

CHAPTER 136

HOUSE Substitute for SENATE BILL No. 273

AN ACT relating to child support enforcement; concerning payments under certain insurance policies; amending K.S.A. 39-759 and repealing the existing section.

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

New Section 1. (a) The secretary of social and rehabilitation services is authorized to enter into an agreement with any entity that engages in the business of matching information about child support debtors against information about insurance claimants. Any such agreement shall be subject to the provisions of K.S.A. 39-759, and amendments thereto, concerning confidential information. If the entity is a consortium or similar joint venture of two or more states, or if the entity is an agency of the United States, the requirements of K.S.A. 75-5365, and amendments thereto, shall not apply.

(b) Pursuant to an agreement made under subsection (a), the secretary of social and rehabilitation services may disclose information about any individual who owes past due support in a title IV-D case if the support debtor owes at least \$25 in past due support. "Title IV-D" means part D of title IV of the federal social security act (42 U.S.C. §651 et seq.).

(c) To the extent feasible, the secretary of social and rehabilitation services shall require or provide secure electronic processes for disclosing information about support debtors to any entity conducting matches pursuant to this section and for any insurers disclosing information about claimants to such an entity.

(d) The secretary of social and rehabilitation services shall have the authority to adopt such rules and regulations as may be necessary to administer the provisions of this act.

New Sec. 2. (a) As used in section 1 and 2, and amendments thereto:

(1) "Insurer" means any entity regulated under chapter 40 of the Kansas Statutes Annotated, and amendments thereto, that provides coverage for liability insurance.

(2) "Claimant" means any individual who has submitted a claim for payment under a liability insurance contract.

(b) An insurer shall be required to comply with the provisions of this section only after the secretary of social and rehabilitation services has entered into an agreement pursuant to section 1, and amendments thereto. The secretary of social and rehabilitation services shall make available to insurers information about the data matching process, including instructions for disclosing claimant information.

(c) (1) An insurer shall have the option of receiving request for information about an identified claimant from either the secretary of social and rehabilitation services or from the entity responsible for the data matching pursuant to section 1, and amendments thereto.

(2) An insurer shall respond by disclosing the requested information about the claimant only if the amount of the claim totals \$1,000 or more.

(d) A disclosure required pursuant to subsection (c) shall be made as soon as reasonably possible after the first submission of the claim.

(e) An insurer, including any agent of the insurer, shall not be liable under any state law to any person for any disclosure required or authorized by this section, or for any other action taken in good faith in accordance with this section.

(f) At the insurer's discretion, an insurer may disclose information as provided in this section about a claimant whose aggregate claim is less than \$1,000.

(g) Nothing in sections 1 or 2, and amendments thereto, shall require an insurer to make any payment that is not otherwise required under the contract of insurance. An insurer shall not be assessed any fee by the secretary of social and rehabilitation services or by any entity that has entered into an agreement pursuant to section 1, and amendments thereto.

Sec. 3. K.S.A. 39-759 is hereby amended to read as follows: 39-759.

(a) With respect to information obtained by the secretary under K.S.A. 39-758 ~~or K.S.A.~~, 39-7,136, 39-7,143 ~~and~~ or 39-7,150, and amendments thereto, *or section 1 and 2, and amendments thereto*, any person who willfully requests, obtains or seeks to obtain confidential information except in accordance with any law permitting such disclosure shall be guilty

of a class B nonperson misdemeanor. With respect to information obtained by the secretary under K.S.A. 39-758 ~~or K.S.A.~~, 39-7,136, 39-7,143 ~~and~~ or 39-7,150, and amendments thereto, *or section 1 and 2, and amendments thereto*, any person who willfully requests, obtains or seeks to obtain confidential information under false pretenses or who willfully communicates or seeks to communicate such information to any person except in accordance with any law permitting such disclosure shall be guilty of a severity level 10, nonperson felony. If the offender is an officer or employee of the state or a political subdivision of the state, such officer or employee shall be dismissed from office. If the offender's supervisor does not dismiss the offender, such supervisor shall be dismissed from office. Any violation of this subsection by a IV-D contractor or an agent of a IV-D contractor shall be grounds for termination of the IV-D contract and the contract shall be terminated. The provisions of this subsection shall be a complete defense in any civil action concerning such dismissal, termination of the IV-D contract or termination of a contractor's relationship with an individual offender. When the individual is hired as an officer or employee of the state or a political subdivision or hired by a IV-D contractor, such individual shall be given verbal and written notice of the provisions of this subsection. Such individual shall sign a statement stating that such information was received.

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

The release of information concerning the location of one party to another party against whom a protective order with respect to the former party has been entered is prohibited. The release of information concerning the location of one party to another party is prohibited if the secretary has reason to believe that the release of such information may result in physical or emotional harm to the former party. For purposes of this subsection, "has reason to believe" means that the former party has claimed good cause for refusing to cooperate in IV-D activities, so long as the claim is pending or has been approved. Such good cause shall relate to one of the following: (1) The child was conceived as a result of incest or rape; (2) there are legal proceedings for adoption of the child pending before a court; (3) the custodial parent is currently being assisted by a public or licensed private social agency in determining whether to keep the child or relinquish the child for adoption; (4) there is documented evidence to support the claim that the child may be physically or emotionally harmed; or (5) there is documented evidence to support the claim that the custodial parent may be physically or emotionally harmed so seriously as to reduce the capacity to adequately care for the child.

(c) The provisions of this section shall be in addition to any other prohibition against further disclosure, remedy or sanction provided by law.

Sec. 4. K.S.A. 39-759 is hereby repealed.

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

Approved May 9, 2008.
