

SENATE BILL No. 160

By Senator Lynn

2-9

1 AN ACT concerning child support; relating to collection of support
2 payments; amending K.S.A. 2010 Supp. 23-4,107 and 75-6202 and
3 repealing the existing sections.
4

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

6 Section 1. K.S.A. 2010 Supp. 23-4,107 is hereby amended to read as
7 follows: 23-4,107. (a) Any new or modified order for support shall
8 include a provision for the withholding of income to enforce the order for
9 support.

10 (b) Except as otherwise provided in subsection (j), (k) or (l), all new
11 or modified orders for support shall provide for immediate issuance of an
12 income withholding order. The income withholding order shall be issued
13 without further notice to the obligor and shall specify an amount
14 sufficient to satisfy the order for support and to defray any arrearage. The
15 income withholding order shall be issued regardless of whether a payor
16 subject to the jurisdiction of this state can be identified at the time the
17 order for support is entered.

18 (c) Except as otherwise provided in this subsection or subsections (j)
19 order, an income withholding order shall be issued by the court upon
20 request of the obligee or public office, provided that the obligor accrued
21 an arrearage equal to or greater than the amount of support payable for
22 one month and the requirements of subsections (d) and (h) have been
23 met. The income withholding order shall be issued without further notice
24 to the obligor and shall specify an amount sufficient to satisfy the order
25 for support and to defray any arrearage. The income withholding order
26 shall be issued regardless of whether a payor subject to the jurisdiction of
27 this state can be identified at the time the income withholding order is
28 issued.

29 (d) Not less than seven days after the obligee or public office has
30 served a notice pursuant to subsection (h), the obligee or public office
31 may initiate income withholding pursuant to paragraph (1) or (2).

32 (1) The obligee or public office may apply for an income
33 withholding order by filing with the court an affidavit stating: (A) The
34 date that the notice was served on the obligor and the manner of service;
35 (B) that the obligor has not filed a motion to stay issuance of the income
36 withholding order or, if a motion to stay has been filed, the reason an

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1 is receiving assistance in collecting that support under K.S.A. 39-756,
 2 and amendments thereto, or under part D of title IV of the federal social
 3 security act (42 U.S.C. § 651 *et seq.*), as amended; or
 4 (3) owes a debt to a foreign state agency.

5 (b) "Debt" means:

6 (1) Any liquidated sum due and owing to the state of Kansas, or any
 7 state agency, municipality or foreign state agency which has accrued
 8 through contract, subrogation, tort, operation of law, or any other legal
 9 theory regardless of whether there is an outstanding judgment for that
 10 sum. A debt shall not include special assessments except when the owner
 11 of the property assessed petitioned for the improvement and any
 12 successor in interest of such owner of property; or

13 (2) any amount of support due and owing an individual, or an
 14 agency of another state, who is receiving assistance in collecting that
 15 support under K.S.A. 23-495 or K.S.A. 39-756, and amendments thereto,
 16 or under part D of title IV of the federal social security act (42 U.S.C. §
 17 651 *et seq.*), as amended, which amount shall be considered a debt due
 18 and owing the district court trustee or the department of social and
 19 rehabilitation services for the purposes of this act.

20 (c) "Refund" means any amount of Kansas income tax refund due to
 21 any person as a result of an overpayment of tax, and for this purpose, a
 22 refund due to a husband and wife resulting from a joint return shall be
 23 considered to be separately owned by each individual in the proportion of
 24 each such spouse's contribution to income, as the term "contribution to
 25 income" is defined by rules and regulations of the secretary of revenue.

26 (d) "Net proceeds collected" means gross proceeds collected through
 27 final setoff against a debtor's earnings, refund or other payment due from
 28 the state or any state agency minus any collection assistance fee charged
 29 by the director of accounts and reports of the department of
 30 administration.

31 (e) "State agency" means any state office, officer, department, board,
 32 commission, institution, bureau, agency or authority or any division or
 33 unit thereof and any judicial district of this state or the clerk or clerks
 34 thereof. "State agency" also shall include any district court utilizing
 35 collection services pursuant to K.S.A. 75-719, and amendments thereto,
 36 to collect debts owed to such court.

37 (f) "Person" means an individual, proprietorship, partnership,
 38 limited partnership, association, trust, estate, business trust, corporation,
 39 other entity or a governmental agency, unit or subdivision.

40 (g) "Director" means the director of accounts and reports of the
 41 department of administration.

42 (h) "Municipality" means any municipality as defined by K.S.A. 75-
 43 1117, and amendments thereto.