tending support pursuant to subsection (c)(3), may impose such condi-
11 tions as are appropriate and shall set the child support utilizing the guide-
12 line table category for 16-year through 18-year old children. Provision for
13 payment of support and educational expenses of a child after reaching 18
14 years of age if still attending high school shall apply to any child subject
15 to the jurisdiction of the court, including those whose support was or-
16 dered prior to July 1, 1992. If an agreement approved by the court prior
17 to July 1, 1988, provides for termination of support before the date pro-
18 vided by subsection (c)(2), the court may review and modify such agree-
19 ment, and any order based on such agreement, to extend the date for
20 termination of support to the date provided by subsection (c)(2). If an
21 agreement approved by the court prior to July 1, 1992, provides for ter-
22 mination of support before the date provided by subsection (c)(3), the
23 court may review and modify such agreement, and any order based on
24 such agreement, to extend the date for termination of support to the date
25 provided by subsection (c)(3). For purposes of this section, "bona fide
26 high school student" means a student who is enrolled in full accordance
27 with the policy of the accredited high school in which the student is
28 pursuing a high school diploma or a graduate equivalency diploma
29 (GED). The judgment shall specify the terms of payment and shall re-
30 quire payment to be made through the clerk of the district court or the
31 court trustee except for good cause shown. The judgment may require
32 the party to provide a bond with sureties to secure payment. The court
33 may at any time during the minority of the child modify or change the
34 order of support, including any order issued in a title IV-D case, within
35 three years of the date of the original order or a modification order, as
36 required by the best interest of the child. If more than three years has
37 passed since the date of the original order or modification order, a re-
38 quirement that such order is in the best interest of the child need not be
39 shown. The court may make a modification of support retroactive to a
40 date at least one month after the date that the motion to modify was filed
41 with the court. Any increase in support ordered effective prior to the date
42 the court's judgment is filed shall not become a lien on real property
43 pursuant to K.S.A. 60-2202, and amendments thereto.

01-1

1 (d) If both parents are parties to the action, the court shall enter such
2 orders regarding custody and ~~visitation~~ *parenting time* as the court con-
3 sidered to be in the best interest of the child.

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

14 (f) ~~[Determination of the amount to be paid by a parent for support~~
15 ~~of the parent's child or children shall be based on the principle that both~~
16 ~~parents have an equal duty to provide support.]~~ In determining the
17 amount to be paid by a parent for support of the child and the period
18 during which the duty of support is owed ordered in payment and du-
19 ration of such payments, a court enforcing the obligation of support shall
20 consider all relevant facts including, but not limited to, the following:

- 21 (1) The needs of the child.
- 22 (2) The standards of living and circumstances of the parents.
- 23 (3) The relative financial means of the parents.
- 24 (4) The earning ability of the parents.
- 25 (5) The need and capacity of the child for education.
- 26 (6) The age of the child.
- 27 (7) The financial resources and the earning ability of the child.
- 28 (8) The responsibility of the parents for the support of others.
- 29 (9) The value of services contributed by ~~the custodial parent~~ *both*
30 *parents*.

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

33 (h) An order granting ~~visitation rights~~ *parenting time* pursuant to this
34 section may be enforced in accordance with K.S.A. 23-701, and amend-
35 ments thereto.

36 Sec. 13. K.S.A. 1998 Supp. 38-1138 is hereby amended to read as
37 follows: 38-1138. (a) The state registrar of vital statistics, in conjunction
38 with the secretary of social and rehabilitation services, shall review and,
39 as needed, revise acknowledgment of paternity forms for use under K.S.A.
40 38-1130 and 65-2409a, and amendments thereto. The acknowledgment
41 of paternity forms shall include or have attached a written description
42 pursuant to subsection (b) of the rights and responsibilities of acknowl-
43 edging paternity.

See attached for insert
And renumber sections accordingly

Sec. 13. K.S.A. 1998 Supp. 38-1132 is hereby amended to read as follows: 38-1132. (a) Except as provided in subsection (d), a parent entitled to the custody of a child pursuant to K.S.A. 38-1121, and amendments thereto, shall give written notice to the other parent who has been granted custodial or ~~visitation-rights~~ parenting time pursuant to subsection (d) of K.S.A. 38-1121, and amendments thereto, not less than 21 days prior to changing the residence of the child to a place outside this state or removing the child from this state for a period of time exceeding 90 days. Such notice shall be sent by restricted mail, return receipt requested, to the last known address of the other parent.

(b) Failure to give notice as required by subsection (a) is an indirect civil contempt punishable as provided by law. In addition, the court may assess, against the parent required to give notice, reasonable attorney fees and any other expenses incurred by the other parent by reason of the failure to give notice.

(c) A change of the residence of a child to another state or removal of a child from this state for a period of time exceeding 90 days may be considered a material change of circumstances which justifies modification of a prior order of child support or custody.

(d) A parent entitled to the custody of a child pursuant to K.S.A. 38-1121, and amendments thereto, shall not be required to give the notice required by this section to the other parent when the other parent has been convicted of any crime specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, in which the child is the victim of such crime.

(e) This section shall be part of and supplemental to the Kansas parentage act.

1-13

1 (b) A written description of the rights and responsibilities of acknowl-
2 edging paternity shall state the following:

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

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

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

22 (3) both the father and the mother have rights of custody and visi-
23 ~~tation~~ *parenting time* with the child unless a court order changes their
24 rights. If necessary, custody and ~~visitation~~ *rights parenting time* may be
25 spelled out in a court order and enforced;

26 (4) both the father and the mother have the right to consent to med-
27 ical treatment for the child unless a court order changes those rights;

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

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

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

42 (c) Any duty to disclose rights or responsibilities related to signing an
43 acknowledgment of paternity shall have been met by furnishing the writ-

H-1-1

1 ten disclosures of subsection (b). Any duty to disclose orally the rights or
2 responsibilities related to signing an acknowledgment of paternity may be
3 met by means of an audio recording of the disclosures of subsection (b).

4 (d) An acknowledgment of paternity completed without the written
5 disclosures of subsection (b) is not invalid solely for that reason and may
6 create a presumption of paternity pursuant to K.S.A. 38-1114 and amend-
7 ments thereto. Nothing in K.S.A. 1997 Supp. 38-1136 through 38-1138
8 and amendments thereto shall decrease the validity, force or effect of an
9 acknowledgment of paternity executed in this state prior to the effective
10 date of this act.

11 (e) Upon request, the state registrar of vital statistics shall provide a
12 certified copy of the acknowledgment of paternity to an office providing
13 IV-D program services.

14 Sec. 14. K.S.A. 38-1302 is hereby amended to read as follows: 38-
15 1302. As used in the uniform child custody jurisdiction act:

16 (a) "Contestant" means a person, including a parent, who claims a
17 right to custody or ~~visitation rights~~ *parenting time* with respect to a child.

18 (b) "Custody determination" means a court decision and court orders
19 and instructions providing for the custody of a child, including ~~visitation~~
20 ~~rights parenting time~~; it does not include a decision relating to child sup-
21 port or any other monetary obligation of any person.

22 (c) "Custody proceeding" includes proceedings in which a custody
23 determination is one of several issues, such as an action for divorce or
24 separation, and includes proceedings under the Kansas code for care of
25 children.

26 (d) "Decree" or "custody decree" means a custody determination
27 contained in a judicial decree or order made in a custody proceeding, and
28 includes an initial decree and a modification decree.

29 (e) "Home state" means the state in which the child immediately
30 preceding the time involved lived with the child's parents, a parent, or a
31 person acting as parent, for at least six consecutive months, and in the
32 case of a child less than six months old the state in which the child lived
33 from birth with any of the persons mentioned. Periods of temporary ab-
34 sence of any of the named persons are counted as part of the six-month
35 or other period.

36 (f) "Initial decree" means the first custody decree concerning a par-
37 ticular child.

38 (g) "Modification decree" means a custody decree which modifies or
39 replaces a prior decree, whether made by the court which rendered the
40 prior decree or by another court.

41 (h) "Physical custody" means actual possession and control of a child.

42 (i) "Person acting as parent" means a person, other than a parent,
43 who has physical custody of a child and who has either been awarded

1 custody by a court or claims a right to custody.

2 (j) "State" means any state, territory, or possession of the United
3 States, the Commonwealth of Puerto Rico, and the District of Columbia.

4 Sec. 15. K.S.A. 38-1309 is hereby amended to read as follows: 38-
5 1309. (a) Every party in a custody proceeding in the party's first pleading
6 or in an affidavit attached to that pleading shall give information under
7 oath as to the child's present address, the places where the child has lived
8 within the last five years, and the names and present addresses of the
9 persons with whom the child has lived during that period. In this pleading
10 or affidavit every party shall further declare under oath whether:

11 (1) The party has participated (as a party, witness, or in any other
12 capacity) in any other litigation concerning the custody of the same child
13 in this or any other state;

14 (2) the party has information of any custody proceeding concerning
15 the child pending in a court of this or any other state; and

16 (3) the party knows of any person not a party to the proceedings who
17 has physical custody of the child or claims to have custody or ~~visitation~~
18 ~~rights~~ *parenting time* with respect to the child.

19 (b) If the declaration as to any of the above items is in the affirmative
20 the declarant shall give additional information under oath as required by
21 the court. The court may examine the parties under oath as to details of
22 the information furnished and as to other matters pertinent to the court's
23 jurisdiction and the disposition of the case.

24 (c) Each party has a continuing duty to inform the court of any cus-
25 tody proceeding concerning the child in this or any other state of which
26 the party obtained information during this proceeding.

27 (d) Any party who submits information pursuant to this section know-
28 ing the same to be false shall, upon conviction, be deemed guilty of a
29 class *Cnonperson* misdemeanor.

30 Sec. 16. K.S.A. 38-1310 is hereby amended to read as follows: 38-
31 1310. If the court learns from information furnished by the parties pur-
32 suant to K.S.A. 38-1309 *and amendments thereto* or from other sources
33 that a person not a party to the custody proceeding has physical custody
34 of the child or claims to have custody or ~~visitation rights~~ *parenting time*
35 with respect to the child, it shall order that person to be joined as a party
36 and to be duly notified of the pendency of the proceeding and of such
37 person's joinder as a party. If the person joined as a party is outside this
38 state the person shall be served with process or otherwise notified in
39 accordance with K.S.A. 38-1305 *and amendments thereto*.

40 Sec. 17. K.S.A. 1998 Supp. 38-1563 is hereby amended to read as
41 follows: 38-1563. (a) After consideration of any evidence offered relating
42 to disposition, the court may retain jurisdiction and place the child in the
43 custody of the child's parent subject to terms and conditions which the

071-1

1 court prescribes to assure the proper care and protection of the child,
2 including supervision of the child and the parent by a court services of-
3 ficer, or may order the child and the parent to participate in programs
4 operated by the secretary or another appropriate individual or agency.
5 The terms and conditions may require any special treatment or care which
6 the child needs for the child's physical, mental or emotional health.

7 (b) The duration of any period of supervision or other terms or con-
8 ditions shall be for an initial period of no more than 18 months. The
9 court, at the expiration of that period, upon a hearing and for good cause
10 shown, may make successive extensions of the supervision or other terms
11 or conditions for up to 12 months at a time.

12 (c) The court may order the child and the parents of any child who
13 has been adjudged a child in need of care to attend counseling sessions
14 as the court directs. The expense of the counseling may be assessed as
15 an expense in the case. No mental health center shall charge a greater
16 fee for court-ordered counseling than the center would have charged to
17 the person receiving counseling if the person had requested counseling
18 on the person's own initiative.

19 (d) If the court finds that placing the child in the custody of a parent
20 will not assure protection from physical, mental or emotional abuse or
21 neglect or sexual abuse or will not be in the best interests of the child,
22 the court shall enter an order awarding custody of the child, until the
23 further order of the court, to one of the following:

24 (1) A relative of the child or a person with whom the child has close
25 emotional ties;

26 (2) any other suitable person;

27 (3) a shelter facility; or

28 (4) the secretary.

29 In making such a custody order, the court shall give preference, to the
30 extent that the court finds it is in the best interests of the child, first to
31 granting custody to a relative of the child and second to granting custody
32 of the child to a person with whom the child has close emotional ties. If
33 the court has awarded legal custody based on the finding specified by this
34 subsection, the legal custodian shall not return the child to the home of
35 that parent without the written consent of the court.

36 (e) When the custody of the child is awarded to the secretary:

37 (1) The court may recommend to the secretary where the child
38 should be placed.

39 (2) The secretary shall notify the court in writing of any placement
40 of the child or, within 10 days of the order awarding the custody of the
41 child to the secretary, any proposed placement of the child, whichever
42 occurs first.

43 (3) The court may determine if such placement is in the child's best interests.

1-1

1 of the child, and if the court determines that such placement is not in the
2 best interests of the child, the court shall notify the secretary who shall
3 then make an alternative placement subject to the procedures established
4 in this paragraph. In determining if such placement is in the best interests
5 of the child, the court, after providing the parties with an opportunity to
6 be heard, shall consider the health and safety needs of the child and the
7 resources available to meet the needs of children in the custody of the
8 secretary.

9 (f) If custody of a child is awarded under this section to a person
10 other than the child's parent, the court may grant any individual reason-
11 able rights to visit the child upon motion of the individual and a finding
12 that the *parenting time* or visitation rights would be in the best interests
13 of the child.

14 (g) If the court issues an order of custody pursuant to this section,
15 the court may enter an order restraining any alleged perpetrator of phys-
16 ical, sexual, mental or emotional abuse of the child from residing in the
17 child's home; visiting, contacting, harassing or intimidating the child; or
18 attempting to visit, contact, harass or intimidate the child.

19 (h) The court shall not enter an order removing a child from the
20 custody of a parent pursuant to this section unless the court first finds
21 from evidence presented by the petitioner that reasonable efforts have
22 been made to prevent or eliminate the need for removal of the child;
23 reintegration is not a viable alternative; or that an emergency exists which
24 threatens the safety of the child and requires the immediate removal of
25 the child. Reintegration may not be a viable alternative when the: (1)
26 Parent has been found by a court to have committed murder in the first
27 degree, K.S.A. 21-3401 and amendments thereto, murder in the second
28 degree, K.S.A. 21-3402 and amendments thereto, capital murder, K.S.A.
29 21-3439 and amendments thereto, voluntary manslaughter, K.S.A. 21-
30 3403 and amendments thereto or violated a law of another state which
31 prohibits such murder or manslaughter of a child; (2) parent aided or
32 abetted, attempted, conspired or solicited to commit such murder or vol-
33 untary manslaughter of a child as provided in subsection (h)(1); (3) parent
34 committed a felony battery that resulted in bodily injury to the child or
35 another child; (4) parent has subjected the child or another child to ag-
36 gravated circumstances as defined in subsection (x) of K.S.A. 38-1502,
37 and amendments thereto; (5) parental rights of the parent to another child
38 have been terminated involuntarily or (6) the child has been in extended
39 out of home placement as defined in subsection (z) of K.S.A. 38-1502
40 and amendments thereto. Such findings shall be included in any order
41 entered by the court.

42 (i) In addition to or in lieu of any other order authorized by this
43 section if a child is adjudged to be a child in need of care by reason of a

87-1

1 violation of the uniform controlled substances act (K.S.A. 65-4101 *et seq.*
 2 and amendments thereto) or K.S.A. 41-719, 41-804, 41-2719, 65-4152,
 3 65-4153, 65-4154 or 65-4155, and amendments thereto, the court shall
 4 order the child to submit to and complete an alcohol and drug evaluation
 5 by a community-based alcohol and drug safety action program certified
 6 pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee not
 7 to exceed the fee established by that statute for such evaluation. If the
 8 court finds that the child and those legally liable for the child's support
 9 are indigent, the fee may be waived. In no event shall the fee be assessed
 10 against the secretary or the department of social and rehabilitation
 11 services.

12 (j) In addition to any other order authorized by this section, if child
 13 support has been requested and the parent or parents have a duty to
 14 support the child, the court may order one or both parents to pay child
 15 support and, when custody is awarded to the secretary, the court shall
 16 order one or both parents to pay child support. The court shall determine,
 17 for each parent separately, whether the parent is already subject to an
 18 order to pay support for the child. If the parent is not presently ordered
 19 to pay support for any child who is a ward of the court and the court has
 20 personal jurisdiction over the parent, the court shall order the parent to
 21 pay child support in an amount determined under K.S.A. 38-1595 and
 22 amendments thereto. Except for good cause shown, the court shall issue
 23 an immediate income withholding order pursuant to K.S.A. 23-4,105 *et*
 24 *seq.* and amendments thereto for each parent ordered to pay support
 25 under this subsection, regardless of whether a payor has been identified
 26 for the parent. A parent ordered to pay child support under this subsec-
 27 tion shall be notified, at the hearing or otherwise, that the child support
 28 order may be registered pursuant to K.S.A. 38-1597 and amendments
 29 thereto. The parent shall also be informed that, after registration, the
 30 income withholding order may be served on the parent's employer with-
 31 out further notice to the parent and the child support order may be en-
 32 forced by any method allowed by law. Failure to provide this notice shall
 33 not affect the validity of the child support order.

34 Sec. 18. K.S.A. 1998 Supp. 38-1569 is hereby amended to read as
 35 follows: 38-1569. The report made by foster parents and provided by the
 36 department of social and rehabilitation services, pursuant to K.S.A. 38-
 37 1565, and amendments thereto, shall be in substantially the following
 38 form:

39 REPORT FROM FOSTER PARENTS
 40 CONFIDENTIAL

41 _____
 42 Child's Name Current Address

61-1

1 _____
 2 Parent's Name Foster Parents
 3 _____

4 Primary Social Worker

5 Please circle the word which best describes the child's progress

- 6 1. Child's adjustment in the home
 7 excellent good satisfactory needs improvement
 8 2. Child's interaction with foster parents and family members
 9 excellent good satisfactory needs improvement
 10 3. Child's interaction with others
 11 excellent good satisfactory needs improvement
 12 4. Child's respect for property
 13 excellent good satisfactory needs improvement
 14 5. Physical and emotional condition of the child
 15 excellent good satisfactory needs improvement
 16 6. Social worker's interaction with the child and foster family
 17 excellent good satisfactory needs improvement
 18 7. School status of child:

19 _____
 20 School Grade
 21 Grades Good _____ Fair _____ Poor _____
 22 Attendance Good _____ Fair _____ Poor _____
 23 Behavior Good _____ Fair _____ Poor _____

24 8. If *visitation parenting time* with parents has occurred, describe the frequency of visits,
 25 with whom, supervised or unsupervised, and any significant events which have occurred.

26 _____
 27 _____

28 9. Your opinion regarding the overall adjustment, progress and condition of the child:
 29 _____
 30 _____

31 10. Do you have any special concerns or comments with regard to the child not addressed
 32 by this form? Please specify. _____
 33 _____
 34 _____
 35 _____
 36 _____
 37 _____

38 Sec. 19. K.S.A. 1998 Supp. 38-1583 is hereby amended to read as
 39 follows: 38-1583. (a) When the child has been adjudicated to be a child
 40 in need of care, the court may terminate parental rights when the court
 41 finds by clear and convincing evidence that the parent is unfit by reason
 42 of conduct or condition which renders the parent unable to care properly
 43 for a child and the conduct or condition is unlikely to change in the

02-1

1 foreseeable future.

2 (b) In making a determination hereunder the court shall consider,
3 but is not limited to, the following, if applicable:

4 (1) Emotional illness, mental illness, mental deficiency or physical
5 disability of the parent, of such duration or nature as to render the parent
6 unlikely to care for the ongoing physical, mental and emotional needs of
7 the child;

8 (2) conduct toward a child of a physically, emotionally or sexually
9 cruel or abusive nature;

10 (3) excessive use of intoxicating liquors or narcotic or dangerous
11 drugs;

12 (4) physical, mental or emotional neglect of the child;

13 (5) conviction of a felony and imprisonment;

14 (6) unexplained injury or death of another child or stepchild of the
15 parent;

16 (7) reasonable efforts by appropriate public or private child caring
17 agencies have been unable to rehabilitate the family; and

18 (8) lack of effort on the part of the parent to adjust the parent's cir-
19 cumstances, conduct or conditions to meet the needs of the child.

20 (c) In addition to the foregoing, when a child is not in the physical
21 custody of a parent, the court, in proceedings concerning the termination
22 of parental rights, shall also consider, but is not limited to the following:

23 (1) Failure to assure care of the child in the parental home when able
24 to do so;

25 (2) failure to maintain regular ~~visitation~~ *parenting time*, contact or
26 communication with the child or with the custodian of the child;

27 (3) failure to carry out a reasonable plan approved by the court di-
28 rected toward the integration of the child into the parental home; and

29 (4) failure to pay a reasonable portion of the cost of substitute physical
30 care and maintenance based on ability to pay.

31 In making the above determination, the court may disregard incidental
32 visitations, contacts, communications or contributions.

33 (d) The rights of the parents may be terminated as provided in this
34 section if the court finds that the parents have abandoned the child or
35 the child was left under such circumstances that the identity of the par-
36 ents is unknown and cannot be ascertained, despite diligent searching,
37 and the parents have not come forward to claim the child within three
38 months after the child is found.

39 (e) The existence of any one of the above standing alone may, but
40 does not necessarily, establish grounds for termination of parental rights.
41 The determination shall be based on an evaluation of all factors which
42 are applicable. In considering any of the above factors for terminating the
43 rights of a parent, the court shall give primary consideration to the phys-

H-1

1 ical, mental or emotional condition and needs of the child. If presented
2 to the court and subject to the provisions of K.S.A. 60-419, and amend-
3 ments thereto, the court shall consider as evidence testimony from a
4 person licensed to practice medicine and surgery, a licensed psychologist
5 or a licensed social worker expressing an opinion relating to the physical,
6 mental or emotional condition and needs of the child. The court shall
7 consider any such testimony only if the licensed professional providing
8 such testimony is subject to cross-examination.

9 (f) A termination of parental rights under the Kansas code for care
10 of children shall not terminate the right of the child to inherit from or
11 through the parent. Upon such termination, all the rights of birth parents
12 to such child, including their right to inherit from or through such child,
13 shall cease.

1 (g) If, after finding the parent unfit, the court determines a compel-
2 ling reason why it is not in the best interests of the child to terminate
3 parental rights, the court may award permanent guardianship to an in-
4 dividual providing care for the child, a relative or other person with whom
5 the child has a close emotional attachment. Prior to awarding permanent
6 guardianship, the court shall receive and consider an assessment as pro-
7 vided in K.S.A. 59-2132 and amendments thereto of any potential per-
8 manent guardian.

9 (h) If a parent is convicted of an offense as provided in subsection
10 (7) of K.S.A. 38-1585 and amendments thereto or is adjudicated a juvenile
11 offender because of an act which if committed by an adult would be an
12 offense as provided in subsection (7) of K.S.A. 38-1585 and amendments
13 thereto, and if the victim was the other parent of a child, the court may
14 disregard such convicted or adjudicated parent's opinions or wishes in
15 regard to the placement of such child.

16 Sec. 20. K.S.A. 38-1597 is hereby amended to read as follows: 38-
17 1597. (a) A party entitled to receive child support under an order issued
18 pursuant to the Kansas code for care of children may file with the clerk
19 of the district court in the county in which the judgment was rendered
20 the original child support order and the original income withholding or-
21 der, if any. If the original child support or income withholding order is
22 unavailable for any reason, a certified or authenticated copy of the order
23 may be substituted. The clerk of the district court shall number the child
24 support order as a case filed under chapter 60 of the Kansas Statutes
25 Annotated and enter the numbering of the case on the appearance docket
26 of the case. Registration of a child support order under this section shall
27 be without cost or docket fee.

28 (b) If the number assigned to a case under the Kansas code for care
29 of children appears in the caption of a document filed pursuant to this
30 section, the clerk of the district court may obliterate that number and

22-1

1 replace it with the new case number assigned pursuant to this section.

2 (c) The filing of the child support order shall constitute registration
3 under this section. Upon registration of the child support order, all mat-
4 ters related to that order, including but not limited to modification of the
5 order, shall proceed under the new case number. Registration of a child
6 support order under this section does not confer jurisdiction in the reg-
7 istration case for custody or ~~visitation~~ *parenting time* issues.

8 (d) The party registering a child support order shall serve a copy of
9 the registered child support order and income withholding order, if any,
10 upon the interested parties by first-class mail. The party registering the
11 child support order shall file, in the privileged official file for each child
12 affected, either a copy of the registered order showing the new case num-
13 ber or a statement that includes the caption, new case number and date
14 of registration of the child support order.

15 (e) If the secretary of social and rehabilitation services is entitled to
16 receive payment under an order which may be registered under this sec-
17 tion, the county or district attorney shall take the actions permitted or
18 required in subsections (a) and (d) on behalf of the secretary, unless
19 otherwise requested by the secretary.

20 (f) A child support order registered pursuant to this section shall have
21 the same force and effect as an original child support order entered under
22 chapter 60 of the Kansas Statutes Annotated including, but not limited to
23 to:

24 (1) The registered order shall become a lien on the real estate of the
25 judgment debtor in the county from the date of registration;

26 (2) execution or other action to enforce the registered order may be
27 had from the date of registration;

28 (3) the registered order may itself be registered pursuant to any law,
29 including but not limited to the revised uniform reciprocal enforcement
30 of support act (1968);

31 (4) if any installment of support due under the registered order be-
32 comes a dormant judgment, it may be revived pursuant to K.S.A. 60-2404
33 and amendments thereto; and

34 (5) the court shall have continuing jurisdiction over the parties and
35 subject matter and, except as otherwise provided in subsection (g), may
36 modify any prior support order when a material change in circumstances
37 is shown irrespective of the present domicile of the child or parents. The
38 court may make a modification of child support retroactive to a date at
39 least one month after the date that the motion to modify was filed with
40 the court.

41 (g) If a motion to modify the child support order is filed within three
42 months after the date of registration pursuant to this section; if no motion
43 to modify the order has previously been heard and if the moving party

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1 shows that the support order was based upon one or more of the pre-
2 sumptions provided in K.S.A. 38-1595 *and amendments thereto* or upon
3 a stipulation pursuant to subsection (c) of K.S.A. 38-1595 *and amend-*
4 *ments thereto*, the court shall apply the Kansas child support guidelines
5 adopted pursuant to K.S.A. 20-165 and amendments thereto without re-
6 quiring any party to show that a material change of circumstances has
7 occurred, without regard to any previous presumption or stipulation used
8 to determine the amount of the child support order, and irrespective of
9 the present domicile of the child or parents. Nothing in this subsection
10 shall prevent or limit enforcement of the support order during the three
11 months after the date of registration.

12 Sec. 21. K.S.A. 1998 Supp. 38-1641 is hereby amended to read as
13 follows: 38-1641. (a) Any parent, guardian, or person with whom a juve-
14 nile resides who is served with a summons as provided in K.S.A. 38-1626,
15 and amendments thereto, shall appear with the juvenile at all juvenile
16 proceedings concerning the juvenile, unless excused by the court having
17 jurisdiction of the matter.

18 (b) Any person required by this act to be present at all juvenile pro-
19 ceedings who fails to comply, without good cause, with the provisions of
20 subsection (a) may be proceeded against for indirect contempt of court
21 pursuant to the provisions of K.S.A. 20-1204a *et seq.*, and amendments
22 thereto.

23 (c) As used in this section: (1) "Good cause" for failing to appear
24 includes, but is not limited to, a situation where a parent or guardian:

25 (A) Does not have physical custody of the juvenile and resides outside
26 of Kansas;

27 (B) has physical custody of the juvenile, but resides outside of Kansas
28 and appearing in court will result in undue hardship to such parent or
29 guardian; or

30 (C) resides in Kansas, but is outside of the state at the time of the
31 juvenile proceeding for reasons other than avoiding appearance before
32 the court and appearing in court will result in undue hardship to such
33 parent or guardian.

34 (2) "Parent" means and includes a natural parent who has sole or
35 joint *shared* custody, regardless of whether the parent is designated as
36 the primary residential custodian, or an adoptive parent. Parent does not
37 include a person whose parental rights have been terminated pursuant to
38 law.

39 (d) If the parent or guardian of any juvenile cannot be found or fails
40 to appear, the court may proceed with the case without the presence of
41 such parent or guardian.

42 (e) This section shall be part of and supplemental to the Kansas ju-
43 venile justice code.

H2-1

1 Sec. 22. K.S.A. 1998 Supp. 38-1664 is hereby amended to read as
2 follows: 38-1664. (a) Prior to placing a juvenile offender in the custody
3 of the commissioner and recommending out-of-home placement, the
4 court shall consider and determine that, where consistent with the need
5 for protection of the community:

6 (1) Reasonable efforts have been made to prevent or eliminate the
7 need for out-of-home placement or reasonable efforts are not possible
8 due to an emergency threatening the safety of the juvenile offender or
9 the community; and

10 (2) out-of-home placement is in the best interests of the juvenile of-
11 fender.

12 (b) When a juvenile offender has been placed in the custody of the
13 commissioner, the commissioner shall notify the court in writing of the
14 initial placement of the juvenile offender as soon as the placement has
15 been accomplished. The court shall have no power to direct a specific
16 placement by the commissioner, but may make recommendations to the
17 commissioner. The commissioner may place the juvenile offender in an
18 institution operated by the commissioner, a youth residential facility or a
19 community mental health center. If the court has recommended an out-
20 of-home placement, the commissioner may not return the juvenile of-
21 fender to the home from which removed without first notifying the court
22 of the plan.

23 (c) During the time a juvenile offender remains in the custody of the
24 commissioner, the commissioner shall report to the court at least each six
25 months as to the current living arrangement and social and mental de-
26 velopment of the juvenile offender. If the juvenile offender is placed
27 outside the juvenile offender's home, a hearing shall be held not more
28 than 18 months after the juvenile offender is placed outside the juvenile
29 offender's home and every 12 months thereafter. If the juvenile offender
30 is placed in foster care, the foster parent or parents shall submit to the
31 court, at least every six months, a report in regard to the juvenile of-
32 fender's adjustment, progress and condition. The juvenile justice author-
33 ity shall notify the foster parent or parents of the foster parents' or parent's
34 duty to submit such report, on a form provided by the juvenile justice
35 authority, at least two weeks prior to the date when the report is due, and
36 the name of the judge and the address of the court to which the report
37 is to be submitted. Such report shall be confidential and shall only be
38 reviewed by the court and the child's attorney.

39 (d) The report made by foster parents and provided by the commis-
40 sioner of juvenile justice, pursuant to this section, shall be in substantially
41 the following form:

58-1

REPORT FROM FOSTER PARENTS
CONFIDENTIAL

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Child's Name	Current Address
Parent's Name	Foster Parents

Primary Social Worker

Please circle the word which best describes the child's progress

- Child's adjustment in the home
 excellent good satisfactory needs improvement
- Child's interaction with foster parents and family members
 excellent good satisfactory needs improvement
- Child's interaction with others
 excellent good satisfactory needs improvement
- Child's respect for property
 excellent good satisfactory needs improvement
- Physical and emotional condition of the child
 excellent good satisfactory needs improvement
- Social worker's interaction with the child and foster family
 excellent good satisfactory needs improvement
- School status of child:

	School		Grade	
Grades	Good _____	Fair _____	Poor _____	
Attendance	Good _____	Fair _____	Poor _____	
Behavior	Good _____	Fair _____	Poor _____	

8. If ~~visitation~~ parenting time with parents has occurred, describe the frequency of visits, with whom, supervised or unsupervised, and any significant events which have occurred.

9. Your opinion regarding the overall adjustment, progress and condition of the child:

10. Do you have any special concerns or comments with regard to the child not addressed by this form? Please specify.

Sec. 23. K.S.A. 1998 Supp. 38-16,119 is hereby amended to read as follows: 38-16,119. (a) A party entitled to receive child support under an

1-210

1 order issued pursuant to the Kansas juvenile justice code may file with
2 the clerk of the district court in the county in which the judgment was
3 rendered the original child support order and the original income with-
4 holding order, if any. If the original child support or income withholding
5 order is unavailable for any reason, a certified or authenticated copy of
6 the order may be substituted. The clerk of the district court shall number
7 the child support order as a case filed under chapter 60 of the Kansas
8 Statutes Annotated and enter the numbering of the case on the appear-
9 ance docket of the case. Registration of a child support order under this
10 section shall be without cost or docket fee.

11 (b) If the number assigned to a case under the Kansas juvenile justice
12 code appears in the caption of a document filed pursuant to this section,
13 the clerk of the district court may obliterate that number and replace it
14 with the new case number assigned pursuant to this section.

15 (c) The filing of the child support order shall constitute registration
16 under this section. Upon registration of the child support order, all mat-
17 ters related to that order, including but not limited to modification of the
18 order, shall proceed under the new case number. Registration of a child
19 support order under this section does not confer jurisdiction in the reg-
20 istration case for custody or ~~visitation~~ *parenting time* issues.

21 (d) The party registering a child support order shall serve a copy of
22 the registered child support order and income withholding order, if any,
23 upon the interested parties by first-class mail. The party registering the
24 child support order shall file, in the official file for each child affected,
25 either a copy of the registered order showing the new case number or a
26 statement that includes the caption, new case number and date of reg-
27 istration of the child support order.

28 (e) If the commissioner of juvenile justice is entitled to receive pay-
29 ment under an order which may be registered under this section, the
30 county or district attorney shall take the actions permitted or required in
31 subsections (a) and (d) on behalf of the commissioner, unless otherwise
32 requested by the commissioner.

33 (f) A child support order registered pursuant to this section shall have
34 the same force and effect as an original child support order entered under
35 chapter 60 of the Kansas Statutes Annotated including, but not limited to
36 to:

37 (1) The registered order shall become a lien on the real estate of the
38 judgment debtor in the county from the date of registration;

39 (2) execution or other action to enforce the registered order may be
40 had from the date of registration;

41 (3) the registered order may itself be registered pursuant to any law,
42 including but not limited to the revised uniform reciprocal enforcement
43 of support act (1968).

LR-1

1 (4) if any installment of support due under the registered order be-
2 comes a dormant judgment, it may be revived pursuant to K.S.A. 60-2404
3 and amendments thereto; and

4 (5) the court shall have continuing jurisdiction over the parties and
5 subject matter and, except as otherwise provided in subsection (g), may
6 modify any prior support order when a material change in circumstances
7 is shown irrespective of the present domicile of the child or parents. The
8 court may make a modification of child support retroactive to a date at
9 least one month after the date that the motion to modify was filed with
10 the court.

11 (g) If a motion to modify the child support order is filed within three
12 months after the date of registration pursuant to this section; if no motion
13 to modify the order has previously been heard and if the moving party
14 shows that the support order was based upon one or more of the pre-
15 sumptions provided in K.S.A. 38-16,117, and amendments thereto, or
16 upon a stipulation pursuant to subsection (c) of K.S.A. 38-16,117, and
17 amendments thereto, the court shall apply the Kansas child support
18 guidelines adopted pursuant to K.S.A. 20-165 and amendments thereto
19 without requiring any party to show that a material change of circum-
20 stances has occurred, without regard to any previous presumption or stip-
21 ulation used to determine the amount of the child support order, and
22 irrespective of the present domicile of the child or parents. Nothing in
23 this subsection shall prevent or limit enforcement of the support order
24 during the three months after the date of registration.

25 Sec. 24. K.S.A. 1998 Supp. 60-1607 is hereby amended to read as
26 follows: 60-1607. (a) *Permissible orders.* After a petition for divorce, an-
27 nulment or separate maintenance has been filed, and during the pen-
28 dency of the action prior to final judgment the judge assigned to hear the
29 action may, without requiring bond, make and enforce by attachment,
30 orders which:

31 (1) Jointly restrain the parties with regard to disposition of the prop-
32 erty of the parties and provide for the use, occupancy, management and
33 control of that property;

34 (2) restrain the parties from molesting or interfering with the privacy
35 or rights of each other;

36 (3) provide for the *joint shared* custody of the minor children and the
37 support, if necessary, of either party and of the minor children during the
38 pendency of the action. ~~[Such custody shall include equal parenting time].~~

39 (4) make provisions, if necessary, for the expenses of the suit, includ-
40 ing reasonable attorney's fees, that will insure to either party efficient
41 preparation for the trial of the case; or

42 (5) require an investigation by court service officers into any issue
43 arising in the action.

Within 15 days of an order of custody, both parties, acting individually or in concert, shall submit a temporary parenting plan to the court. If the parties cannot agree on an appropriate temporary parenting plan the judge may, or upon request of one of the parties, shall order mediation. In the event a mutually agreeable parenting plan cannot be agreed upon, the judge shall issue a temporary parenting plan appropriate to the parties' circumstances, and consistent with the best interests of the children;

82-1

1 (b) *Ex parte orders*. Orders authorized by subsections (a)(1), (2) and
2 (3) may be entered after *ex parte* hearing upon compliance with rules of
3 the supreme court, but no *ex parte* order shall have the effect of changing
4 the custody of a minor child from the parent who has had the sole *de*
5 *facto* custody of the child to the other parent unless there is sworn tes-
6 timony to support a showing of extraordinary circumstances. If an inter-
7 locutory order is issued *ex parte*, the court shall hear a motion to vacate
8 or modify the order within 15 days of the date that a party requests a
9 hearing whether to vacate or modify the order. In the absence, disability,
10 or disqualification of the judge assigned to hear the action, any other
11 judge of the district court may make any order authorized by this section,
12 including vacation or modification or any order issued by the judge as-
13 signed to hear the action.

14 (c) *Support orders*. (1) An order of support obtained pursuant to this
15 section may be enforced by an order of garnishment as provided in this
16 section.

17 (2) No order of garnishment shall be issued under this section unless:
18 (A) Ten or more days have elapsed since the order of support was served
19 upon the party required to pay the support, and (B) the order of support
20 contained a notice that the order of support may be enforced by garnish-
21 ment and that the party has a right to request an opportunity for a hearing
22 to contest the issuance of an order of garnishment, if the hearing is re-
23 quested by motion filed within five days after service of the order of
24 support upon the party. If a hearing is requested, the court shall hold the
25 hearing within five days after the motion requesting the hearing is filed
26 with the court or at a later date agreed to by the parties.

27 (3) No bond shall be required for the issuance of an order of gar-
28 nishment pursuant to this section. Except as provided in this section,
29 garnishments authorized by this section shall be subject to the procedures
30 and limitations applicable to other orders of garnishment authorized by
31 law.

32 (4) A party desiring to have the order of garnishment issued shall file
33 an affidavit with the clerk of the district court stating that:

34 (A) The order of support contained the notice required by this sub-
35 section;

36 (B) ten or more days have elapsed since the order of support was
37 served upon the party required to pay the support; and

38 (C) either no hearing was requested on the issuance of an order of
39 garnishment within the five days after service of the order of support
40 upon the party required to pay the same or a hearing was requested and
41 held and the court did not prohibit the issuance of an order of garnish-
42 ment.

43 (d) *Service of process*. Service of process served under subsection

18-1

1 (a)(1) and (2) shall be by personal service and not by certified mail return
2 receipt requested.

3 Sec. 25. K.S.A. 1998 Supp. 60-1610 is hereby amended to read as
4 follows: 60-1610. A decree in an action under this article may include
5 orders on the following matters:

6 (a) *Minor children.* (1) *Child support and education.* The court shall
7 make provisions for the support and education of the minor children.

8 ~~Determination of the amount to be paid by a parent for support of the~~
9 ~~parent's child or children shall be based on the principle that both parents~~
10 ~~have an equal duty to provide support.]~~ The court may modify or change

11 any prior order, including any order issued in a title IV-D case, within
12 three years of the date of the original order or a modification order, when
13 a material change in circumstances is shown, irrespective of the present
14 domicile of the child or the parents. If more than three years has passed
15 since the date of the original order or modification order, a material
16 change in circumstance need not be shown. The court may make a mod-
17 ification of child support retroactive to a date at least one month after the
18 date that the motion to modify was filed with the court. Any increase in
19 support ordered effective prior to the date the court's judgment is filed
20 shall not become a lien on real property pursuant to K.S.A. 60-2202 and
21 amendments thereto. Regardless of the type of custodial arrangement
22 ordered by the court, the court may order the child support and education
23 expenses to be paid by either or both parents for any child less than 18
24 years of age, at which age the support shall terminate unless: (A) The
25 parent or parents agree, by written agreement approved by the court, to
26 pay support beyond the time the child reaches 18 years of age; (B) the
27 child reaches 18 years of age before completing the child's high school
28 education in which case the support shall not terminate automatically,
29 unless otherwise ordered by the court, until June 30 of the school year
30 during which the child became 18 years of age if the child is still attending
31 high school; or (C) the child is still a bona fide high school student after
32 June 30 of the school year during which the child became 18 years of
33 age, in which case the court, on motion, may order support to continue
34 through the school year during which the child becomes 19 years of age
35 so long as the child is a bona fide high school student and the parents
36 jointly participated or knowingly acquiesced in the decision which delayed
37 the child's completion of high school. The court, in extending support
38 pursuant to subsection (a)(1)(C), may impose such conditions as are ap-
39 propriate and shall set the child support utilizing the guideline table cat-
40 egory for 16-year through 18-year old children. Provision for payment of
41 support and educational expenses of a child after reaching 18 years of age
42 if still attending high school shall apply to any child subject to the juris-
43 diction of the court, including those whose support was ordered prior to

1 July 1, 1992. If an agreement approved by the court prior to July 1, 1988,
2 provides for termination of support before the date provided by subsection
3 (a)(1)(B), the court may review and modify such agreement, and any
4 order based on such agreement, to extend the date for termination of
5 support to the date provided by subsection (a)(1)(B). If an agreement
6 approved by the court prior to July 1, 1992, provides for termination of
7 support before the date provided by subsection (a)(1)(C), the court may
8 review and modify such agreement, and any order based on such agree-
9 ment, to extend the date for termination of support to the date provided
10 by subsection (a)(1)(C). For purposes of this section, "bona fide high
11 school student" means a student who is enrolled in full accordance with
12 the policy of the accredited high school in which the student is pursuing
13 a high school diploma or a graduate equivalency diploma (GED). In de-
14 termining the amount to be paid for child support, the court shall consider
15 all relevant factors, without regard to marital misconduct, including the
16 financial resources and needs of both parents, the financial resources and
17 needs of the child and the physical and emotional condition of the child.
18 Until a child reaches 18 years of age, the court may set apart any portion
19 of property of either the husband or wife, or both, that seems necessary
20 and proper for the support of the child. Every order requiring payment
21 of child support under this section shall require that the support be paid
22 through the clerk of the district court or the court trustee except for good
23 cause shown.

24 (2) *Child custody and residency.* (A) *Changes in custody.* Subject to
25 the provisions of the uniform child custody jurisdiction act (K.S.A. 38-
26 1301 *et seq.*, and amendments thereto), the court may change or modify
27 any prior order of custody when a material change of circumstances is
28 shown, but no ex parte order shall have the effect of changing the custody
29 of a minor child from the parent who has had the sole de facto custody
30 of the child to the other parent unless there is sworn testimony to support
31 a showing of extraordinary circumstances. If an interlocutory order is
32 issued ex parte, the court shall hear a motion to vacate or modify the
33 order within 15 days of the date that a party requests a hearing whether
34 to vacate or modify the order. ~~If the primary care giver of the child in a~~
35 ~~nonequal parenting plan or either parent in an equal parenting plan move~~
36 ~~over 60 miles from the primary current residency of the child, such a~~
37 ~~move shall constitute a material change in circumstance for the purpose~~
38 ~~of any modification of any child custody order.~~

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

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

02-1

1 the child.

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

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

9 (i) The length of time that the child has been under the actual care
10 and control of any person other than a parent and the circumstances
11 relating thereto;

12 (ii) the desires of the child's parents as to custody or residency;

13 (iii) the desires of the child as to the child's custody or residency;

14 (iv) the interaction and interrelationship of the child with parents,
15 siblings and any other person who may significantly affect the child's best
16 interests;

17 (v) the child's adjustment to the child's home, school and community;

18 (vi) the willingness and ability of each parent to respect and appre-
19 ciate the bond between the child and the other parent and to allow for a
20 continuing relationship between the child and the other parent; and

21 (vii) evidence of spousal abuse.

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

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

31 (A) *Joint shared custody.* The court may place the custody of a child
32 with both parties on a ~~shared or joint custody~~ *joint shared* basis. In that
33 event, the parties shall have equal rights to make decisions in the best
34 interests of the child under their custody. When a child is placed in the
35 *joint shared* custody of the child's parents, the court ~~may~~ *shall* further
36 determine that the residency of the child shall be divided either in an
37 equal or *near equal* manner with regard to time of residency or on the
38 basis of a primary residency arrangement for the child. ~~[If the court does~~
39 ~~not order equal or near equal parenting time, the court shall include in~~
40 ~~the record, the specific findings of fact upon which the order for primary~~
41 ~~residency is based.]~~ The court, ~~in its discretion,~~ *may* shall require the
42 parents to submit a plan for implementation of a *joint shared* custody
43 order upon finding that both parents are suitable parents or the parents,

18-1

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1 acting individually or in concert, may submit a custody implementation
2 plan to the court prior to issuance of a custody decree. If the court does
3 not order joint *shared* custody, it shall include in the record the specific
4 findings of fact upon which the order for custody other than joint *shared*
5 custody is based. *If the parents do not agree on a parenting plan, the*
6 *court, or upon request of a parent, may order mediation.*

7 (B) *Sole custody.* The court may place the custody of a child with one
8 parent, and the other parent shall be the noncustodial parent. The cus-
9 todial parent shall have the right to make decisions in the best interests
10 of the child, subject to the ~~visitation rights~~ *parenting time* of the noncus-
11 todial parent.

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

14 (D) *Nonparental custody.* If during the proceedings the court deter-
15 mines that there is probable cause to believe that: (i) The child is a child
16 in need of care as defined by subsections (a)(1), (2) or (3) of K.S.A. 38-
17 1502 and amendments thereto; (ii) neither parent is fit to have custody;
18 or (iii) the child is currently residing with such child's grandparent, grand-
19 parents, aunt or uncle and such relative has had actual physical custody
20 of such child for a significant length of time, the court may award tem-
21 porary custody of the child to such relative, another person or agency if
22 the court finds the award of custody to such relative, another person or
23 agency is in the best interests of the child. In making such a custody
24 order, the court shall give preference, to the extent that the court finds
25 it is in the best interests of the child, first to awarding such custody to a
26 relative of the child by blood, marriage or adoption and second to award-
27 ing such custody to another person with whom the child has close emo-
28 tional ties. The court may make temporary orders for care, support, ed-
29 ucation and visitation that it considers appropriate. Temporary custody
30 orders are to be entered in lieu of temporary orders provided for in K.S.A.
31 38-1542 and 38-1543, and amendments thereto, and shall remain in effect
32 until there is a final determination under the Kansas code for care of
33 children. An award of temporary custody under this paragraph shall not
34 terminate parental rights nor give the court the authority to consent to
35 the adoption of the child. When the court enters orders awarding tem-
36 porary custody of the child to an agency or a person other than the parent
37 but not a relative as described in subpart (iii), the court shall refer a
38 transcript of the proceedings to the county or district attorney. The county
39 or district attorney shall file a petition as provided in K.S.A. 38-1531 and
40 amendments thereto and may request termination of parental rights pur-
41 suant to K.S.A. 38-1581 and amendments thereto. The costs of the pro-
42 ceedings shall be paid from the general fund of the county. When a final
43 determination is made that the child is not a child in need of care, the

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1 county or district attorney shall notify the court in writing and the court,
2 after a hearing, shall enter appropriate custody orders pursuant to this
3 section. If the same judge presides over both proceedings, the notice is
4 not required. Any disposition pursuant to the Kansas code for care of
5 children shall be binding and shall supersede any order under this section.
6 When the court enters orders awarding temporary custody of the child
7 to a relative as described in subpart (iii), the court shall annually review
8 the temporary custody to evaluate whether such custody is still in the best
9 interests of the child. If the court finds such custody is in the best interests
10 of the child, such custody shall continue. If the court finds such custody
11 is not in the best interests of the child, the court shall determine the
12 custody pursuant to this section.

13 (b) *Financial matters.* (1) *Division of property.* The decree shall di-
14 vide the real and personal property of the parties, including any retire-
15 ment and pension plans, whether owned by either spouse prior to mar-
16 riage, acquired by either spouse in the spouse's own right after marriage
17 or acquired by the spouses' joint efforts, by: (A) a division of the property
18 in kind; (B) awarding the property or part of the property to one of the
19 spouses and requiring the other to pay a just and proper sum; or (C)
20 ordering a sale of the property, under conditions prescribed by the court,
21 and dividing the proceeds of the sale. Upon request, the trial court shall
22 set a valuation date to be used for all assets at trial, which may be the
23 date of separation, filing or trial as the facts and circumstances of the case
24 may dictate. The trial court may consider evidence regarding changes in
25 value of various assets before and after the valuation date in making the
26 division of property. In dividing defined-contribution types of retirement
27 and pension plans, the court shall allocate profits and losses on the non-
28 participant's portion until date of distribution to that nonparticipant. In
29 making the division of property the court shall consider the age of the
30 parties; the duration of the marriage; the property owned by the parties;
31 their present and future earning capacities; the time, source and manner
32 of acquisition of property; family ties and obligations; the allowance of
33 maintenance or lack thereof; dissipation of assets; the tax consequences
34 of the property division upon the respective economic circumstances of
35 the parties; and such other factors as the court considers necessary to
36 make a just and reasonable division of property. The decree shall provide
37 for any changes in beneficiary designation on: (A) Any insurance or an-
38 nuity policy that is owned by the parties, or in the case of group life
39 insurance policies, under which either of the parties is a covered person;
40 (B) any trust instrument under which one party is the grantor or holds a
41 power of appointment over part or all of the trust assets, that may be
42 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

1-34

1 beneficiaries. Nothing in this section shall relieve the parties of the ob-
2 ligation to effectuate any change in beneficiary designation by the filing
3 of such change with the insurer or issuer in accordance with the terms
4 of such policy.

5 (2) *Maintenance.* The decree may award to either party an allowance
6 for future support denominated as maintenance, in an amount the court
7 finds to be fair, just and equitable under all of the circumstances. The
8 decree may make the future payments modifiable or terminable under
9 circumstances prescribed in the decree. The court may make a modifi-
10 cation of maintenance retroactive to a date at least one month after the
11 date that the motion to modify was filed with the court. In any event, the
12 court may not award maintenance for a period of time in excess of 121
13 months. If the original court decree reserves the power of the court to
14 hear subsequent motions for reinstatement of maintenance and such a
15 motion is filed prior to the expiration of the stated period of time for
16 maintenance payments, the court shall have jurisdiction to hear a motion
17 by the recipient of the maintenance to reinstate the maintenance pay-
18 ments. Upon motion and hearing, the court may reinstate the payments
19 in whole or in part for a period of time, conditioned upon any modifying
20 or terminating circumstances prescribed by the court, but the reinstatement
21 shall be limited to a period of time not exceeding 121 months. The
22 recipient may file subsequent motions for reinstatement of maintenance
23 prior to the expiration of subsequent periods of time for maintenance
24 payments to be made, but no single period of reinstatement ordered by
25 the court may exceed 121 months. Maintenance may be in a lump sum,
26 in periodic payments, on a percentage of earnings or on any other basis.
27 At any time, on a hearing with reasonable notice to the party affected,
28 the court may modify the amounts or other conditions for the payment
29 of any portion of the maintenance originally awarded that has not already
30 become due, but no modification shall be made without the consent of
31 the party liable for the maintenance, if it has the effect of increasing or
32 accelerating the liability for the unpaid maintenance beyond what was
33 prescribed in the original decree. Every order requiring payment of main-
34 tenance under this section shall require that the maintenance be paid
35 through the clerk of the district court or the court trustee except for good
36 cause shown.

37 (3) *Separation agreement.* If the parties have entered into a separa-
38 tion agreement which the court finds to be valid, just and equitable, the
39 agreement shall be incorporated in the decree. The provisions of the
40 agreement on all matters settled by it shall be confirmed in the decree
41 except that any provisions for the custody, support or education of the
42 minor children shall be subject to the control of the court in accordance
43 with all other provisions of this article. Matters settled by an agreement

1 incorporated in the decree, other than matters pertaining to the custody,
2 support or education of the minor children, shall not be subject to sub-
3 sequent modification by the court except: (A) As prescribed by the agree-
4 ment or (B) as subsequently consented to by the parties.

5 (4) *Costs and fees.* Costs and attorney fees may be awarded to either
6 party as justice and equity require. The court may order that the amount
7 be paid directly to the attorney, who may enforce the order in the attor-
8 ney's name in the same case.

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

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

19 Sec. 26. K.S.A. 60-1612 is hereby amended to read as follows: 60-
20 1612. (a) If a party fails to comply with a provision of a decree, temporary
21 order or injunction issued under K.S.A. 60-1601 *et seq.*, the obligation of
22 the other party to make payments for support or maintenance or to permit
23 ~~visitation~~ *parenting time* is not suspended, but the other party may re-
24 quest by motion that the court grant an appropriate order.

25 (b) Motions to modify ~~visitation~~ *parenting time* or custody in pro-
26 ceedings where support obligations are enforced under part D of title IV
27 of the federal social security act (42 USC § 651 *et seq.*), as amended, shall
28 be considered proceedings in connection with the administration of the
29 title IV-D program for the sole purpose of disclosing information nec-
30 essary to obtain service of process on the parent with physical custody of
31 the child.

32 Sec. 27. K.S.A. 60-1614 is hereby amended to read as follows: 60-
33 1614. The court may interview the minor children in chambers to assist
34 the court in determining custody and ~~visitation~~ *parenting time*. The court
35 may permit counsel to be present at the interviews. Upon request of any
36 party, the court shall cause a record of the interview to be made as part
37 of the record in the case.

38 Sec. 28. K.S.A. 1998 Supp. 60-1616 is hereby amended to read as
39 follows: 60-1616. (a) *Parents.* A parent not granted custody or residency
40 of the child is entitled to reasonable ~~visitation rights~~ *parenting time* unless
41 the court finds, after a hearing, that ~~visitation~~ *parenting time* would en-
42 danger seriously the child's physical, mental, moral or emotional health.

43 (b) *Grandparents and stepparents.* Grandparents and stepparents

1-30

1 may be granted visitation rights.

2 (c) *Modification.* The court may modify an order granting or den-
3 ying ~~parenting time or~~ visitation rights whenever modification would serve
4 the best interests of the child.

5 (d) *Enforcement of rights.* An order granting ~~visitation rights parent-~~
6 ~~ing time~~ to a parent pursuant to this section may be enforced in accord-
7 ance with K.S.A. 23-701, and amendments thereto.

8 (e) *Repeated denial of rights, effect.* Repeated unreasonable denial of
9 or interference with ~~visitation rights parenting time~~ granted to a parent
10 pursuant to this section may be considered a material change of circum-
11 stances which justifies modification of a prior order of child custody.

12 (f) *Repeated child support misuse, effect.* Repeated child support mis-
13 use may be considered a material change of circumstances which justifies
14 modification of a prior order of child custody.

15 (g) *Court ordered exchange or ~~visitation parenting time at a child~~*
16 *exchange and ~~visitation parenting time center.~~* (1) The court may order
17 exchange or ~~visitation parenting time~~ to take place at a child exchange
18 and ~~visitation parenting time center~~, as established in K.S.A. 75-720 and
19 *amendments thereto.*

20 (2) A parent may petition the court to modify an order granting ~~vis-~~
21 ~~itation rights parenting time~~ rights to require that the exchange or transfer
22 of children for ~~visitation parenting time or visitation parenting time~~ take
23 place at a child exchange and ~~visitation parenting time center~~, as estab-
24 lished in K.S.A. 75-720 and *amendments thereto.* The court may modify
25 an order granting ~~visitation rights parenting time~~ whenever modification
26 would serve the best interests of the child.

27 Sec. 29. K.S.A. 60-1617 is hereby amended to read as follows: 60-
28 1617. (a) *Family counseling.* Upon motion by any party or on the court's
29 own motion, the court may order at any time prior to or subsequent to
30 the alteration of the parties' marital status that the parties and any of their
31 children be interviewed by a psychiatrist, licensed psychologist or other
32 trained professional in family counseling, approved by the court, for the
33 purpose of determining whether it is in the best interests of any of the
34 parties' children that the parties and any of their children have counseling
35 with regard to matters of custody and ~~visitation parenting time.~~ The court
36 shall receive the written opinion of the professional, and the court shall
37 make the opinion available to counsel upon request. Counsel may ex-
38 amine as a witness any professional consulted by the court under this
39 section. If the opinion of the professional is that counseling is in the best
40 interests of any of the children, the court may order the parties and any
41 of the children to obtain counseling. Neither party shall be required to
42 obtain counseling pursuant to this section if the party objects thereto
43 because the counseling conflicts with sincerely held religious tenets and

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1 practices to which any party is an adherent.

2 (b) *Costs*. The costs of the counseling shall be taxed to either party
3 as equity and justice require.

4 Sec. 30. K.S.A. 1998 Supp. 60-1621 is hereby amended to read as
5 follows: 60-1621. (a) No postdivorce motion petitioning for a change in
6 child custody, a modification of child support or a change in ~~visitation-~~
7 ~~parenting time~~ shall be filed or docketed in the district court without
8 payment of a docket fee in the amount of \$20 to the clerk of the district
9 court.

See attached for insert
And renumber sections accordingly

10 (b) A poverty affidavit may be filed in lieu of a docket fee as estab-
11 lished in K.S.A. 60-2001, and amendments thereto.

12 (c) The docket fee shall be the only costs assessed in each case for
13 services of the clerk of the district court and the sheriff. The docket fee
14 shall be disbursed in accordance with subsection (f) of K.S.A. 20-362, and
15 amendments thereto.

See attached for insert
And renumber sections accordingly

16 Sec. 31. K.S.A. 1998 Supp. 60-3107 is hereby amended to read as
17 follows: 60-3107. (a) The court shall be empowered to approve any con-
18 sent agreement to bring about a cessation of abuse of the plaintiff or
19 minor children or grant any of the following orders:

20 (1) Restraining the parties from abusing, molesting or interfering
21 with the privacy or rights of each other or of any minor children of the
22 parties. Such order shall contain a statement that if such order is violated,
23 such violation may constitute assault as provided in K.S.A. 21-3408, and
24 amendments thereto, battery as provided in K.S.A. 21-3412, and amend-
25 ments thereto, and violation of a protective order as provided in K.S.A.
26 1998 Supp. 21-3843, and amendments thereto.

27 (2) Granting possession of the residence or household to a party to
28 the exclusion of the other party, and further restraining the party not
29 granted possession from entering or remaining upon or in such residence
30 or household, subject to the limitation of subsection (c). Such order shall
31 contain a statement that if such order is violated, such violation shall
32 constitute criminal trespass as provided in subsection (c) of K.S.A. 21-
33 3721, and amendments thereto, and violation of a protective order as
34 provided in K.S.A. 1998 Supp. 21-3843, and amendments thereto. The
35 court may grant an order, which shall expire 60 days following the date
36 of issuance, restraining the party not granted possession from cancelling
37 utility service to the residence or household.

38 (3) Requiring a party to provide suitable, alternate housing for such
39 party's spouse and any minor children of the parties.

40 (4) Awarding temporary custody and residency and establishing tem-
41 porary ~~visitation rights~~ *parenting time* with regard to minor children.

42 (5) Ordering a law enforcement officer to evict a party from the res-
43 idence or household.

Sec. 31. K.S.A. 1998 Supp. 60-1620 is hereby amended to read as follows: 60-1620. (a) Except as provided in subsection (d), a parent ~~entitled-to-the~~ with custody, primary residential custody, or joint shared custody of a child pursuant to K.S.A. 60-1610 and amendments thereto shall give written notice to the other parent not less than 21 days prior to: (1) Changing the residence of the child to a place outside another state or to another county or community within this state or; (2) removing the child from this state for a period of time exceeding 90 days. Such notice shall be sent by restricted mail, return receipt requested, to the last known address of the other parent.

(b) Failure to give notice as required by subsection (a) is an indirect civil contempt punishable as provided by law. In addition, the court may assess, against the parent required to give notice, reasonable attorney fees and any other expenses incurred by the other parent by reason of the failure to give notice.

(c) A change of the residence or the removal of a child to another--state-or-removal-of-a-child from this state for a period of time exceeding 90 days as described in subsection (a) may be considered a material change of circumstances which justifies modification of a prior order of child support or, custody or parenting time. In considering a motion alleging a material change of circumstances, the court shall consider, but not be limited to consideration of, the following factors:

(1) Whether the change of residence or extended removal from the state will adversely affect the current parenting plan such that a modification of the plan or custody order is in the best interests of the child;

(2) whether a modified parenting plan will be adequate to address the effect of the change of residency or extended removal from the state;

(3) whether the increased costs of transportation, if any, occasioned by the change of residence or extended removal from the state justify a modification of a custody order, support order, parenting plan order or agreement.

(d) A parent entitled to the custody of a child pursuant to K.S.A. 60-1610 and amendments thereto shall not be required to give the notice required by this section to the other parent when the other parent has been convicted of any crime specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated in which the child is the victim of such crime.

Sec. 33. K.S.A. 1998 Supp. 60-3106 is hereby amended to read as follows: 60-3106. (a) Within 20 days of the filing of a petition under this act a hearing shall be held at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence and the defendant shall have an opportunity to present evidence on the defendant's behalf. Upon the filing of the petition, the court shall set the case for hearing. At the hearing, the court shall advise the parties of the right to be represented by counsel.

(b) Prior to the hearing on the petition and upon a finding of good cause shown, the court on motion of a party may enter such temporary relief orders in accordance with subsection (a)(1), (2), (4) or (5) of K.S.A. 60-3107 and amendments thereto, or any combination thereof, as it deems necessary to protect the plaintiff or minor children from abuse. Temporary orders may be granted ex parte. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for purposes of this section. No temporary order shall have the effect of modifying an existing custody, residency or visitation parenting time order unless there is sworn testimony at a hearing to support a showing of good cause.

(c) If a hearing under subsection (a) is continued, the court may make or extend such temporary orders under subsection (b) as it deems necessary.

OH-1

1 (6) Ordering support payments by a party for the support of a party's
2 minor child or a party's spouse. Such support orders shall remain in effect
3 until modified or dismissed by the court or until expiration and shall be
4 for a fixed period of time not to exceed one year. On the motion of the
5 plaintiff, the court may extend the effect of such order for 12 months.

6 (7) Awarding costs and attorney fees to either party.

7 (8) Making provision for the possession of personal property of the
8 parties and ordering a law enforcement officer to assist in securing pos-
9 session of that property, if necessary.

10 (9) Requiring the person against whom the order is issued to seek
11 counseling to aid in the cessation of abuse.

12 (b) Any order entered under the protection from abuse act shall not
13 be subject to modification on ex parte application or on motion for tem-
14 porary orders in any action filed pursuant to K.S.A. 60-1601 *et seq.* and
15 amendments thereto. Orders previously issued in an action filed pursuant
16 to K.S.A. 60-1601 *et seq.* and amendments thereto, shall be subject to
17 modification under the protection from abuse act only as to those matters
18 subject to modification by the terms of K.S.A. 60-1610 *et seq.* and amend-
19 ments thereto, and on sworn testimony to support a showing of good
20 cause. Immediate and present danger of abuse to the plaintiff or minor
21 children shall constitute good cause. If an action is filed pursuant to K.S.A.
22 60-1610 *et seq.* and amendments thereto, during the pendency of a pro-
23 ceeding filed under the protection from abuse act or while an order issued
24 under the protection from abuse act is in effect, the court, on final hearing
25 or on agreement of the parties, may issue final orders authorized by K.S.A.
26 60-1610 and amendments thereto, that are inconsistent with orders en-
27 tered under the protection from abuse act. Any inconsistent order entered
28 pursuant to this subsection shall be specific in its terms, reference the
29 protection from abuse order and parts thereof being modified and a copy
30 thereof shall be filed in both actions. The court shall consider whether
31 the actions should be consolidated in accordance with K.S.A. 60-242 and
32 amendments thereto.

33 (c) If the parties to an action under the protection from abuse act are
34 not married to each other and one party owns the residence or household,
35 the court shall not have the authority to grant possession of the residence
36 or household under subsection (a)(2) to the exclusion of the party who
37 owns it.

38 (d) Subject to the provisions of subsections (b) and (c), a protective
39 order or approved consent agreement shall remain in effect until modified
40 or dismissed by the court and shall be for a fixed period of time not to
41 exceed one year, except that, on motion of the plaintiff, such period may
42 be extended for one additional year.

43 (e) The court may amend its order or agreement at any time upon

1 motion filed by either party.

2 (f) No order or agreement under the protection from abuse act shall
3 in any manner affect title to any real property.

4 (g) If a person enters or remains on premises or property violating
5 an order issued pursuant to subsection (a)(2), such violation shall consti-
6 tute criminal trespass as provided in subsection (c) of K.S.A. 21-3721, and
7 amendments thereto, and violation of a protective order as provided in
8 K.S.A. 1998 Supp. 21-3843, and amendments thereto. If a person abuses,
9 molests or interferes with the privacy or rights of another violating an
10 order issued pursuant to subsection (a)(1), such violation may constitute
11 assault as provided in K.S.A. 21-3408, and amendments thereto, battery
12 as provided in K.S.A. 21-3412, and amendments thereto, and violation of
13 a protective order as provided in K.S.A. 1998 Supp. 21-3843, and amend-
14 ments thereto.

15 Sec. 32. K.S.A. 1998 Supp. 74-7334 is hereby amended to read as
16 follows: 74-7334. (a) There is hereby created in the state treasury the
17 crime victims assistance fund. All moneys credited to the fund pursuant
18 to K.S.A. 12-4117, 19-101e, 19-4707 and 20-367, and amendments
19 thereto, shall be used solely for the purpose of making grants for on-going
20 operating expenses of programs, including court-appointed special ad-
21 vocate programs, providing: (1) Temporary emergency shelter for victims
22 of child abuse and neglect; (2) counseling and assistance to those victims;
23 or (3) educational services directed at reducing the incidence of child
24 abuse and neglect and diminishing its impact on the victim. The remain-
25 der of moneys credited to the fund shall be used for the purpose of
26 supporting the operation of state agency programs which provide services
27 to the victims of crime and making grants to existing programs or to
28 establish and maintain new programs providing services to the victims of
29 crime.

30 (b) All expenditures from the crime victims assistance fund shall be
31 made in accordance with appropriations acts upon warrants of the direc-
32 tor of accounts and reports issued pursuant to vouchers approved by the
33 attorney general or by a person or persons designated by the attorney
34 general.

35 (c) The attorney general may apply for, receive and accept moneys
36 from any source for the purposes for which moneys in the crime victims
37 assistance fund may be expended. Upon receipt of any such moneys, the
38 attorney general shall remit the entire amount at least monthly to the
39 state treasurer, who shall deposit it in the state treasury and credit it to
40 the crime victims assistance fund.

41 (d) Grants made to programs with funds derived from K.S.A. 12-
42 4117, 19-101e, 19-4707 and 20-367 and amendments thereto shall be
based on the numbers of persons served by the program and shall be

14-1

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1 made only to programs aimed at preventing child abuse and neglect or
2 providing residential services or facilities to victims of child abuse or ne-
3 glect. In order for programs to qualify for funding under this section, they
4 must:

5 (1) Meet the requirements of section 501(c) of the internal revenue
6 code of 1986;

7 (2) be registered and in good standing as a nonprofit corporation;

8 (3) meet normally accepted standards for nonprofit organizations;

9 (4) have trustees who represent the racial, ethnic and socioeconomic
10 diversity of the county or counties served;

11 (5) have received 50% or more of their funds from sources other than
12 funds distributed through the fund, which other sources may be public
13 or private and may include contributions of goods or services, including
14 materials, commodities, transportation, office space or other types of fa-
15 cilities or personal services;

16 (6) demonstrate ability to successfully administer programs;

17 (7) make available an independent certified audit of the previous
18 year's financial records;

19 (8) have obtained appropriate licensing or certification, or both;

20 (9) serve a significant number of residents of the county or counties
21 served;

22 (10) not unnecessarily duplicate services already adequately provided
23 to county residents; and

24 (11) agree to comply with reporting requirements of the attorney
25 general.

26 The attorney general may adopt rules and regulations establishing ad-
27 ditional standards for eligibility and accountability for grants made pur-
28 suant to this section.

29 (e) All moneys credited to the fund pursuant to K.S.A. 23-108a and
30 amendments thereto, shall be set aside to use as matching funds for meet-
31 ing any federal requirement for the purpose of establishing child
32 exchange and ~~visitation~~ *parenting time* centers as provided in K.S.A. 75-
33 720 *and amendments thereto*. If no federal funds are made available to
34 the state for the purpose of establishing such child exchange and ~~visitation~~
35 *parenting time* centers, then such moneys may be used as otherwise pro-
36 vided in this section. Only those moneys credited to the fund pursuant
37 to K.S.A. 23-108a, and amendments thereto, may be used for such match-
38 ing funds. No state general fund moneys shall be used for such matching
39 funds.

40 Sec. 33. K.S.A. 75-720 is hereby amended to read as follows: 75-
41 720. (a) Subject to the provisions of appropriation acts, the attorney gen-
42 eral shall provide for child exchange and ~~visitation~~ *parenting time* centers
43 throughout the state for victims of domestic or family violence and their

1-43

1 children to allow court-ordered child exchange or ~~visitation~~ *parenting*
2 *time* in a manner that protects the safety of all family members. The
3 attorney general shall coordinate and cooperate with local governmental
4 agencies in providing the child exchange and ~~visitation~~ *parenting time*
5 centers.

6 (b) A child exchange and ~~visitation~~ *parenting time* center shall pro-
7 vide:

8 (1) A secure setting and specialized procedures for supervised ~~visi-~~
9 ~~tation~~ *parenting time* and the exchange or transfer of children for ~~visita-~~
10 ~~tion~~ *parenting time*; and

11 (2) supervision by a person trained in security and the avoidance of
12 domestic and family violence.

13 (c) A child exchange and ~~visitation~~ *parenting time* center is for chil-
14 dren who have been removed from such children's parents and placed
15 outside the home as a result of abuse or neglect or other risk of harm to
16 such children and for children whose parents are separated or divorced
17 and the children are at risk because:

18 (1) There is documented sexual, physical or emotional abuse as de-
19 termined by the court;

20 (2) there is suspected or elevated risk of sexual, physical or emotional
21 abuse, or there have been threats of parental abduction of the child;

22 (3) due to domestic violence, there is an ongoing risk of harm to a
23 parent or child;

24 (4) a parent is impaired because of substance abuse or mental illness;

25 (5) there are allegations that a child is at risk for any of the reasons
26 stated in paragraphs (1) through (4) pending an investigation; or

27 (6) other circumstances, as determined by the court, point to the
28 existence of such a risk.

29 (d) The attorney general may apply for, receive and accept moneys
30 from any source for the purposes of establishing child exchange and ~~visi-~~
31 ~~tation~~ *parenting time* centers for victims of domestic violence.

32 (e) There is hereby created in the state treasury the child exchange
33 and ~~visitation~~ *parenting time* centers fund. All moneys credited to the
34 fund shall be used solely for the purpose of establishing and maintaining
35 child exchange and ~~visitation~~ *parenting time* centers for victims of do-
36 mestic violence. All expenditures from the child exchange and ~~visitation~~
37 *parenting time* center fund shall be made in accordance with appropria-
38 tion acts upon warrants of the director of accounts and reports issued
39 pursuant to vouchers approved by the attorney general or by the attorney
40 general's designee.

41 Sec. 34. K.S.A. 20-164, 21-3422, 21-3422a, 23-601, 23-602, 23-701,
42 38-1302, 38-1309, 38-1310, 38-1597, 60-1612, 60-1614, 60-1617 and 75-
43 720 and K.S.A. 1998 Supp. 5-509, 20-302b, 23-9,305, 23-1001, 23-1002,

38-1132,

1 38-1121, 38-1138, 38-1563, 38-1569, 38-1583, 38-1641, 38-1664, 38-
2 16,119, 60-1607, 60-1610, 60-1616, 60-1621, 60-3107 and 74-7334 are
3 hereby repealed.

60-1620,

4 Sec. 35. This act shall take effect and be in force from and after its
5 publication in the statute book.

60-3106,

44-1

SENATE BILL No. 150

By Committee on Judiciary

1-27

Proposed Amendments to SB 150 #1

House Judiciary
3-18-99
Attachment 2

10 AN ACT concerning domestic relations; relating to divorce and maintenance; **parenting time**; custody and residency; amending K.S.A. 20-164, 21-3422a, 23-601, 23-602, 23-701, 38-1302, 38-1309, 38-1310, 38-1597, 60-1612, 60-1614, 60-1615 and 60-1617 and 75-720 and K.S.A. 1998 Supp. 5-509, 20-302b, 23-9,305, 23-1001, 23-1002, 38-1121, 38-1138, 38-1563, 38-1569, 38-1583, 38-1664, 38-1619, 60-1607, 60-1610, 60-1616 and 60-1620; 60-1621, 60-3107 and 74-7334 and repealing the existing sections.

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

15 Section 1. K.S.A. 1998 Supp. 5-509 is hereby amended to read as follows: 5-509. (a) The following types of cases may be accepted for dispute resolution by an approved program or individual:

16 (1) Civil claims and disputes, including, but not limited to, consumer and commercial complaints, disputes involving allegations of shoplifting, disputes between neighbors, disputes between business associates, disputes between landlords and tenants, disputes involving matters under the small claims procedure act, farmer-lender disputes, and disputes within communities;

17 (2) disputes concerning child custody and visitation rights parenting time and other areas of domestic relations;

18 (3) juvenile offenses and disputes involving juveniles;

19 (4) disputes between victims and offenders, in which the victims voluntarily agree to participate in mediation;

20 (5) disputes involving allegations of unlawful discrimination under state or federal laws;

21 (6) disputes referred by county attorneys or district attorneys;

22 (7) disputes involving employer and employee relations under K.S.A. 72-5413 through 72-5432, and amendments thereto, or K.S.A. 75-4321 through 75-4337, and amendments thereto; and

23 (8) disputes referred by a court, an attorney, a law enforcement officer, a social service agency, a school or any other interested person or agency, including the request of the parties involved.

24 (b) A case may be referred prior to the commencement of formal

2-2

1 (4) grant any order authorized by the protection from abuse
2 act.

3 (c) In accordance with the limitations and procedures pre-
4 scribed by law, and subject to any rules of the supreme court re-
5 lating thereto, any appeal permitted to be taken from an order or
6 final decision of a district magistrate judge shall be tried and de-
7 termined *de novo* by a district judge, except that in civil cases where
8 a record was made of the action or proceeding before the district
9 magistrate judge, the appeal shall be tried and determined on the
10 record by a district judge.

11 (d) Upon motion of a party, the administrative judge may reas-
12 sign an action from a district magistrate judge to a district judge.

13 Sec. 4. K.S.A. 21-3422a is hereby amended to read as follows:
14 21-3422a. (a) Aggravated interference with parental custody is:

15 (1) Hiring someone to commit the crime of interference with
16 parental custody, as defined by K.S.A. 21-3422 and amendments
17 thereto; or

18 (2) the commission of interference with parental custody, as de-
19 fined by K.S.A. 21-3422 and amendments thereto, by a person who:

20 (A) Has previously been convicted of the crime;

21 (B) commits the crime for hire;

22 (C) takes the child outside the state without the consent of either
23 the person having custody or the court;

24 (D) after lawfully taking the child outside the state while exer-
25 cising visitation parenting time or custody rights, refuses to return the
26 child at the expiration of the rights;

27 (E) at the expiration of visitation parenting time or custody rights
28 outside the state, refuses to return or impedes the return of the child;
29 or

30 (F) detains or conceals the child in an unknown place, whether
31 inside or outside the state.

32 (b) Aggravated interference with parental custody is a severity
33 level 7, person felony.

34 (c) This section shall be a part of and supplemental to the Kan-
35 sas criminal code.

36 Sec. 5. K.S.A. 23-601 is hereby amended to read as follows: 23-
37 601. Mediation under this section is the process by which a neutral
38 mediator appointed by the court, or by a hearing officer in a pro-
39 ceeding pursuant to K.S.A. 23-701, and amendments thereto, assists
40 the parties in reaching a mutually acceptable agreement as to issues
41 of child custody and visitation parenting time. The role of the mediator
42 is to aid the parties in identifying the issues, reducing misunder-
43 standings, clarifying priorities, exploring areas of compromise and

and division of property

2-3

1 *finding points of agreement. An agreement reached by the parties*
2 *is to be based on the decisions of the parties and not the decisions*
3 *of the mediator.*

4 *Sec. 6. K.S.A. 23-602 is hereby amended to read as follows: 23-*
5 *602. (a) The court may order mediation of any contested issue of*
6 *child custody*~~*[or] visitation parenting time*~~ *at any time, upon the motion*
7 *of a party or on the court's own motion. A hearing officer in a pro-*
8 *ceeding pursuant to K.S.A. 23-701 may order mediation of a con-*
9 *tested issue of child*~~*visitation*~~ *parenting time in such a proceeding.*

or division of property

10 *(b) If the court or hearing officer orders mediation under sub-*
11 *section (a), the court or hearing officer shall appoint a mediator,*
12 *taking into consideration the following:*

13 *(1) An agreement by the parties to have a specific mediator ap-*
14 *pointed by the court or hearing officer;*

15 *(2) the nature and extent of any relationships the mediator may*
16 *have with the parties and any personal, financial or other interests*
17 *the mediator may have which could result in bias or a conflict of*
18 *interest;*

19 *(3) the mediator's knowledge of (A) the Kansas judicial system*
20 *and the procedure used in domestic relations cases, (B) other re-*
21 *sources in the community to which parties can be referred for as-*
22 *sistance, (C) child development, (D) clinical issues relating to chil-*
23 *dren, (E) the effects of divorce on children and (F) the psychology*
24 *of families; and*

25 *(4) the mediator's training and experience in the process and*
26 *techniques of mediation.*

27 *Sec. 7. K.S.A. 23-701 is hereby amended to read as follows: 23-*
28 *701. (a) The purpose of this section is to enhance the enforcement*
29 *of child*~~*visitation*~~ *rights parenting time granted by court order by*
30 *establishing an expedited procedure which is simplified enough to*
31 *provide justice without necessitating the assistance of legal counsel.*

32 *(b) If a parent has been granted visitation rights pursuant to*
33 *K.S.A. 38-1121 or 60-1616, and amendments thereto, and such*
34 *rights are denied or interfered with by the other parent, the parent*
35 *having*~~*visitation*~~ *rights parenting time may file with the clerk of the*
36 *district court a motion for enforcement of such rights. Such motion*
37 *shall be filed on a form provided by the clerk of the court. Upon the*
38 *filing of the motion, the administrative judge of the district court*
39 *shall assign a judge of the district court or the court trustee as a*
40 *hearing officer to hear the motion. The hearing officer shall*
41 *immediately:*

42 *(1) Issue ex parte an order for mediation in accordance with*
43 *K.S.A. 23-601 et seq , and amendments thereto; or*

SENATE BILL No. 4

SENATE BILL No. 4

SENATE BILL No. 4

By Special Committee on Judiciary

By Special Committee on Judiciary

By Special Committee on Judiciary

12-15

12-15

House Judiciary
3-18-99
Attachment 3

10 AN ACT concerning ~~criminal procedure; relating to expungement; ar-~~
11 ~~rest records;~~ amending K.S.A. 1998 Supp. 12-4516 and, 12-4516a,
12 21-4619 and 22-2410 and repealing the existing sections.

crimes, punishment and criminal procedure;

8-1014, 8-1015, 8-1016,

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

driver's license restrictions for alcohol and
drug-related offenses;

15 Section 1. K.S.A. 1998 Supp. 12-4516 is hereby amended to read as
16 follows: 12-4516. (a) (1) Except as provided in subsection (b), any per-
17 son who has been convicted of a violation of a city ordinance of this state
18 may petition the convicting court for the expungement of such conviction
19 and related arrest records if three or more years have elapsed since the
20 person:

See attached
Renumber section accordingly

- 21 (A) Satisfied the sentence imposed; or
- 22 (B) was discharged from probation, parole or a suspended sentence.
- 23 (2) Except as provided in subsection (b), any person who has fulfilled
- 24 the terms of a diversion agreement based on a violation of a city ordinance
- 25 of this state may petition the court for the expungement of such diversion
- 26 agreement and related arrest records if three or more years have elapsed
- 27 since the terms of the diversion agreement were fulfilled.
- 28 (b) No person may petition for expungement until five or more years
- 29 have elapsed since the person satisfied the sentence imposed or the terms
- 30 of a diversion agreement or was discharged from probation, parole, con-
- 31 ditional release or a suspended sentence, if such person was convicted of
- 32 the violation of a city ordinance which would also constitute:
 - 33 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-
 - 34 ments thereto;
 - 35 (2) a violation of K.S.A. 8-1567, and amendments thereto;
 - 36 (3) driving while the privilege to operate a motor vehicle on the public
 - 37 highways of this state has been canceled, suspended or revoked, as pro-
 - 38 hibited by K.S.A. 8-262, and amendments thereto;
 - 39 (4) perjury resulting from a violation of K.S.A. 8-261a, and amend-
 - 40 ments thereto;
 - 41 (5) a violation of the provisions of the fifth clause of K.S.A. 8-142,
 - 42 and amendments thereto, relating to fraudulent applications;
 - 43 (6) any crime punishable as a felony wherein a motor vehicle was

3-2

1 (3) to aid in determining the petitioner's qualifications for em-
2 ployment with the Kansas lottery or for work in sensitive areas
3 within the Kansas lottery as deemed appropriate by the executive
4 director of the Kansas lottery;

5 (4) to aid in determining the petitioner's qualifications for ex-
6 ecutive director of the Kansas racing commission, for employment
7 with the commission or for work in sensitive areas in parimutuel
8 racing as deemed appropriate by the executive director of the com-
9 mission, or to aid in determining qualifications for licensure or re-
10 newal of licensure by the commission;

11 (5) in any application for a commercial driver's license under
12 K.S.A. 8-2,125 through 8-2,142 and amendments thereto;

13 (6) to aid in determining the petitioner's qualifications to be an
14 employee of the state gaming agency;

15 (7) to aid in determining the petitioner's qualifications to be an
16 employee of a tribal gaming commission or to hold a license issued
17 pursuant to a tribal-state gaming compact; or

18 (8) in any other circumstances which the court deems
19 appropriate.

20 (f) Subject to any disclosures required under subsection (e), in
21 any application for employment, license or other civil right or priv-
22 ilege, or any appearance as a witness, a person whose arrest records
23 have been expunged as provided in this section may state that such
24 person has never been arrested.

25 (g) Whenever a petitioner's arrest records have been expunged
26 as provided in this section, the custodian of the records of arrest,
27 incarceration due to arrest or court proceedings related to the ar-
28 rest, shall not disclose the arrest or any information related to the
29 arrest, except as directed by the order of expungement or when re-
30 quested by the person whose arrest record was expunged.

31 (h) Nothing in this section shall be construed to create an obligation
32 on the part of any person to disclose an arrest record unless specifically
33 required by law to disclose such arrest record.

34 Sec. 3. 5. K.S.A. 1998 Supp. 12-4516 and, 12-4516a, 21-4619 and
35 22-2410 are hereby repealed.

36 Sec. 4. 6. This act shall take effect and be in force from and after its
37 publication in the statute book.

8-1014, 8-1015, 8-1016

Section. 1. K.S.A. 1998 Supp. 8-1014 is hereby amended to read as follows: 8-1014. (a) Except as provided by subsection (d) and K.S.A. 8-2,142, and amendments thereto, if a person refuses a test, the division, pursuant to K.S.A. 8-1002, and amendments thereto, shall suspend the person's driving privileges for one year.

(b) Except as provided by subsection (d) and K.S.A. 8-2,142, and amendments thereto, if a person fails a test or has an alcohol or drug-related conviction in this state, the division shall:

(1) If the person had an alcohol concentration of less than .15 in the person's blood or breath, on the person's first occurrence, suspend the person's driving privileges for 30 days, then restrict the person's driving privileges as provided by K.S.A. 8-1015, and amendments thereto, for an additional 330 days; and

(2) If the person had an alcohol concentration of .15 or more in the person's blood or breath, on the person's first occurrence, suspend the person's driving privilege for 30 days and restrict the person's driving privileges for 330 days in accordance with K.S.A. 8-1015, and amendments thereto;

~~(2)~~ (3) on the person's second or a subsequent occurrence, suspend the person's driving privileges for one year and restrict the person's driving privileges for one year in accordance with K.S.A. 8-1015, and amendments thereto, and restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device. Any time period of ignition interlock restriction shall be credited to the one year minimum reinstatement time period.

(c) Whenever the division is notified by an alcohol and drug safety action program that a person has failed to complete any alcohol and drug safety action education or treatment program ordered by a court for a conviction of a violation of K.S.A. 8-1567, and amendments thereto, the division shall suspend the person's driving privileges until the division receives notice of the person's completion of such program.

(d) Except as provided in K.S.A. 8-2,142, and amendments thereto, if a person's driving privileges are subject to suspension pursuant to this section for a test refusal, test failure or alcohol or drug-related conviction arising from the same arrest, the period of such suspension shall not exceed the longest applicable period authorized by subsection (a) or (b), and such suspension periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of such suspension as authorized by subsection (a) or (b), such person shall receive credit for any period of time for which such person's driving privileges were suspended while awaiting any hearing or final order authorized by this act.

If a person's driving privileges are subject to restriction pursuant to this section for a test failure or alcohol or drug-related conviction arising from the same arrest, the restriction periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of

restriction, no person shall receive credit for any period of suspension imposed for a test refusal arising from the same arrest.

(e) If the division has taken action under subsection (a) for a test refusal or under subsection (b) for a test failure and such action is stayed pursuant to K.S.A. 8-259, and amendments thereto, or if temporary driving privileges are issued pursuant to subsection (k) of K.S.A. 8-1002, and amendments thereto, the stay or temporary driving privileges shall not prevent the division from taking the action required by subsection (b) for an alcohol or drug-related conviction.

(f) Upon restricting a person's driving privileges pursuant to this section or K.S.A. 8-262, and amendments thereto, the division shall issue without for a charge of \$25 a driver's license which shall indicate on the face of the license that restrictions have been imposed on the person's driving privileges and that a copy of the order imposing the restrictions is required to be carried by the person for whom the license was issued any time the person is operating a motor vehicle on the highways of this state.

(g) Any person whose license is restricted to operating only a motor vehicle with an ignition interlock device installed may operate an employer's vehicle without an ignition interlock device installed during normal business activities, provided that the person does not partly or entirely own or control the employer's vehicle or business.

(h) Whenever the division is notified by a certified ignition interlock manufacturer or an authorized representative of the manufacturer that any person whose license is restricted to the use of an ignition interlock has failed to comply with the rules and regulations adopted by the division under K.S.A. 8-1016, and amendments thereto, the division shall suspend the person's driving privileges until the division receives notice of the person's compliance with the ignition interlock program.

Sec. 2. K.S.A. 1998 Supp. 8-1015 is hereby amended to read as follows: 8-1015. (a) When subsection (b)(1) of K.S.A. 8-1014, and amendments thereto, requires or authorizes the division to place restrictions on a person's driving privileges, the division shall restrict the person's driving privileges to driving only under the circumstances provided by subsections (a)(1), (2), (3) and (4) of K.S.A. 8-292 and amendments thereto.

(b) In lieu of the restrictions set out in subsection (a), the division, upon request of the person whose driving privileges are to be restricted, may restrict the person's driving privileges to driving only a motor vehicle equipped with an ignition interlock device, approved by the division and obtained, installed and maintained at the person's expense.

(c) When subsection (b) of K.S.A. 8-262, and amendments thereto, and subsections (a) and (b)(2) and (b)(3) of K.S.A. 8-1014, and amendments thereto, require or authorize the division to place restrictions on a person's driving privileges, the division shall restrict the person's driving privileges to driving only a motor vehicle equipped with an ignition interlock device, approved by the division and maintained at the person's expense and may require driving only under circumstances provided by K.S.A. 8-292, and amendments thereto. The division shall not issue the restricted license under this subsection until the

person has provided proof of installation of approved ignition interlock device.

~~(c) Upon a person's second or subsequent conviction for an alcohol-related offense, if the person had an alcohol concentration of .15 or more in the person's blood or breath, the convicting court shall restrict the person's driving privileges to driving only a motor vehicle equipped with an ignition interlock device, approved by the division and obtained, installed and maintained at the person's expense.~~

(d) Upon expiration of the period of time for which restrictions are imposed pursuant to this section, the licensee may apply to the division for the return of any license previously surrendered by the licensee. If the license has expired, the person may apply to the division for a new license, which shall be issued by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless the person's driving privileges have been suspended or revoked prior to expiration.

Sec. 3. K.S.A. 1998 Supp. 8-1016 is hereby amended to read as follows: 8-1016. (a) The secretary of revenue shall adopt rules and regulations for:

(1) The approval by the division of models and classes of ignition interlock devices suitable for use by persons whose driving privileges have been restricted to driving a vehicle equipped with such a device; and

(2) the calibration and maintenance of such devices, which shall be the responsibility of the manufacturer; and

(3) ensuring that each manufacturer approved provides a reasonable statewide service network where such devices may be obtained, repaired, replaced or serviced and such service network can be accessed 24 hours per day through a toll-free phone service.

In adopting rules and regulations for approval of ignition interlock devices under this section, the secretary of revenue shall insure that those devices approved do not impede the safe operation of a motor vehicle and have the fewest opportunities to be bypassed so as to render them ineffective require that the manufacturer's or the manufacturer's representatives calibrate and maintain the devices at intervals not to exceed 60 days. Calibration and maintenance shall include but not be limited to physical inspection of the device, the vehicle and wiring of the device to the vehicle for signs of tampering, calibration of the device and downloading of all data contained within the device's memory and reporting of any violation or noncompliance to the division.

(4) The division shall adopt by rule and regulation participant requirements for proper use and maintenance of a certified ignition interlock device during any time period the person's license is restricted by the division to only operating a motor vehicle with an ignition interlock device installed and by rule and regulation the reporting requirements of the approved manufacturer to the division relating to the person's proper use and maintenance of a certified ignition interlock device.

(b) If the division approves an ignition interlock device in accordance with rules and regulations adopted under this section, the division shall give written notice of the approval to the manufacturer of the device. Such notice shall be admissible in

any civil or criminal proceeding in this state.

(c) The manufacturer of an ignition interlock device shall reimburse the division for any cost incurred in approving or disapproving such device under this section.

(d) Neither the state nor any agency, officer or employee thereof shall be liable in any civil or criminal proceeding arising out of the use of an ignition interlock device approved under this section.