

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Arlen Siegfroid at 1:30 P.M. on February 28, 2007 in Room 313-S of the Capitol.

All members were present except:

Representative Mike Peterson- excused

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mike Heim, Revisor of Statutes Office
Carol Doel, Committee Assistant

Conferees:

Candy Shivley, Deputy Secretary SRS
Jamie Corkhill, SRS

Chairman Siegfroid opened the floor for introduction of bills and recognized Representative Brunk who requested a bill regarding real estate licensing. The Chairman made a motion with a second by Representative Olson. With no objections, this bill will be accepted.

The Chair opened the meeting for public hearing on **HB 2451** - Concerning child support enforcement; relating to medical support and fees.

Kathie Sparks, Legislative Research Department, explained that **HB 2451** would amend current law to conform to the Kansas Supreme Court guidelines and Federal Deficit Reduction Act of 2005. (Attachment 1)

Candy Shively, Deputy Secretary of the Social and Rehabilitation Services (SRS), addressed the Committee as a proponent of **HB 2451**. Ms. Shively related that the primary responsibility of the Child Support Enforcement Program (CSE) is to help families by establishing regular and adequate support payments and by enforcing past due support obligations. The CSE operates under Title IV-D of the Federal Social Security Act, which establishes standards for their program's operation and provides a significant source of federal funding. Ms. Shively stated SRS is reacting to the Deficit Reduction Act which was passed by Congress last year. The federal legislation established a series of medical support requirements to supplement CSE's existing medical support responsibilities which are addressed in **HB 2451**. (Attachment 2) A copy of *Child Support Enforcement Fact Sheet* was included for Committee review. (Attachment 3)

Jamie Corkhill, SRS (Social Rehabilitation Services) stood for questions from the Committee.

No other person wished to speak to **HB 2451** and the Chair closed the hearing.

Chairman Siegfroid opened the floor for action on **HB 2241** - Grandparents have the right to intervene in child custody or visitation litigation to request visitation based upon statutory parameters.

Representative Dillmore made a motion to move **HB 2241** favorable for passage with a second by Representative Mah.

Mike Heim of the Office of the Revisor offered a technical amendment to **HB 2241** which would move lines 37, 38, and 39 into lines 34, 35, and 36. (Attachment 4)

Representative Mah made a conceptual motion that the judge consider the grandparents issue of visitation after all other issues are complete with a second by Representative Faust-Goudeau. Motion failed.

Representative Dillmore made motion to move the technical amendment to **HB 2241** as suggested by Mike Heim from the Office of the Revisor. Representative Brunk made a second. Motion passed.

CONTINUATION SHEET

MINUTES OF THE House Federal and State Affairs Committee at 1:30 P.M. on February 28, 2007 in Room 313-S of the Capitol.

Representative Dillmore closed and moved the bill as amended. Motion passed.

The Chair entertained a motion on **HB 2475** - Concerning fireworks; enacting the Kansas fireworks.

Representative Mah made a motion to pass **HB 2475** favorable for passage with a second by Representative Swenson.

Representative Mah amended her motion by recommending **HB 2475** being passed out favorably and placed on the consent calendar with a second by Representative Swenson. Motion passed.

With no further business before the committee, the Chair adjourned the meeting.

Wed Feb 1

HB 2451

HB 2451 would amend current law to conform to the Kansas Supreme Court guidelines and federal Deficit Reduction Act of 2005. The bill would require that under the Income Withholding In-State Support Order and Income Act that the court would address the medical needs of the child to conform to the Kansas Supreme Court guidelines. The support order could require either parent or both parents to furnish coverage under any health benefit plan, allocate between the parents responsibility for deductibles and copayments, allocate between the parents responsibility for medical costs not covered by any health benefit plan, including costs of coverage under a health benefit plan in the calculation of a current child support order, require cash medical support as an adjustment to a current support order and could require any other provisions that justice may require. The bill also would require that prior to ordering coverage the court would be required to consider whether the benefits of the plan are accessible to the child.

The bill also would clarify that the services provided to non public assistance families would be charged fees based upon the fees allowed under the federal Social Security Act, Title IV-D. Finally, the bill clarifies that when an attorney provides legal services on behalf of the Secretary of Social and Rehabilitation Services for the families of Title IV-D cases, the attorney client relationship would be between the Secretary and the attorney.

Kansas Department of

Social and Rehabilitation Services

Don Jordan, Secretary

House Committee on Federal and State Affairs
February 28, 2007

**HB 2451: Child Support Enforcement
Medical Support and Fees**

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Federal and State Affairs
Attachment 2
Date 2-28-07

**Kansas Department of Social and Rehabilitation Services
Don Jordan, Secretary**

House Committee on Federal and State Affairs
February 28, 2007

HB 2451: Child Support Enforcement - Medical Support and Fees

Chairman Siegfried and members of the committee, I am Candy Shively, Deputy Secretary for Integrated Service Delivery at the Kansas Department of Social and Rehabilitation Services. Thank you for the opportunity to speak in support of HB 2451, our proposal concerning the SRS Child Support Enforcement Program.

The primary responsibility of the Child Support Enforcement Program (CSE) is to help families by establishing regular and adequate support payments and by enforcing past due support obligations. CSE operates under Title IV-D of the federal social security act, which establishes many standards for our program's operation and provides a significant source of federal funding. (For anyone not familiar with the CSE Program, the attachment to this testimony provides background information that may be helpful.)

The Deficit Reduction Act of 2005, Public Law 109-171, included a number of specific requirements concerning CSE, two of which are addressed by HB 2451.

First, the federal legislation established a series of medical support requirements to supplement CSE's existing medical support responsibilities. To address these requirements, HB 2451:

- Clarifies that all support orders must address the medical needs of the child;
- Lists the major options for medical support orders, such as requiring one or both parents to provide coverage under a group health plan, allocating responsibility for uninsured costs, and ordering cash contributions for premiums according to the Child Support Guidelines; and
- Adds "availability of benefits to the child" as an element the judge must consider before ordering a parent to provide coverage under a health plan.

These medical support amendments already are part of Kansas public policy and practices. Nearly all are encompassed by the Kansas Child Support Guidelines,

adopted and revised periodically pursuant to K.S.A. 20-165. This codification of existing practices will assure that our CSE State Plan is in compliance with federal requirements, a prerequisite for receiving Title IV-D federal funds.

We see particular benefit in codifying the requirement that the judge consider whether the benefits of a health plan are actually available to the child. Territorial or network restrictions in some plans, such as HMOs, have at times made the health coverage required in a support order of no practical value to the family because the parents do not reside in the same community or state. This amendment will make sure that the availability of benefits is evaluated early, when the order is crafted, instead of erupting as a problem later, when a sick child needs professional attention.

Second, the Deficit Reduction Act established a new, annual \$25 fee to be imposed by States in cases which have never received TAF assistance (Temporary Assistance to Families) and for whom CSE has collected \$500 during the year. These "Never TAF" families are those most able to afford using private resources for support enforcement, if they choose, and it is appropriate for them to help in this small way to pay for the program from which they have benefitted. It should be noted that a "Never TAF" family always has the option to close the CSE case with SRS if they object to the new fee; they may reopen it at any point, too. It is also worth noting that a provision in the Kansas Child Support Guidelines gives the judge discretion to require both parents to pay half of this annual fee (about \$1 per month for each parent), if the family's circumstances warrant.

In evaluating our existing fee statute, K.S.A. 39-756, we identified shortcomings in the wording. The proposed change will eliminate ambiguity concerning how fees are deducted from collections. This amendment does not, by itself, create the new "Never TAF" fee, however. That will be accomplished by rule and regulation, with appropriate opportunities for public comment and legislative oversight. Our present plan is to deduct the new "Never TAF" fee from support collections in excess of \$500, as that is the least costly option to administer over time.

In evaluating K.S.A. 39-756, it also became apparent that subsection (e) governing the relationship between CSE attorneys and parents also needs to be updated. When the existing text of subsection (e) was first enacted 25 years ago (in 1982), almost all interactions between CSE attorneys and parents involved a Kansas court case, so traditional references in the statute to court action were appropriate. Since that time, however, the CSE landscape has changed significantly, with greater emphasis on interstate and administrative enforcement processes. CSE attorneys now interact much more frequently with parents in non-judicial contexts, so it is appropriate to update this 25-year-old statutory language to reflect today's

circumstances.

Finally, we are proposing changes in subsection (d) of K.S.A. 39-756 to recognize that the Deficit Reduction Act created a number of "family friendly" distribution options for the States. In the past, federal distribution rules have been hard and sometimes harsh in designating which collections must be retained by the State and which must be distributed to the family. The availability of family-friendly options for distributing collections is something new for CSE. Within the constraints of our budget, the ability to distribute a greater share of collections directly to families would advance our efforts to promote family self-sufficiency.

This concludes my testimony. I will be glad to stand for questions.

Child Support Enforcement Fact Sheet

January 9, 2007

The Kansas Child Support Enforcement Program, operating under Title IV-D of the federal social security act, has two purposes: (1) to promote genuine financial stability for households with children, and (2) to ease somewhat the taxpayers' burden for public assistance provided to children not being supported by both parents. By pursuing these twin goals CSE helps families become and remain independent of public assistance, which in turn allows the State to manage public resources more effectively on behalf of all Kansans. CSE's work also enables custodial parents to take the initiative in expanding their children's opportunities to learn, grow up healthy, and develop talents and abilities to the fullest—a vital investment in Kansas' future.

The Kansas CSE Program. The Department of Social and Rehabilitation Services is the designated Title IV-D (CSE) agency for the State of Kansas. CSE operates within the Integrated Service Delivery Division of SRS.

The Kansas CSE Program is a multifaceted operation that combines state, county, judicial, and private resources to meet detailed federal requirements concerning all phases of operation. CSE services include:

- Locating noncustodial parents and their assets;
- Establishing parentage, as needed;
- Establishing support orders, including medical coverage;
- Ensuring regular payment of support through income withholding orders;
- Enforcing support through administrative actions, such as passport denial or interception of tax refunds, lottery winnings, and unemployment benefits;
- Enforcing past due support through court actions, such as garnishment of bank accounts;
- Modifying ongoing support orders, as needed, to reflect the child's current needs and the parents' ability to provide support; and
- Receiving and disbursing support payments through a statewide unit, the Kansas Payment Center.

Outsourcing CSE Functions. These various CSE services are provided across Kansas not only by full and part-time SRS staff, but also by more than 20 contractors selected through competitive procurement. CSE's enforcement contractors presently include a county prosecutor, several district court trustees, and an assortment of private sector providers. Other CSE private contractors are the vendor operating the Kansas Payment Center, a paternity testing laboratory, credit bureaus, and process servers.

Strategic use of outsourcing allows CSE to remain compliant with federal requirements, to compete more effectively with other States for federal incentives, and to tap expertise and specialized services that are not readily available within the public sector. Competitive procurement allows the State to obtain good value by balancing high standards for performance with competitive pricing.

Before SRS prepares a formal request for proposals (RFP), vendors—including potential bidders—are often invited to share their educational information about successful or innovative solutions. Such background information is often helpful in preventing costly mistakes or adapting cutting-edge ideas to Kansas' particular needs. The RFP itself is prepared by knowledgeable CSE staff in collaboration with Department of Administration's procurement staff. They also draw upon the experience and resources of Kansas CSE and SRS staff, other key stakeholders (for example, the Office of Judicial Administration), other state CSE programs, and the federal Office of Child Support Enforcement.

Once the RFP is published by Department of Administration, Kansas law imposes a "quiet period" during which contact with potential vendors and anyone else concerning the subject of the RFP is strictly limited and controlled. For example, SRS staff involved with the RFP are forbidden to comment even to other SRS staff about the pending procurement except as authorized by Dept. of Administration. In Kansas, this quiet period extends from publication of the RFP until the Dept. of Administration announces that the final contract has been signed by all necessary parties. The quiet period can be quite frustrating and difficult to observe, but its purpose is to assure that no bidder gains an unfair advantage—an advantage which would likely work against the best interests of the State of Kansas.

An important outsourced function that CSE administers is the Kansas Payment Center (KPC), a joint venture between CSE and the Office of Judicial Administration. The KPC is Kansas' central unit for receiving and disbursing all support payments—both in CSE and non-CSE (i.e., private) cases—ensuring that an accurate history of payments is available to the courts and interested parties. Before the KPC was created in 2000, this function was performed in the local district courts. The district courts continue to provide certified payment records upon request, and they enter or update data in the KPC database for new and modified orders as they are issued.

The KPC offers a number of customer-friendly functions statewide, including 24-hour access to payment and disbursement information by telephone or via the Internet, toll free customer assistance for parents and employers, and direct deposit of support disbursements. Taken together, these elements have enabled families to monitor support payments independently and use up-to-date

information for planning and managing their household expenses. Successful as the initial procurement has been, SRS and OJA recently took advantage of the second round of KPC procurement to increase the expectations for KPC operations. When fully developed and implemented, these advances in electronic services will offer Kansas parents who pay or receive support additional conveniences and options. As implementation progresses, SRS will report regularly to the Legislature's Joint Committee on Information Technology.

The CSE Caseload. The CSE caseload consists of approximately 132,000 cases serving over a quarter million people. CSE cases fall into two broad categories:

- *Temporary Assistance to Families (TAF).* When a child's custodian applies for Temporary Assistance to Families, that child's support rights are assigned to the State. If CSE collects support in a TAF case, it is used to reimburse the state and federal governments for public assistance provided to the child's family. Any collections beyond the claim for reimbursement are passed on to the family. If the TAF eligibility worker determines that monthly child support collections regularly exceed the monthly TAF grant, the TAF cash grant may be ended. When that happens, appropriate transitional services and supports for the family continue, including CSE services.
- *Non-TAF.* Federal law requires the CSE Program to provide services to any family, regardless of income, that applies for support enforcement services. CSE is also required to provide Non-TAF services when a family stops receiving cash TAF benefits, at the custodial parent's discretion. The idea is to prevent the need for TAF and other forms of public assistance by insuring reliable child support income, and to provide equal treatment under the law for all children. It is important to note that over two-thirds of Kansas Non-TAF families formerly received public assistance.

The CSE Non-TAF caseload also includes families that are receiving only Child Care Assistance, Food Assistance, or Medical Assistance. When CSE successfully collects support in such a case, current support (and any past due support that is not subject to an SRS claim for reimbursement) goes directly to the family. For a family receiving Child Care Assistance, this child support income enables them to make their child care co-payments and, after Child Care Assistance ends, pay independently for child care services from the provider of their choice. In similar fashion, child support income that goes to families receiving Food or Medical

Assistance helps them to transition more smoothly to financial independence.

Although SRS normally deducts a 4% cost recovery fee from Non-TAF collections, families receiving Child Care Assistance, Medicaid, or Food Assistance are all exempt from the fee. In addition, all of SRS' CSE cases are automatically exempt from any district court trustee fee that might otherwise apply.

CSE funding streams. Kansas currently funds the CSE Program from five sources:

- *Title IV-D federal financial participation (FFP).* The current FFP rate for eligible CSE administrative costs is 66%. To qualify for IV-D federal funds, the Kansas CSE Program must be in compliance with IV-D state plan requirements.
- *Title IV-D federal incentive payments based on performance.* Since 1997, incentive payments have been allocated to the States from a capped pool of federal funds; in effect, the States compete with each other for those funds. Allocations are based upon a complex formula that factors in the size of the State's program (Kansas represents 1% of the national caseload) and the State's performance in five areas: collection of current support, collection of past due support, paternity establishment, establishment of support orders, and cost-effectiveness. To qualify for IV-D federal funds, the CSE Program must be in compliance with IV-D state plan requirements.

Effective October 1, 2007, States will no longer be allowed to use incentives earned for CSE performance as the State match for IV-D FFP. Federal law continues to require CSE incentives to be reinvested in the State IV-D program, however.

- *The State's share of retained support collections (i.e., reimbursement).* For cases in the TAF or federally-funded foster care programs, Kansas keeps 40% of any collections that are retained under federal law for reimbursement of assistance; the other 60% goes to the federal government. For cases in state-funded assistance programs, Kansas retains 100% of such collections because there is no federal share to be paid. The State's share of collections for both categories represents only 10% of all CSE collections during the year.

Not later than October 1, 2009, the federal rules defining which collections may be retained for reimbursement will change, requiring more collections to be disbursed to families. Although this change will be beneficial to families leaving public assistance, it will erode the ability of the Kansas CSE Program to pay for itself.

- *IV-D cost recovery fees.* Currently, a 4% cost recovery fee is charged on all collections for cases not currently open for TAF, Medical Assistance, Food Assistance, or Child Care Assistance. Under federal law, 66% of this IV-D program income from fees must go to the federal government.
- *State general funds.* State general funds are only required for any portion of CSE Program costs that exceed CSE's total revenue from federal funding, the State's share of support collected and retained, and IV-D cost recovery fees. Until recently, state general funds have not been needed to fund the CSE program. However, the cap on federal incentive payments that may be earned, the new prohibition against using incentive payments as the state match, and the newly-enacted limits on State-retained collections all make it more likely that state general funds will be needed in the future to fund CSE services at their present level and to maintain compliance with federal requirements.

Performance and other features of the Kansas CSE Program.

- In state fiscal year 2006, CSE's annual support collections reached nearly \$161 million, about 75% of which was passed on to families. Altogether, nearly 2.2 billion dollars of support have been collected for families and taxpayers since the Kansas IV-D program's inception in 1976.
- In state fiscal year 2006, CSE established over 10,600 child support obligations. The Child Support Guidelines, established by the Kansas Supreme Court, are used to calculate all current support orders in Kansas. The Kansas Guidelines call for work-related child care expenses and the child's health insurance premiums to be factored into the monthly support award, so that the parent who actually pays for child care and/or health coverage will receive a fair contribution toward that expense from the other parent. When appropriate, CSE also establishes a medical support order that specifically requires group health coverage for the child.
- Paternity establishment by the CSE Program also plays a vital role in the SRS mission. Children benefit from having their parentage established because it opens the avenue to cash and medical support from the second parent, assures them access to complete family medical information, and paves the

way for potential inheritance and other rights. It also gives the child certainty about his or her family background, which is so important to the child's emotional development and confidence.

- Federal rules permit TAF cash assistance to be ended when current support payments regularly exceed the cash grant. Such closures provide significant advantages to the State, allowing scarce public assistance resources to be focused on the people most in need. CSE services to the former TAF family continue automatically, providing a safety net that reduces the risk of the family returning to dependence on public assistance. This is especially important for people affected by the five-year lifetime limit on TAF eligibility.
- Whenever CSE secures regular child support income for a household receiving Child Care Assistance, Kansas has the opportunity to stretch its limited child care funds a bit further and help additional working families. Dependable income from child support gives a working parent greater confidence that, in spite of ups and downs in public child care funding, he or she will be able to purchase child care services that the family needs.
- Historic information about the Kansas CSE Program:

	State FY 2003	State FY 2004	State FY 2005	State FY 2006
CSE cases	144,544	134,115	131,616	131,729
Total collections	\$146.8 million	\$151.7 million	\$156.3 million	\$161.0 million
Collections paid out to KS families	\$109.8 million	\$112.8 million	\$116.6 million	\$120.6 million
Collections paid out to federal gov't and other states	\$21.3 million	\$21.7 million	\$22.9 million	\$24.4 million
State's share	\$15.7 million	\$17.2 million	\$16.8 million	\$16.0 million

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HOUSE BILL No. 2241

By Committee on Federal and State Affairs

1-25

Federal and State Affairs

Attachment 4

Date 2-28-07

9 AN ACT concerning children; relating to visitation by grandparents;
10 amending K.S.A. 38-129 and 60-1616 and repealing the existing
11 sections.
12

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

14 Section 1. K.S.A. 38-129 is hereby amended to read as follows: 38-
15 129. (a) The district court may grant the grandparents of an unmarried
16 minor child reasonable visitation rights to the child during the child's
17 minority. *In pending litigation which involves child custody or visitation*
18 *rights, the grandparents of such child shall have the right to intervene*
19 *and request the court to consider granting the grandparents visitation*
20 *rights based upon a finding that the visitation rights would be in the child's*
21 *best interests and when a substantial relationship between the child and*
22 *the grandparent has been established.*

23 (b) The district court may grant the parents of a deceased person
24 visitation rights, or may enforce visitation rights previously granted, pur-
25 suant to this section, even if the surviving parent has remarried and the
26 surviving parent's spouse has adopted the child. Visitation rights may be
27 granted pursuant to this subsection without regard to whether the adop-
28 tion of the child occurred before or after the effective date of this act.

29 Sec. 2. K.S.A. 60-1616 is hereby amended to read as follows: 60-
30 1616. (a) *Parents.* A parent is entitled to reasonable parenting time unless
31 the court finds, after a hearing, that the exercise of parenting time would
32 seriously endanger the child's physical, mental, moral or emotional health.

33 (b) *Grandparents and stepparents.* Grandparents and stepparents
34 may be granted visitation rights. *In pending litigation which involves child*
35 *custody or visitation rights, the grandparents of the child shall have the*
36 *right to intervene and request the court to consider granting the grand-*
37 *parents visitation rights based upon a finding that the visitation rights*
38 *would be in the child's best interests and when a substantial relationship*
39 *between the child and the grandparent has been established.*

40 (c) *Modification.* The court may modify an order granting or denying
41 parenting time or visitation rights whenever modification would serve the
42 best interests of the child.

43 (d) *Enforcement of rights.* An order granting visitation rights or par-

based upon a finding that the visitation rights would be in the child's best interests and when a substantial relationship between the child and the grandparent or stepparent has been established

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