

SB125 Distribution, Income Withholding, and Debt Setoff Bill

BILL SUMMARY

Changes distribution of child support paid through the Kansas Payment Center to pro-rata distribution so current support is spread across all child support orders for a non-custodial parent (effective July 1, 2015). Also clarifies use of the Income Withholding Act to allow withholding of bonuses and unemployment benefits; allows employers to charge an additional fee for withholding on bonuses; requires all income withholding orders to be on standard federal forms; and allows DCF to go directly to source agency for all debt setoff (effective upon publication).

These changes will help increase efficiency in the CSS Program and will help ensure that more support dollars are distributed to Kansas children.

BILL DRAFT MAIN POINTS

- 1) Pro-rata distribution (Effective July 1, 2015)
 - Effects all support orders paid through the Kansas Payment Center (judicial bypass for direct payments remain in place)
 - Support paid under those orders would be distributed pro-rata over all of a child support debtor's orders
 - Pro-rata distribution based on federal child support distribution scheme
 - Effective date postponed to provide additional time to make child support system changes
- 2) Unemployment withholding (Effective July 1, 2013)
 - Clarifies that DCF may use the income withholding act to withhold support from unemployment insurance benefits
 - Allows DCF to become more efficient in withholding from these funds
- 3) Lump sum (bonus withholding) (Effective July 1, 2013)
 - Clarifies that the income withholding orders may be used to collect child support from bonuses
 - Streamlines the process of attaching bonus payments, allowing Child Support Enforcement to more easily collect support from these payments
 - Income withholding forms are already set up for lump sum withholding
- 4) Additional Fee for lump sum withholding (Effective July 1, 2013)
 - Allows employers to take an additional \$10 fee for any lump sum (bonus) withholding they process
 - Recognizes the additional time and effort employers will spend on lump sum withholding
- 5) All income withholding orders on standard forms (Effective July 1, 2013)
 - Requires all income withholding orders to be on standard DCF or federal forms
 - Federal regulations provide that only income withholding orders on the federal form are valid
 - Helps eliminate confusion among employers by making sure all orders of this type look the same
- 6) Go direct to source agency for debt setoff (Effective July 1, 2013)
 - Current Debt Setoff Act requires CSS to go through Dep't of Admin. for all setoffs except unemployment
 - Despite working direct with KDOL, CSS still pays over \$1 million per year for setoff on state taxes, KPERS benefits and lottery winnings
 - CSS may seek direct agreements with Dep't of Revenue, KPERS and Lottery to further reduce its expenditures for setoff

HOUSE JUDICIARY

DATE:

ADDITIONAL INFORMATION

CSS would support an amendment allowing severance pay to be seized as a lump sum withholding.

Response to opposing testimony per the written testimony of one trustee, it was requested to strike New Section 1 of SB125. We disagree, as do our federal partners with making this change to New Section 1 of SB125. Under federal law and regulation, IWO payments are to be prorated across all cases for the same non-custodial parent, both IV-D and non-IV-D, on which there are income withholding orders. This guidance can be found at 45 CFR 303.100(a)(5), and clarified in the Office of Child Support Enforcement (OCSE) Action Transmittal 94-02 at <http://www.acf.hhs.gov/programs/css/resource/instructions-immediate-wage-withholding-orders-issued-not-being-enforced>.

The same trustee also suggested that Section 6 of SB125 should be amended to expand the definition of "income withholding agency" to include court trustees. We disagree to this change as the IV-D agency. DCF and its contractors doing CSS work under its state IV-D plan, are the only ones with the distinction of and contemplated as the IV-D agency in federal law, not court trustees. See 45 CFR 303.100. Private attorneys and trustees have the ability to do garnishments and income withholdings, however, that does not make them the "income withholding agency." In addition, the IV-D agency in this state operates and fully funds the cost of the State Disbursement Unit (SDU), also known as the Kansas Payment Center (KPC). Because all payments made by income withholding order are required to be made through the KPC, adding court trustees to the definition of "income withholding agency" would be contrary to who actually is in charge of the processing of income withholding orders.

CSS collected \$207 million in child support last year. It costs approximately \$57 million to run the DCF IV-D child support program. Out of that \$57 million, the federal match rate or federal financial participation is 66%, so the federal government ends up paying 2/3 of the IV-D child support budget. The state portion of the budget is made up of a mix of federal incentive payments for child support performance, state funds, a percentage of the TANF funds collected, and about \$1 million in fees we collect from non-public assistance customers. Our current cost effectiveness (meaning how much we collect for families over how much it costs to run the agency) is \$3.94. So for every dollar we put into the IV-D child support program, we collect \$3.94 for families. Currently DCF has enforcement contracts with private contractors in 14 Judicial Districts and with trustees in 12 Judicial Districts. We have five Judicial Districts that are handled entirely by state staff. We also have contracts for genetic testing, service of process, locate services, the KPC, the child support call center, and MOUs with several Kansas agencies.

Further information regarding this bill or other child support or DCF questions can be obtained by contacting Michelle Schroeder, Director of Policy and Legislative Affairs for Department for Children and Families by phone at 785-296-3271 or by email at michelle.schroeder@dcf.ks.gov.