

SENATE BILL No. 229

By Committee on Federal and State Affairs

2-9

9 AN ACT concerning child support enforcement; amending K.S.A. 23-
10 9,102, 39-759, 39-7,136, 39-7,138, 39-7,139, 39-7,140, 39-7,141, 39-
11 7,144, 39-7,145, 39-7,146, 39-7,147, 39-7,148, 39-7,150 and 39-7,151
12 and K.S.A. 2004 Supp. 23-4,107, 23-4,146, 65-2422d and 74-2012 and
13 repealing the existing sections; also repealing K.S.A. 39-7,153.
14

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

16 New Section 1. (a) The following definitions shall apply to this sec-
17 tion, except where the context requires otherwise.

18 (1) "Financial institution" means any financial institution as defined
19 in section 669A of the federal social security act (42 U.S.C. §469A), and
20 amendments thereto.

21 (2) "Account" means a demand deposit account, checking or nego-
22 tiable withdrawal order account, savings account, time deposit account or
23 money-market mutual funds account.

24 (3) "Secretary" means the secretary of social and rehabilitation serv-
25 ices or a designee of the secretary.

26 (b) The secretary shall operate a financial institution data match pro-
27 cess with financial institutions doing business in this state. To the maxi-
28 mum extent feasible, the financial institution data match process shall use
29 automated data exchanges.

30 (c) Subject to the provisions of subsection (e), every financial insti-
31 tution doing business in this state shall exchange information with the
32 secretary at least once each calendar quarter. The financial institution
33 shall not notify the account owner of any data exchange made pursuant
34 to this section without the consent of the secretary. The financial insti-
35 tution shall use a method and format prescribed by the secretary. If the
36 financial institution is unable to use a method and format prescribed by
37 the secretary, such financial institution shall cooperate with the secretary
38 to identify another method or format acceptable to the secretary or shall
39 request an exemption based upon lack of feasibility.

40 (d) Each financial institution required to exchange information under
41 this section shall enter into an agreement with the secretary concerning
42 procedures for the date match, including but not limited to identifying
43 whether the financial institution will provide information about accounts

1 to the secretary or will examine and respond to information made avail-
2 able by the secretary. The provisions of K.S.A. 75-5365, and amendments
3 thereto, shall not apply to such agreements.

4 (e) A financial institution doing business in this state is exempt from
5 the requirements of this section so long as the financial institution is
6 participating in a substantially similar data match process with the United
7 States department of health and human services, the financial institution
8 has fewer than 50 accounts owned in whole or in part by individuals or,
9 at the request of the financial institution, the secretary, in the secretary's
10 judgment, determines that conducting data exchanges with the financial
11 institution is not feasible. The secretary shall determine the duration of
12 an exemption based upon lack of feasibility, which shall be for no less
13 than one year. At the request of the financial institution, an exemption
14 based upon lack of feasibility may be renewed in the secretary's
15 discretion.

16 (f) If the financial institution elects to provide the secretary with in-
17 formation about accounts for the secretary to match, the financial insti-
18 tution shall provide to the secretary the identification number of each
19 account, the type of account, the current balance in the account, the
20 account owner's name and social security number as appearing in the
21 financial institution's records and such other information as the secretary
22 may require in the agreement with the financial institution.

23 (g) If the financial institution elects to examine information made
24 available by the secretary and identify accounts whose owners appear to
25 match the secretary's information, the financial institution shall provide
26 to the secretary no less than 45 days after receiving the secretary's infor-
27 mation the identification number of each matched account, the type of
28 account, the current balance in the account, the account owner's name
29 and social security number as appearing in the financial institution's re-
30 cords and such other information as the secretary may require in the
31 agreement with the financial institution.

32 (h) Information provided by the secretary to any financial institution
33 pursuant to this section may only be used for the purpose of assisting the
34 secretary to establish support orders and collect unpaid support and shall
35 be subject to the provisions of K.S.A. 39-759, and amendments thereto,
36 except that a financial institution shall not be construed to be a IV-D
37 contractor solely on the basis of an agreement based upon this section.

38 (i) In addition to any other sanction provided by law, any financial
39 institution or individual who uses such information for any other purpose
40 shall be liable in a civil action to the secretary in the amount of \$1,000
41 for each violation.

42 New Sec. 2. (a) The following definitions shall apply to this section,
43 except where the context requires otherwise.

- 1 (1) "Company" means insurance company as defined in K.S.A. 40-
2 201, and amendments thereto.
- 3 (2) "Claimant" means an individual who files a claim under any policy
4 of insurance governed by chapter 40 of the Kansas Statutes Annotated,
5 and amendments thereto, or a beneficiary under a life insurance or an-
6 nuity policy.
- 7 (3) "Secretary" means the secretary of social and rehabilitation serv-
8 ices or a designee of the secretary.
- 9 (4) "Title IV-D" means part D of the title IV of the federal social
10 security act (42 U.S.C. §651 et seq.).
- 11 (5) "Business day" means any day on which state administrative of-
12 fices in Kansas are open for regular business.
- 13 (6) "Recurring payments" means payments to the claimant that the
14 policy of insurance requires to be made in more than one installment but
15 does not include amounts paid separately at the discretion of the com-
16 pany, the claimant or any other interested person.
- 17 (b) A lien for unpaid support owed in a title IV-D case is perfected
18 with respect to amounts payable pursuant to a policy of insurance when
19 a company that is required to exchange information pursuant to subsec-
20 tion (c) has or should have actual knowledge of the lien or on the date
21 an order to restrict transfer is served on the company pursuant to K.S.A.
22 39-7,150, and amendments thereto.
- 23 (c) Prior to making any payment equal to or in excess of \$500 to a
24 claimant under a contract of insurance, every company authorized to issue
25 policies of insurance pursuant to chapter 40, of the Kansas Statutes An-
26 notated, and amendments thereto, shall exchange information with the
27 secretary, as set forth in subsection (e), to ascertain whether such claimant
28 is subject to a lien for unpaid support in a title IV-D case pursuant to
29 K.S.A. 23-4,146, and amendments thereto. To determine whether a
30 claimant is subject to such lien, the company shall either provide the
31 secretary with information about the claimant or examine information
32 made available by the secretary. Nothing in this section shall be construed
33 as requiring the secretary to update more frequently than monthly any
34 information made available to insurance companies electing to examine
35 such information. A payment meets the \$500 threshold if the entire pay-
36 ment, considered as a whole and prior to any deductions allowed under
37 subsection (g), is equal to or greater than \$500.
- 38 (d) The lien for unpaid support shall encumber the right of the claim-
39 ant to any payment under the policy, except dividend payments and any
40 payment for damage to or loss of real property. Except as otherwise pro-
41 vided in this section, the company shall disburse to the claimant only that
42 portion of the payment, if any, remaining after the lien for unpaid support
43 has been satisfied or the secretary has released the lien with respect to

1 the payment.

2 (e) (1) If the company elects to provide the secretary with information
3 about the claimant, the company shall provide to the secretary, no more
4 than one month before and no less than 10 business days before making
5 payment to such claimant, the claimant's name, address, date of birth and
6 social security number as appearing in the company's records, and such
7 other information as the secretary may require by rules and regulations
8 in consultation with the commissioner of insurance. The company shall
9 use a method and format prescribed by the secretary. If the company is
10 unable to use a method and format prescribed by the secretary, such
11 company shall cooperate with the secretary to identify another method
12 or format, including submission of written materials.

13 (2) If the company elects to examine information made available by
14 the secretary and such claimant is subject to a lien for unpaid support,
15 the company shall notify the secretary, no more than one month before
16 and no less than 10 business days before making payment to such claim-
17 ant, of the claimant's name, address, date of birth, and social security
18 number as appearing in the company's records, and such other infor-
19 mation as the secretary may require by rules and regulations in consul-
20 tation with the commissioner of insurance, using a method and format
21 prescribed by the secretary.

22 (3) If the company has examined information made available by the
23 secretary and identified a claimant subject to a lien for unpaid support,
24 the company may remit to the secretary, together with all the information
25 the company is required to furnish about the claimant, the full amount
26 of the lien or the full amount otherwise payable to the claimant, whichever
27 is less. The company may thereafter pay to the claimant any balance
28 remaining due under the policy of insurance without regard to the 10
29 business day period. Within five business days after such remittance, the
30 company shall notify the claimant in writing of the action taken and that
31 the claimant may request review of the action, including an administrative
32 hearing pursuant to K.S.A. 75-3306, and amendments thereto, by com-
33 plying with procedures established by the secretary. The option to im-
34 mediately remit payment to the secretary shall not apply to recurring
35 payments or to any payment for which a third party has provided or
36 agreed to provide goods or services to the claimant and the insurance
37 company cannot reasonably determine the remaining amount payable to
38 the claimant.

39 (4) Except as otherwise provided in subsection (e)(3), the company
40 may make any payments appropriate under the policy of insurance if the
41 company does not receive an order to restrict transfer from the secretary
42 within 10 business days after providing information about the claimant to
43 the secretary. If an order to restrict transfer is received before a payment

1 to the claimant actually occurs, the company shall withhold from the pay-
2 ment the amount of past due support set forth in the order to restrict
3 transfer and shall pay such amount to the secretary in accordance with
4 the order.

5 (f) Upon receipt of a remittance made to the secretary pursuant to
6 subsection (e)(3), the secretary shall not disburse the amount received
7 until the time allowed for requesting an administrative hearing has
8 elapsed.

9 (g) No lien for unpaid support shall attach to that portion of a claim
10 resulting in payments on behalf of the claimant issued to a third party
11 where there is documentation showing that the third party has provided
12 or agreed to provide the claimant with a benefit or service related to the
13 claim including, but not limited to, the services of an attorney or physi-
14 cian. Nothing in this section shall be construed to delay such payments
15 to third parties. The secretary, in consultation with the commissioner of
16 insurance, may adopt rules and regulations setting forth procedures for
17 making payment to the secretary when a third party has provided or
18 agreed to provide goods or services to the claimant, and the insurance
19 company cannot reasonably determine the remaining amount payable to
20 the claimant.

21 (h) A company that knowingly fails to accurately exchange informa-
22 tion regarding any claim to which this section applies or knowingly fails
23 to accurately withhold amounts required to satisfy the secretary's lien for
24 unpaid support shall be liable in a civil action to the secretary in the
25 amount of \$1,000 for each violation. A company that fails or refuses to
26 surrender to the secretary property subject to an order to restrict transfer
27 within the time required by the order shall be liable in a civil action to
28 the secretary for the amount not surrendered plus \$50 for each violation.
29 If such failure or refusal was not done in good faith, the company shall
30 be liable in a civil action to the secretary for the amount not surrendered
31 plus \$500 for each violation.

32 (i)(1) A company that exchanges information with the secretary pur-
33 suant to this section shall be immune from any liability to the claimant or
34 other interested party for taking such action, including individual or me-
35 chanical errors, provided such action does not constitute gross negligence
36 or willful misconduct.

37 (2) Notwithstanding the provisions of any other law, a company that
38 makes a payment to the secretary pursuant to this section and an insured
39 individual on whose behalf the company makes such a payment shall be
40 immune from any obligation or liability to the claimant or other interested
41 party arising from the payment.

42 (j) Information provided by the secretary to a company under this
43 section may only be used for the purpose of assisting the secretary to

1 collect unpaid support and shall be subject to the provisions of K.S.A. 39-
2 759, and amendments thereto. Any individual or company who uses such
3 information for any other purpose shall be liable in a civil action to the
4 secretary in the amount of \$1,000 for each violation.

5 (k) An individual making a claim governed by this section shall pro-
6 vide the claimant's current address, date of birth and social security num-
7 ber to the insurance company, upon the request of the company. The
8 company may inform the claimant that such request is being made in
9 accordance with this section for the purpose of assisting the secretary to
10 collect any unpaid support which may be due from the claimant. Any
11 such individual who refuses to provide information required by this sub-
12 section shall not receive payment on the claim, and a company that de-
13 clines payment on this basis shall be exempt from suit and immune from
14 liability related to the claim of such individual. Nothing in this subsection
15 shall be construed to prevent or delay issuance of any payment on behalf
16 of the claimant to a third party where there is documentation showing
17 that the third party has provided or agreed to provide the claimant with
18 a benefit or service related to the claim including, but not limited to, the
19 services of an attorney or physician.

20 New Sec. 3. (a) The secretary of social and rehabilitation services is
21 authorized to certify to the secretary of revenue the name of any person
22 who is believed to hold a driver's license issued in this state and who owes
23 \$500 or more in past due support in a case being administered by the
24 secretary of social and rehabilitation services pursuant to part D of title
25 IV-D of the federal social security act (42 U.S.C. §651 et seq.). Such
26 certification may be made only if at least 30 days have elapsed since notice
27 of the proposed action was sent to the person at the person's last known
28 address by the secretary of social and rehabilitation services and no re-
29 quest for review was made or such review has been resolved in favor of
30 the secretary of social and rehabilitation services.

31 (b) Upon receiving such certification and determining that the person
32 holds a driver's license issued in this state, the secretary of revenue shall
33 forthwith suspend the driver's license and send notice of the suspension
34 to the person at the person's last known address. In any review of such
35 action that may be conducted by the secretary of revenue, the scope of
36 review shall be limited to the identity of the person whose license is being
37 suspended.

38 (c) A suspension under this section shall continue until the secretary
39 of social and rehabilitation services notifies the secretary of revenue that
40 the support debt has been paid in full or otherwise resolved, or until the
41 next renewal date of the license, whichever is later. The secretary of
42 revenue may notify the secretary of social and rehabilitation services of
43 the potential reinstatement prior to such renewal date.

1 (d) At least 30 days prior to certifying any name to the secretary of
2 revenue pursuant to this section, the secretary of social and rehabilitation
3 services shall notify the person of the action proposed, the grounds for
4 the action and how the person may prevent the action or request review,
5 including, but not limited to, an administrative hearing pursuant to K.S.A.
6 75-3306, and amendments thereto.

7 New Sec. 4. (a) Subject to the provisions of subsection (d), before
8 any annual hunting or fishing license may be issued by the department
9 of wildlife and parks to any applicant, identifying information about the
10 applicant shall be compared to information provided by the secretary of
11 social and rehabilitation services to identify persons owing past due sup-
12 port. If a match is made and it reasonably appears to be the same person,
13 the license shall only be issued to the applicant after the applicant pays
14 to the license vendor the cost of the license, any processing fees that
15 apply and an additional amount that is equal to the total costs for the
16 license, including any processing fees. The license vendor may retain that
17 portion of the additional amount based upon processing fees and shall
18 remit to the secretary of social and rehabilitation services the remainder,
19 together with such identifying information as the secretary requires. The
20 secretary of social and rehabilitation services shall hold the amount re-
21 mitted until the time has elapsed for the applicant to request a refund or
22 review of the action, including an administrative hearing pursuant to
23 K.S.A. 75-3306, and amendments thereto, which shall be no less than 14
24 days after issuance of the license. Thereafter, the secretary of social and
25 rehabilitation services shall apply any amount not refunded to the appli-
26 cant's debt for support.

27 (b) The license vendor shall provide to any applicant required to pay
28 an additional amount pursuant to this section information explaining the
29 legal basis for requiring the additional payment and how the applicant
30 may request a refund or review of the action from the secretary of social
31 and rehabilitation services.

32 (c) The secretary of wildlife and parks and any license vendor shall
33 be immune from any obligation or liability to any person arising from
34 actions taken in good faith under this section. Liability of the secretary
35 of social and rehabilitation services shall be limited to paying to the ap-
36 plicant the total additional amount paid by the applicant.

37 (d) The secretary of social and rehabilitation services and the secre-
38 tary of wildlife and parks may enter into a memorandum of understanding
39 for administering the provisions of this section, including time frames for
40 implementation. The provisions of subsections (a) and (b) shall not be
41 applied until the secretaries determine that implementation is feasible or
42 until July 1, 2007, whichever is earlier. Nothing in this section shall be
43 construed as requiring the secretary of social and rehabilitation services

1 to update more frequently than each calendar quarter any information
2 provided by the secretary to identify persons owing past due support.

3 New Sec. 5. (a) A current support order, with or without an imme-
4 diate income withholding order, may be established or modified pursuant
5 to this section on behalf of any minor child receiving IV-D services, unless
6 a tribunal having continuing jurisdiction over the subject matter and par-
7 ties has previously entered a current support order for the child.

8 (b) The cash portion, if any, of a current support order entered pur-
9 suant to this section shall be based upon the most recent child support
10 guidelines adopted by the Kansas supreme court pursuant to K.S.A. 20-
11 165, and amendments thereto.

12 (c) At least 14 days before entry of a current support order, the sec-
13 retary shall serve an initial notice of the proposed current support order
14 on the responsible parent. The initial notice shall include the name and
15 date of birth of each child for whom current support will be ordered, the
16 proposed terms of the current support order, the proposed guidelines
17 worksheet used to calculate the amount of current support, a description
18 of any proposed medical support order and a statement that an immediate
19 income withholding order may be issued with the current support order.
20 The notice shall inform the responsible parent of the responsible parent's
21 right to request an informal meeting pursuant to subsection (d) and the
22 procedures for doing so, and shall include a statement that failure to
23 respond to the initial notice within the time allowed may result in entry
24 of the current support order as proposed and may bar any challenge to
25 the terms of the current support order for three years or until a material
26 change of circumstances is shown. The notice also shall state that a cur-
27 rent support order established by the secretary is entitled to full faith and
28 credit and may be enforced, or registered and enforced, in the same
29 manner as a current support order entered by a court. A copy of the initial
30 notice shall be provided to the custodial parent.

31 (d) Upon request of the responsible parent, the secretary shall sched-
32 ule an informal meeting, in person or by telephone, to provide the re-
33 sponsible parent an opportunity to ask questions and present any infor-
34 mation the responsible parent wishes the secretary to consider before
35 making a decision concerning current support. The secretary may con-
36 tinue the informal meeting, in the secretary's discretion, to allow addi-
37 tional information to be obtained. Except as otherwise agreed to by the
38 responsible parent, the secretary shall inform the responsible parent no
39 less than three business days prior to the appointment of the date, time
40 and location or telephone number for the next appointment. At the con-
41 clusion of each appointment with the responsible parent, the secretary
42 shall clearly inform the responsible parent whether the informal meeting
43 is being continued or the secretary is prepared to make a decision con-

1 cerning current support.

2 (e) If the responsible parent fails to respond to the initial notice
3 within the time allowed, the secretary may proceed forthwith to enter the
4 current support order as proposed. If the responsible parent requested
5 an informal meeting but failed without good cause to attend any appoint-
6 ment, or if the informal meeting has been concluded by the secretary,
7 the secretary may proceed to make findings of fact based upon the in-
8 formation available and, if appropriate, issue a current support order
9 based upon those findings. If a current support order is issued, the sec-
10 retary shall also issue an immediate income withholding order pursuant
11 to K.S.A. 23-4,107, and amendments thereto, unless the secretary finds
12 that an exception to immediate income withholding applies, as provided
13 in K.S.A. 23-4,107, and amendments thereto.

14 (f) If no tribunal has ruled on the parentage of the child, the secretary
15 may make findings of fact concerning the parent and child relationship
16 between the child and the responsible parent whenever the:

17 (1) Responsible parent is the child's mother;

18 (2) responsible parent was married to the child's mother on the
19 child's date of birth;

20 (3) responsible parent has formally acknowledged paternity of the
21 child, the child's mother has not objected to the acknowledgment and no
22 conflicting presumption of paternity exists pursuant to K.S.A. 38-1114,
23 and amendments thereto; or

24 (4) results of genetic testing give rise to a presumption of paternity
25 pursuant to K.S.A. 38-1114, and amendments thereto, and no conflicting
26 presumption of paternity exists.

27 (g) Any installment of current support, or portion of such installment,
28 that accrues under an order issued pursuant to this section and is not
29 paid in full when due shall automatically be a judgment for past due
30 support as of the date of accrual and shall be fully enforceable without
31 further notice or hearing. Any administrative enforcement remedy avail-
32 able to the secretary by law may be used by the secretary to enforce
33 payment of such judgment.

34 (h) A current support order entered pursuant to this section shall
35 automatically terminate upon entry of a current support order against the
36 responsible parent and on behalf of the same child by a court of com-
37 petent jurisdiction in this state. Only provisions related to that child shall
38 terminate, and any provisions related to any other child shall continue in
39 full force and effect. If any portion of the order entered pursuant to this
40 section remains in effect, the secretary, without further notice to the
41 responsible parent or custodial parent, may modify the current support
42 order and any income withholding order based upon it to reflect the new
43 circumstances. Arrearages accrued prior to such termination shall remain

1 in effect and be fully enforceable. A current support order entered pur-
2 suant to this section shall not be modified or terminated by entry of any
3 interlocutory order by a court of this state, but the responsible parent
4 shall be entitled to credit under both orders, up to the amount of current
5 support due under each one, for any current support paid after entry of
6 the interlocutory order. For purposes of this section, any support order
7 entered under K.S.A. 60-3101 et seq., and amendments thereto, shall be
8 considered an interlocutory order.

9 (i) The secretary, at any time before the current support order ter-
10 minates with respect to a child pursuant to subsection (j), may modify
11 any current support order entered under this section by serving an initial
12 notice pursuant to subsection (c) and following the procedures set forth
13 in this section. If less than three years have elapsed since the order or
14 the most recent modification of the order was entered, the secretary must
15 find that a material change of circumstances has occurred. If three years
16 or more have elapsed since the order or the most recent modification of
17 the order was entered, the order may be modified based on the current
18 circumstances of the parties regardless of whether a material change of
19 circumstances has occurred.

20 (j) Current support accruing under an order entered pursuant to this
21 section shall terminate with respect to a child when the child attains age
22 18, unless the child attains age 18 before completing the child's high
23 school education in which case the current support order shall continue
24 unabated until June 30 of the school year during which the child attains
25 age 18 if the child is attending high school. The amount of current support
26 for a child over age 18 shall be based upon the guideline table category
27 for children ages 16 through 18.

28 Sec. 6. K.S.A. 2004 Supp. 23-4,107 is hereby amended to read as
29 follows: 23-4,107. (a) Any new or modified order for support shall include
30 a provision for the withholding of income to enforce the order for support.

31 (b) Except as otherwise provided in subsection (j), (k) or (l), all new
32 or modified orders for support shall provide for immediate issuance of
33 an income withholding order. The income withholding order shall be
34 issued without further notice to the obligor and shall specify an amount
35 sufficient to satisfy the order for support and to defray any arrearage. The
36 income withholding order shall be issued regardless of whether a payor
37 subject to the jurisdiction of this state can be identified at the time the
38 order for support is entered.

39 (c) Except as otherwise provided in this subsection or subsections (j)
40 or (l), if no income withholding order is in effect to enforce the support
41 order, an income withholding order shall be issued by the court upon
42 request of the obligee or public office, provided that the obligor accrued
43 an arrearage equal to or greater than the amount of support payable for

1 one month and the requirements of subsections (d) and (h) have been
2 met. The income withholding order shall be issued without further notice
3 to the obligor and shall specify an amount sufficient to satisfy the order
4 for support and to defray any arrearage. The income withholding order
5 shall be issued regardless of whether a payor subject to the jurisdiction
6 of this state can be identified at the time the income withholding order
7 is issued.

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

11 (1) The obligee or public office may apply for an income withholding
12 order by filing with the court an affidavit stating: (A) The date that the
13 notice was served on the obligor and the manner of service; (B) that the
14 obligor has not filed a motion to stay issuance of the income withholding
15 order or, if a motion to stay has been filed, the reason an income with-
16 holding order must be issued immediately; (C) a specified amount to be
17 withheld by the payor to satisfy the order of support and to defray any
18 arrearage; (D) whether the income withholding order is to include a med-
19 ical withholding order; and (E) that the amount of the arrearage as of the
20 date the notice to the obligor was prepared was equal to or greater than
21 the amount of support payable for one month. In addition to any other
22 penalty provided by law, the filing of such an affidavit with knowledge of
23 the falsity of a material declaration is punishable as a contempt.

24 Upon the filing of the affidavit, the income withholding order shall be
25 issued without further notice to the obligor, hearing or amendments of
26 the support order. Payment of all or part of the arrearage before issuance
27 of the income withholding order shall not prevent issuance of the income
28 withholding order, unless the arrearage is paid in full and the order for
29 support does not include an amount for the current support of a person.
30 No affidavit is required if the court, upon hearing a motion to stay issu-
31 ance of the income withholding order or otherwise, issues an income
32 withholding order.

33 (2) In a title IV-D case, the IV-D agency may issue an income with-
34 holding order as authorized by K.S.A. 39-7,147 or *section 5*, and amend-
35 ments thereto. Any such income withholding order shall be considered
36 an income withholding order issued pursuant to this act.

37 (e) (1) An income withholding order shall be directed to any payor
38 of the obligor. Notwithstanding any other requirement of this act as to
39 form or content, any income withholding order prepared in a standard
40 format prescribed by the secretary of social and rehabilitation services
41 shall be deemed to be in compliance with this act.

42 (2) An income withholding order which does not include a medical
43 withholding order shall require the payor to withhold from any income

1 due, or to become due, to the obligor a specified amount sufficient to
2 satisfy the order of support and to defray any arrearage and shall include
3 notice of and direction to comply with the provisions of K.S.A. 23-4,108
4 and 23-4,109, and amendments thereto.

5 (3) An income withholding order which consists only of a medical
6 withholding order shall include notice of the medical child support order
7 and shall conform to the requirements of K.S.A. 23-4,121 and amend-
8 ments thereto. The medical withholding order shall include notice of and
9 direction to comply with the requirements of K.S.A. 23-4,108, 23-4,109,
10 23-4,119 and 23-4,122 and amendments thereto.

11 (4) An income withholding order which includes both a medical with-
12 holding order and an income withholding order for cash support shall
13 meet the requirements of paragraphs (2) and (3).

14 (f) (1) Upon written request and without the requirement of further
15 notice to the obligor, the clerk of the district court shall cause a copy of
16 the income withholding order to be served on the payor only by personal
17 service or registered mail, return receipt requested.

18 (2) Without the requirement of further notice to the obligor, the IV-
19 D agency may cause a copy of any income withholding order to be served
20 on the payor only by personal service or registered mail, return receipt
21 requested or by any alternate method acceptable to the payor. No payor
22 shall be liable to any person solely because of the method of service
23 accepted by the payor.

24 (3) As used in this section, “copy of the income withholding order”
25 means any document or notice, regardless of format, that advises the
26 payor of the same general duties, requires the same amount to be with-
27 held from income and requires medical withholding to the same extent
28 as the original income withholding order.

29 (g) An income withholding order shall be binding on any existing or
30 future payor on whom a copy of the order is served and shall require the
31 continued withholding of income from each periodic payment of income
32 until further order of the court or agency that issued the income with-
33 holding order. At any time following issuance of an income withholding
34 order, a copy of the income withholding order may be served on any
35 payor without the requirement of further notice to the obligor.

36 (h) Except as provided in subsection (k) or (l), at any time following
37 entry of an order for support the obligee or public office may serve upon
38 the obligor a written notice of intent to initiate income withholding. If
39 any notice in the court record indicates that title IV-D services are being
40 provided in the case, whether or not the IV-D services include enforce-
41 ment of current support, the person or public office requesting issuance
42 of the income withholding order shall obtain the consent of the IV-D
43 agency to the terms of the proposed income withholding order.

1 The notice of intent to initiate income withholding shall be served on
2 the obligor only by personal service or registered mail, return receipt
3 requested. The notice served on the obligor must state: (1) The terms of
4 the order of support and the total arrearage as of the date the notice was
5 prepared; (2) the amount of income that will be withheld, not including
6 premiums to satisfy a medical withholding order; (3) whether a medical
7 withholding order will be included; (4) that the provision for withholding
8 applies to any current or subsequent payor; (5) the procedures available
9 for contesting the withholding and that the only basis for contesting the
10 withholding is a mistake of fact concerning the amount of the support
11 order, the amount of the arrearage, the amount of income to be withheld
12 or the proper identity of the obligor; (6) the period within which the
13 obligor must act to stay issuance of the income withholding order and
14 that failure to take such action within the specified time will result in
15 payors' being ordered to begin withholding; and (7) the action which will
16 be taken if the obligor contests the withholding.

17 The obligor may, at any time, waive in writing the notice required by
18 this subsection.

19 (i) On request of an obligor, the court shall issue an income with-
20 holding order which shall be honored by a payor regardless of whether
21 there is an arrearage. Nothing in this subsection shall limit the right of
22 the obligee to request modification of the income withholding order.

23 (j) (1) In a nontitle IV-D case, upon presentation to the court of a
24 written agreement between the parties providing for an alternative ar-
25 rangement, no income withholding order shall be issued pursuant to sub-
26 section (b). In any case, before entry of a new or modified order for
27 support, a party may request that no income withholding order be issued
28 pursuant to subsection (b) if notice of the request has been served on all
29 interested parties and: (A) The party demonstrates, and the court finds,
30 that there is good cause not to require immediate income withholding,
31 or (B) a written agreement among all interested parties provides for an
32 alternative arrangement. If child support and maintenance payments are
33 both made to an obligee by the same obligor, and if the court has deter-
34 mined that good cause has been shown that direct child support payments
35 to the obligee may be made, then the court shall provide for direct main-
36 tenance payments to the obligee and no income withholding order shall
37 be issued pursuant to subsection (b). In a title IV-D case, the determi-
38 nation that there is good cause not to require immediate income with-
39 holding must include a finding that immediate income withholding would
40 not be in the child's best interests and, if an obligor's existing obligation
41 is being modified, proof of timely payment of previously ordered support.

42 (2) Notwithstanding the provisions of subsection (j)(1), the court shall
43 issue an income withholding order when an affidavit pursuant to subsec-

1 tion (d) is filed if an arrearage exists in an amount equal to or greater
2 than the amount of support payable for one month.

3 (3) If a notice pursuant to subsection (h) has been served in a title
4 IV-D case, there is no arrearage or the arrearage is less than the amount
5 of support payable for one month, and the obligor files a motion to stay
6 issuance of the income withholding order based upon the court's previous
7 finding of good cause not to require immediate income withholding pur-
8 suant to subsection (j)(1), the obligor must demonstrate the continued
9 existence of good cause. Unless the court again finds that good cause not
10 to require immediate income withholding exists, the court shall issue the
11 income withholding order.

12 (4) If a notice pursuant to subsection (h) has been served in a title
13 IV-D case, there is no arrearage or the arrearage is less than the amount
14 of support payable for one month, and the obligor files a motion to stay
15 issuance of an income withholding order based upon a previous agree-
16 ment of the interested parties for an alternative arrangement pursuant to
17 subsection (j)(1), the court shall issue an income withholding order, not-
18 withstanding any previous agreement, if the court finds that:

- 19 (A) The agreement was not in writing;
- 20 (B) the agreement was not approved by all interested parties;
- 21 (C) the terms of the agreement or alternative arrangement are not
22 being met;
- 23 (D) the agreement or alternative arrangement is not in the best in-
24 terests of the child; or
- 25 (E) the agreement or alternative arrangement places an unnecessary
26 burden upon the obligor, obligee or a public office.

27 (5) The procedures and requirements of K.S.A. 23-4,110 and amend-
28 ments thereto apply to any motion pursuant to paragraph (3) or (4) of
29 this subsection (j).

30 (k) (1) An ex parte interlocutory order for support may be enforced
31 pursuant to subsection (b) only if the obligor has consented to the in-
32 come withholding in writing.

33 (2) An ex parte interlocutory order for support may be enforced pur-
34 suant to subsection (c) only if 10 or more days have elapsed since the
35 order for support was served on the obligor.

36 (3) Any other interlocutory order for support may be enforced by
37 income withholding pursuant to this act in the same manner as a final
38 order for support.

39 (4) No bond shall be required for the issuance of an income with-
40 holding order to enforce an interlocutory order pursuant to this act.

41 (l) All new or modified orders for maintenance of a spouse or ex-
42 spouse, except orders for a spouse or ex-spouse living with a child for
43 whom an order of support is also being enforced, entered on or after July

1 1, 1992, shall include a provision for the withholding of income to enforce
2 the order of support. Unless the parties consent in writing to earlier is-
3 suance of a withholding order, withholding shall take effect only after
4 there is an arrearage in an amount equal to or greater than the amount
5 of support payable for two months and after service of a notice as provided
6 in subsection (h).

7 Sec. 7. K.S.A. 2004 Supp. 23-4,146 is hereby amended to read as
8 follows: 23-4,146. (a) Whenever there is an arrearage in payment of an
9 order of support in an amount equal to or greater than the amount of
10 support payable for one month, a lien shall arise by operation of law upon
11 certain personal property of the obligor. The lien may be perfected as
12 follows:

13 (1) In the case of a vehicle, the ~~secretary~~ *obligee* may perfect a lien
14 on the vehicle by filing a notice of lien with the division of vehicles of the
15 department of revenue. The perfection of the lien shall not be in effect
16 until the notation of the lien is actually placed upon the certificate of title
17 for the vehicle. The notice shall be in a form prescribed by the division,
18 or on a federal form as required by title IV-D, and shall contain a de-
19 scription of the vehicle, the name and address of the obligee or ~~secretary~~
20 *the obligee's agent*, the name and last known address of the obligor and
21 any other information required by the division. The notice shall state the
22 amount of the arrearage and that the arrearage is equal to or greater than
23 the amount of support payable for one month. A copy of the notice of
24 lien shall be sent by first-class mail to the obligor at the obligor's last
25 known address.

26 Upon the filing of the notice of lien in accordance with this subsection
27 (a)(1) and payment to the division of a fee of \$5, the division shall be
28 authorized to demand in writing the surrender of the title certificate from
29 the owner of the vehicle for the purpose of recording the lien on the title
30 certificate. Once the lien is properly recorded and perfected by actually
31 noting it on the certificate of title, a transfer of title is not valid unless the
32 lien has been released in the manner provided by K.S.A. 8-135, and
33 amendments thereto, or the transfer has been consented to in writing by
34 the lienholder. If the obligor fails to surrender the title certificate within
35 15 days after the written demand by the division of vehicles, the division
36 shall notify the obligee seeking to perfect the lien. The obligee may obtain
37 an order of the court which issued the support order requiring the obligor
38 to surrender the title certificate so that the lien may be properly recorded.
39 Notwithstanding any provision of this section authorizing a lien on a ve-
40 hicle of an obligor, no lien shall attach to any vehicle which the obligor
41 has transferred to another person who has purchased the vehicle or ac-
42 cepted it by trade in exchange for other property or services in good faith,
43 for value, prior to the time that the lien on the vehicle has been noted

1 and perfected in the manner provided by this subsection (a)(1).

2 (2) In the case of a vessel or aircraft, the obligee may perfect a lien
3 on the vessel or aircraft by filing a notice of lien with the office where
4 filing is required by K.S.A. 84-9-401, and amendments thereto, to perfect
5 a security interest in the vessel or aircraft. The perfection of the lien shall
6 not be in effect until the notation of the lien is actually placed upon the
7 appropriate documentation of title for the vessel or aircraft. The notice
8 shall contain a description of the make, model designation and serial num-
9 ber of the vessel or aircraft, including its identification or registration
10 number, if any; the name and address of the obligee *or the obligee's agent*;
11 and the name and last known address of the obligor. The notice shall state
12 the arrearage and that the arrearage is equal to or greater than the amount
13 of support payable for one month. A copy of the notice of lien shall be
14 sent simultaneously by first-class mail to the obligor at the obligor's last
15 known address.

16 Upon the filing of the notice of lien in accordance with this subsection
17 (a)(2) and payment of a fee of \$5, the notice of lien shall be retained by
18 the office where filed and may be enforced and foreclosed in the same
19 manner as a security agreement under the provisions of the uniform com-
20 mercial code. If the notice of lien is filed in the office of the secretary of
21 state, the filing officer shall file, index, amend, maintain, remove and
22 destroy the notice of lien in the same manner as a financing statement
23 filed under part 4 of article 9 of the uniform commercial code. The sec-
24 retary of state shall charge the same filing and information retrieval fees
25 and credit the amounts in the same manner as financing statements filed
26 under part 4 of article 9 of the uniform commercial code. Notwithstand-
27 ing any provision of this section authorizing a lien on a vessel or aircraft
28 of an obligor, no lien shall attach to any vessel or aircraft which the obligor
29 has transferred to another person who has purchased the vessel or aircraft
30 or accepted it by trade in exchange for other property or services in good
31 faith, for value, prior to the time that the lien on the vessel or aircraft has
32 been noted and perfected in the manner provided by this subsection
33 (a)(2).

34 ~~(3) In any case filed under chapter 60 or 61 of the Kansas Statutes~~
35 ~~Annotated, The obligee may perfect a lien on the obligor's interest in any~~
36 ~~judgment, order of restitution or settlement in the case any action filed~~
37 ~~in this state by filing a notice of lien with the clerk of the district court.~~
38 Copies shall be served on appropriate parties to the action. The notice of
39 lien shall have the effect of attaching the obligor's interest in any judg-
40 ment, *order of restitution* or settlement in the case. Any person holding
41 property or funds to satisfy any judgment, *order or restitution* or settle-
42 ment in the obligor's favor shall be prohibited from transferring to the
43 obligor any of such property or funds without the written consent of the

1 obligee. At the time that the holder would otherwise be required to trans-
2 fer property to the obligor, such property shall be transferred to the ob-
3 ligee unless the lien on the property has been released. Nothing in this
4 subsection shall be construed to require the holder to transfer any prop-
5 erty to the obligee any sooner than the holder would have been required
6 to transfer property to the obligor. To the extent that an attorney's lien
7 on the obligor's interest in any settlement, *order of restitution* or judg-
8 ment is perfected before service of the notice of lien under this section,
9 the attorney's lien shall have priority. If the property or funds are insuf-
10 ficient to satisfy all liens, the court shall conduct a hearing to determine
11 the division of such property or funds for payment on each lien.

12 Any person affected by the notice of lien who is or will be a payor as
13 defined in the income withholding act and amendments thereto may re-
14 quest that the obligee proceed under the income withholding act and
15 release the lien perfected pursuant to this section.

16 (4) If the obligor is or may become entitled to workers compensation
17 benefits, the obligee may perfect a lien on the benefits by serving a notice
18 of lien on the obligor. Copies shall be served on appropriate persons,
19 including but not limited to the director of workers compensation. The
20 notice of lien shall have the effect of attaching the obligor's interest in
21 the workers compensation benefits. Any person holding property or funds
22 to satisfy the obligor's interest shall be prohibited from transferring to the
23 obligor any of such property or funds without the written consent of the
24 obligee. At the time that the holder would otherwise be required to trans-
25 fer property to the obligor, such property shall be transferred to the ob-
26 ligee unless the lien on the property has been released. Nothing in this
27 subsection shall be construed to require the holder to transfer any prop-
28 erty to the obligee any sooner than the holder would have been required
29 to transfer property to the obligor. To the extent that attorney fees are
30 allowed by K.S.A. 44-501 et seq. and amendments thereto, the attorney
31 fees shall have priority subject to the current limitations provided in
32 K.S.A. 44-720, and amendments thereto.

33 Any person affected by the notice of lien who is or will be a payor as
34 defined in the income withholding act and amendments thereto may re-
35 quest that the obligee proceed under the income withholding act and
36 release the lien perfected pursuant to this section.

37 (5) *With respect to amounts payable pursuant to a policy of insur-*
38 *ance, the secretary of social and rehabilitation services may perfect a lien*
39 *for unpaid support in a title IV-D case by complying with the require-*
40 *ments of section 2, and amendments thereto.*

41 (b) As used in this section:

42 (1) "Aircraft" has the meaning provided by K.S.A. 3-201, and amend-
43 ments thereto.

1 (2) "Vehicle" has the meaning provided by K.S.A. 8-126, and amend-
2 ments thereto.

3 (3) "Vessel" has the meaning provided by K.S.A. 82a-801, and
4 amendments thereto.

5 (4) "Arrearage," "title IV-D," "obligor" and "order for support" have
6 the meanings provided by K.S.A. 23-4,106, and amendments thereto.

7 (5) "Obligee" means the person or entity to whom a duty of support
8 is owed, including but not limited to any title IV-D agency.

9 (6) "Workers compensation" has the meaning provided by K.S.A. 44-
10 501 et seq., and amendments thereto.

11 (7) "Attorney's lien" has the meaning provided by K.S.A. 7-108, and
12 amendments thereto.

13 Sec. 8. K.S.A. 23-9,102 is hereby amended to read as follows: 23-
14 9,102. The courts *and, with respect to cases receiving child support en-*
15 *forcement services pursuant to K.S.A. 39-753, and amendments thereto,*
16 *the department of social and rehabilitation services* are the tribunals of
17 this state.

18 Sec. 9. K.S.A. 39-759 is hereby amended to read as follows: 39-759.

19 (a) With respect to information obtained by the secretary under K.S.A.
20 39-758 or K.S.A. 39-7,136, 39-7,143 and 39-7,150, and amendments
21 thereto, any person who willfully requests, obtains or seeks to obtain
22 confidential information except in accordance with any law permitting
23 such disclosure shall be guilty of a class B nonperson misdemeanor. With
24 respect to information obtained by the secretary under *section 1, 2*, K.S.A.
25 39-758 or K.S.A. 39-7,136, 39-7,143 and 39-7,150, and amendments
26 thereto, any person who willfully requests, obtains or seeks to obtain
27 confidential information under false pretenses or who willfully commu-
28 nicates or seeks to communicate such information to any person except
29 in accordance with any law permitting such disclosure shall be guilty of
30 a severity level 10, nonperson felony. If the offender is an officer or em-
31 ployee of the state or a political subdivision of the state, such officer or
32 employee shall be dismissed from office. If the offender's supervisor does
33 not dismiss the offender, such supervisor shall be dismissed from office.
34 Any violation of this subsection by a IV-D contractor or an agent of a IV-
35 D contractor shall be grounds for termination of the IV-D contract and
36 the contract shall be terminated. The provisions of this subsection shall
37 be a complete defense in any civil action concerning such dismissal, ter-
38 mination of the IV-D contract or termination of a contractor's relationship
39 with an individual offender. When the individual is hired as an officer or
40 employee of the state or a political subdivision or hired by a IV-D con-
41 tractor, such individual shall be given verbal and written notice of the
42 provisions of this subsection. Such individual shall sign a statement stating
43 that such information was received.

1 (b) Effective October 1, 1997, the secretary shall safeguard, to the
2 extent required by title IV-D or any other provision of law, any confiden-
3 tial information handled by the secretary. Unauthorized use or disclosure
4 of information relating to proceedings or actions to establish paternity or
5 to establish or enforce a support obligation is prohibited, except that noth-
6 ing in this provision shall prevent the secretary or the secretary's desig-
7 nees from using or disclosing information, or authorizing use or disclosure
8 of information, as needed in the administration of the IV-D program or
9 as authorized by title IV-D.

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

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

31 Sec. 10. K.S.A. 39-7,136 is hereby amended to read as follows: 39-
32 7,136. Pursuant to a subpoena for records issued under the code of civil
33 procedure or K.S.A. 39-7,144, and amendments thereto, the secretary or
34 a title IV-D agency of another state shall have access to information re-
35 lated to a IV-D case that is in the custody or control of an individual or
36 private entity as follows:

37 (a) Each party to a paternity or child support proceeding in any case
38 included in the state case registry shall provide, and update as appropri-
39 ate, information about the location and identity of the party. To the extent
40 such information exists, it shall include but not be limited to the person's
41 full name, social security number, residential and mailing addresses, tel-
42 ephone number, driver's license number and the name, address and tel-
43 ephone number of the person's employer.

- 1 (b) Any employer shall promptly provide information on the employ-
2 ment, compensation and benefits of any individual employed by such
3 person or entity as an employee or contractor.
- 4 (c) Any person or entity holding customer records of a public utility
5 or cable television company shall comply with a subpoena for information
6 about an individual consisting of the individual's name, address, employer,
7 or employer's address as reflected in such records.
- 8 (d) A financial institution shall promptly provide information upon
9 request about an individual or the individual's property ~~of~~ or liabilities.
- 10 (e) Confidential information received by the secretary under this sec-
11 tion shall be subject to the safeguards of K.S.A. 39-759, and amendments
12 thereto.
- 13 (f) This section shall be part of and supplemental to article 7 of chap-
14 ter 39 of the Kansas Statutes Annotated, *and amendments thereto*.
- 15 Sec. 11. K.S.A. 39-7,138 is hereby amended to read as follows: 39-
16 7,138. The following definitions shall apply in any IV-D administrative
17 proceeding related to K.S.A. 39-7,137 through 39-7,152, and amend-
18 ments thereto, *and section 5, and amendments thereto*, except where the
19 context requires otherwise.
- 20 (a) "Account" means a demand deposit account, checking or nego-
21 tiable withdrawal order account, savings account, time deposit account or
22 money-market mutual fund account.
- 23 (b) "Arrearages" means past due support under any support order of
24 any tribunal of this or any other state, including but not limited to the
25 unpaid balance of any costs awarded, public assistance debt or accrued
26 interest.
- 27 (c) "Business day" means a day on which state *administrative* offices
28 in Kansas are open for regular business.
- 29 (d) "Cash asset" means any intangible property that consistently
30 maintains a fair market value of one dollar per unit *and includes any*
31 *amount payable under a policy of insurance that may be subject to a lien*
32 *pursuant to K.S.A. 23-4,146, and amendments thereto*. It shall be pre-
33 sumed that any account held by a financial institution and from which
34 the obligor may make cash withdrawals, with or without penalty, consists
35 entirely of cash assets.
- 36 (e) "Current support" includes but is not limited to the duty to pro-
37 vide for a child's ongoing medical needs through cash, insurance coverage
38 or other means. "Current support" does not include any periodic amount
39 specified to defray arrearages.
- 40 (f) "Custodial parent" means the parent or other person receiving IV-
41 D services on the child's behalf and may include an agency acting *in loco*
42 *parentis*, a guardian, or a blood or adoptive relative with whom the child
43 resides.

- 1 (g) “Duty of support” means any duty to support another person that
 2 is imposed or imposable by law or by any order, decree or judgment of
 3 any tribunal, whether interlocutory or final or whether incidental to a
 4 proceeding for divorce, judicial separation, separate maintenance or oth-
 5 erwise, including but not limited to the duty to provide current support,
 6 the duty to provide medical support, the duty to pay birth expenses, the
 7 duty to pay a public assistance debt and the duty to pay arrearages.
- 8 (h) “Financial institution” means any financial institution as defined
 9 in ~~469A~~ section 669A of the federal social security act (42 U.S.C. § 469A)
 10 and amendments thereto.
- 11 (i) “Holder” means any person who is or may be in possession or
 12 control of any cash asset of the responsible parent.
- 13 (j) “IV-D” or “title IV-D” means part D of title IV of the federal
 14 social security act (42 U.S.C. § 651 et seq.), and amendments thereto, as
 15 in effect on ~~May 1, 1997~~ December 31, 2004. “IV-D services” means those
 16 services the secretary provides pursuant to title IV-D.
- 17 (k) “*Insurance company*” has the meaning ascribed thereto in K.S.A.
 18 40-201, and amendments thereto.
- 19 (l) “Party” means the secretary, the responsible parent, the custodial
 20 parent or the child or any assignee or other successor in interest to any
 21 of them.
- 22 ~~(m)~~ (m) “Public assistance debt” means the obligation to reimburse
 23 public assistance as described in K.S.A. 39-718b or 39-719 and amend-
 24 ments thereto or in any similar law of this or any other state.
- 25 ~~(n)~~ (n) “Responsible parent” means, if a child is receiving or has
 26 received IV-D services from the secretary, the mother, father or alleged
 27 father of the child.
- 28 ~~(o)~~ (o) “Secretary” means the secretary of social and rehabilitation
 29 services or a designee of the secretary.
- 30 ~~(p)~~ (p) “State” means a state of the United States, the District of
 31 Columbia, Puerto Rico, the United States Virgin Islands or any territory
 32 or insular possession subject to the jurisdiction of the United States. The
 33 term “state” includes an Indian tribe and includes any jurisdiction de-
 34 clared a foreign reciprocating country by the United States secretary of
 35 state and any foreign jurisdiction that has established procedures for is-
 36 suance and enforcement of child support orders which are substantially
 37 similar to the procedures of this state. It shall be presumed that a foreign
 38 jurisdiction which is the subject of an unrevoked declaration by the at-
 39 torney general pursuant to K.S.A. 23-4,101 and amendments thereto is a
 40 state as defined in this subsection.
- 41 ~~(q)~~ (q) “Support order” means any order by which a person’s duty of
 42 support is established, including but not limited to any order modifying
 43 a prior support order.

1 ~~(q)~~ (r) “Tribunal” means any court, administrative agency or quasi-
 2 judicial entity authorized to establish, modify or enforce support orders
 3 or to determine parentage. ~~With respect to support orders entered in this~~
 4 ~~state, the courts are the tribunals in Kansas.~~

5 Sec. 12. K.S.A. 39-7,139 is hereby amended to read as follows: 39-
 6 7,139. (a) The powers and remedies provided in this section are cumu-
 7 lative and do not affect any other powers of the secretary or the availability
 8 of remedies under other law.

9 (b) In any case for which the secretary is providing IV-D services, the
 10 secretary, subject to de novo court review as provided in subsection (c),
 11 may:

- 12 (1) Obtain access to information as authorized by law;
- 13 (2) subpoena records pursuant to K.S.A. 39-7,144, and amendments
 14 thereto;
- 15 (3) order genetic tests pursuant to K.S.A. 39-7,145, and amendments
 16 thereto;
- 17 (4) order minimum payments to defray arrearages pursuant to K.S.A.
 18 39-7,146, and amendments thereto;
- 19 (5) enforce any duty of support by income withholding pursuant to
 20 the income withholding act and K.S.A. 39-7,147 et seq., and amendments
 21 thereto;
- 22 (6) enforce any duty of support by administrative levy pursuant to
 23 K.S.A. 39-7,150, and amendments thereto;
- 24 (7) perfect any lien against property;
- 25 (8) order executions against property pursuant to K.S.A. 60-2401, and
 26 amendments thereto; ~~and~~
- 27 (9) change the payee of any support order pursuant to K.S.A. 39-
 28 7,151, and amendments thereto; *and*
- 29 (10) *establish a current support order pursuant to section 5, and*
 30 *amendments thereto.*

31 (c) In any action by the secretary pursuant to subsection (b), an ag-
 32 grieved person has the right to file a petition with the district court pur-
 33 suant to chapter 60 of the Kansas Statutes Annotated, and amendments
 34 thereto, for de novo court review of such action by the secretary. An
 35 aggrieved person shall not be required to first exhaust administrative rem-
 36 edies that may be available to such person. If such person files a petition
 37 for de novo review and a request for an administrative hearing has already
 38 been docketed, such administrative hearing shall be stayed until the court
 39 has reviewed and rendered a decision on such petition. The secretary of
 40 social and rehabilitation services shall be a necessary party to the action.
 41 In any action under this subsection, the court may grant relief that would
 42 have been available to the parties in an administrative hearing conducted
 43 pursuant to K.S.A. 75-3306, and amendments thereto.

1 (d) In any action by the secretary pursuant to subsection (b), the
2 secretary shall give written notice to the party, clearly and conspicuously,
3 of the right to a de novo court review pursuant to subsection (c).

4 (e) The secretary may designate employees of the secretary to serve
5 as authorized agents to exercise powers of the secretary in IV-D admin-
6 istrative proceedings. By written contract, the secretary may designate
7 other persons to serve as authorized agents to exercise specific powers of
8 the secretary in IV-D cases.

9 Sec. 13. K.S.A. 39-7,140 is hereby amended to read as follows: 39-
10 7,140. (a) The secretary shall have jurisdiction over:

11 (1) Any person receiving IV-D services from the secretary;

12 (2) any person within or without this state who may be made subject
13 to the jurisdiction of the courts of this state for the purpose of determining
14 the person's duty of support or for establishing or enforcing a support
15 order;

16 (3) any person without this state who may be made subject to the
17 jurisdiction of the secretary for IV-D purposes by the laws of the juris-
18 diction in which the person resides or may be found; and

19 (4) any person who may be made subject to the jurisdiction of the
20 courts of this state because the person is or may be in possession or
21 control of property of the responsible parent, is or may be indebted to
22 the responsible parent or is or may be the responsible parent's payor as
23 defined in the income withholding act and amendments thereto.

24 (b) The jurisdiction of the secretary over any person shall commence
25 at the time the person is served with an initial notice or order in any IV-
26 D administrative proceeding or, for a person receiving IV-D services from
27 the secretary, at the time the secretary's IV-D services begin. "Initial
28 notice or order" includes, *but is not limited to*, a subpoena, an order for
29 genetic tests, a notice of lien, an income withholding order and an order
30 to restrict transfer.

31 The secretary's jurisdiction over the responsible parent shall continue
32 so long as IV-D administrative proceedings are pending or so long as a
33 duty of support exists, whichever is longer, regardless of the responsible
34 parent's subsequent departure from this state.

35 (c) Except as provided in subsection (d) or as otherwise specifically
36 required by law, service of any subpoena, notice or order in any IV-D
37 administrative proceeding upon any person shall be by regular mail ad-
38 dressed to the person's last known address. Service by mail is complete
39 upon mailing. Nothing in this subsection shall prevent the secretary and
40 any person from agreeing to an alternative method of service, including
41 but not limited to electronic data transfer. Any person accepting an al-
42 ternative method of service under this subsection shall not be liable to
43 any person solely because of the method of service.

1 (d) Service upon the responsible parent of an order for genetic tests
2 shall be made only by personal service or ~~registered~~ *certified* mail, return
3 receipt requested.

4 ~~(e) If service of any notice or order in a IV-D administrative pro-~~
5 ~~ceeding must be made only by personal service or registered mail, return~~
6 ~~receipt requested is qualified to serve the notice or order [°].~~

7 ~~(f)~~ Except as otherwise provided in this subsection, substantial com-
8 pliance with the requirements for any method of service provided by this
9 section shall effect valid service if, upon review, the hearing officer or
10 tribunal finds that, notwithstanding some irregularity or omission, the
11 person served was made aware that an action or proceeding was pending
12 in which the person's person, status or property could be affected.

13 After commencement of any IV-D administrative proceeding, service
14 upon the secretary of any notice or document in the same IV-D admin-
15 istrative proceeding at any address other than the current address pro-
16 vided by the secretary shall not be effective service upon or notice to the
17 secretary.

18 Sec. 14. K.S.A. 39-7,141 is hereby amended to read as follows: 39-
19 7,141. Except to the extent precluded by another provision of law, a per-
20 son may waive any right conferred upon that person with respect to any
21 IV-D proceeding. Anyone seeking waiver shall advise the person of the
22 right to seek independent legal advice. Such waiver may be revoked in
23 writing within ~~20~~ *three* days following the date of such waiver.

24 Sec. 15. K.S.A. 39-7,144 is hereby amended to read as follows: 39-
25 7,144. (a) In any title IV-D case, the secretary may issue a subpoena
26 pursuant to this section to obtain information about the responsible par-
27 ent's whereabouts or finances if the information is needed to establish,
28 modify or enforce a support order. The subpoena shall require the person
29 to whom it is directed to produce a copy of the records designated in the
30 subpoena or, if applicable, to complete a form furnished pursuant to sub-
31 section (c). At least 14 days shall be allowed for compliance with the
32 subpoena. A subpoena issued pursuant to this section shall be subject to
33 defenses which would apply if the subpoena had been issued by a court
34 of this state.

35 (b) A subpoena issued pursuant to this section ~~shall be served only~~
36 ~~by personal service or registered mail, return receipt requested~~ *may be*
37 *served by first class mail.*

38 (c) The secretary may furnish with the subpoena a form requesting
39 specific information from the records of the person to whom the sub-
40 poena is directed. The person may elect to furnish the copy of the des-
41 ignated records or to complete the form in full. If the person completes
42 the form in full and returns it to the secretary's authorized agent by mail
43 or otherwise within the time allowed, it shall be sufficient compliance

1 with the subpoena.

2 (d) Except as otherwise provided in this subsection or subsection (c),
3 the person to whom a subpoena is directed shall comply with the sub-
4 poena by delivering to the secretary's authorized agent by mail or oth-
5 erwise a sworn statement and a true and correct copy of the records
6 designated in the subpoena. The sworn statement shall certify that the
7 copy delivered by the person is a true and correct copy of the records
8 designated in the subpoena. When more than one person has custody of
9 the records or has knowledge of the facts required to be stated in the
10 sworn statement, more than one sworn statement may be made.

11 If the person has none of the records designated in the subpoena, or
12 only part thereof, the person shall so state in the sworn statement and
13 shall send a copy of those records of which the person has custody.

14 (e) Before the time specified in the subpoena for compliance there-
15 with, the person to whom the subpoena is directed may request: (1) An
16 administrative hearing to review all or part of the subpoena by complying
17 with procedures established by the secretary for requesting such a review;
18 or (2) a de novo court review pursuant to K.S.A. 39-7,139, and amend-
19 ments thereto. The person shall comply with any portion of the subpoena
20 for which review is not requested. If the subpoena is served by mail, the
21 time for requesting review shall be extended by three days. If the request
22 for review is made within the time allowed, the effect of the subpoena
23 shall be stayed pending resolution of the review. Upon request, the pre-
24 siding officer may limit the stay to the matters under review.

25 (f) Except as otherwise provided in this subsection, a subpoena issued
26 pursuant to this section whose effect has not been stayed may be enforced
27 pursuant to the civil enforcement provisions of the act for judicial review
28 and civil enforcement of agency actions, K.S.A. 77-601, et seq., and
29 amendments thereto, after the time for compliance with the subpoena
30 has expired. A subpoena issued pursuant to this section shall not be en-
31 forceable more than two years after the date of issuance shown on the
32 face of the subpoena.

33 Sec. 16. K.S.A. 39-7,145 is hereby amended to read as follows: 39-
34 7,145. (a) This section shall not apply if an action to establish the father's
35 duty of support on behalf of the child is pending before any tribunal. As
36 used in this section, "mother" means the natural mother of the child
37 whose parentage is in issue.

38 (b) Except as otherwise provided in subsection (d), genetic tests may
39 be ordered by the secretary if the alleged father consents and the nec-
40 essary persons are available for testing. Except as otherwise provided in
41 subsection (e), the secretary shall pay the costs of genetic tests, subject
42 to recoupment from the father if paternity is established. For purposes
43 of this section, a person receiving title IV-D services is not available for

1 testing if a claim for good cause not to cooperate under title IV-D is
2 pending or has been determined in the person's favor or if the person
3 ~~ceases~~ *has ceased* to receive title IV-D services for any reason.

4 (c) A copy of the order for genetic tests ~~shall~~ *may* be served upon
5 persons required to comply with the order ~~only by personal service or~~
6 ~~registered mail, return receipt requested~~ *by first class mail*. The order
7 shall specify the time and place the person is required to appear for
8 testing, which shall be at least ten days after the date the order is entered.

9 (d) If a presumption of paternity arises pursuant to subsection (a) of
10 K.S.A. 38-1114, and amendments thereto because the mother married or
11 attempted to marry any man, the secretary shall not order genetic testing
12 unless a court of this state or an appropriate tribunal in another state has
13 found that determining the child's biological father is in the child's best
14 interests. If a tribunal subsequently determines that the prohibition of
15 this subsection applied at the time genetic tests were ordered by the
16 secretary, any support order based in whole or in part upon the genetic
17 tests may be set aside only as provided in K.S.A. 60-260, and amendments
18 thereto.

19 (e) Upon receiving the results of genetic testing, the secretary shall
20 promptly send a copy of the results to the parties, together with notice
21 of the time limits for requesting any additional genetic tests or for chal-
22 lenging the results pursuant to K.S.A. 38-1118, and amendments thereto,
23 how to make such request or challenge, and any associated costs. The
24 notice shall state the consequences pursuant to K.S.A. 38-1118, and
25 amendments thereto of failing to act within the time allowed by the stat-
26 ute. Any additional genetic tests shall be at the expense of the person
27 making the request for additional genetic tests. Failure of the person
28 requesting additional tests to make advance payment as required by the
29 secretary shall be deemed withdrawal of the request.

30 (f) Any person required to comply with an order issued pursuant to
31 this section may request: (1) An administrative hearing pursuant to K.S.A.
32 75-3306, and amendments thereto, by complying with procedures estab-
33 lished by the secretary within ten days after entry of the order; or (2) a
34 de novo court review pursuant to K.S.A. 39-7,139, and amendments
35 thereto. If the order is served on the person by mail, the time for re-
36 questing review shall be extended by three days. An order issued pursuant
37 to this section shall be subject to defenses that would apply if the order
38 had been issued by a court of this state. If the request for review is made
39 within the time allowed, the effect of the order shall be stayed with re-
40 spect to the person requesting review pending resolution of the review.

41 (g) An order issued pursuant to this section whose effect has not been
42 stayed may be enforced pursuant to the civil enforcement provisions of
43 the act for judicial review and civil enforcement of agency actions, K.S.A.

1 77-601, et seq., and amendments thereto, after the time for compliance
2 with the order has expired.

3 Sec. 17. K.S.A. 39-7,146 is hereby amended to read as follows: 39-
4 7,146. (a) If the responsible parent owes any arrearages, the secretary
5 may serve upon the responsible parent an order for minimum payments
6 to defray the arrearages. The order shall identify the amount of unpaid
7 arrearages and the minimum periodic payment the obligor is required to
8 make to defray the arrearages. The amount specified for the minimum
9 periodic payment shall be in addition to any current support order. The
10 order shall state that failure to request review of the stated amount of
11 arrearages may bar any later challenge to the amount. The order ~~shall~~
12 ~~may~~ be served on the responsible parent ~~only by personal service or~~
13 ~~registered mail, return receipt requested by first class mail.~~

14 (b) The secretary shall adopt guidelines for determining minimum
15 payments to defray arrearages that may be ordered pursuant to this sec-
16 tion. To the extent that information is known, the following factors shall
17 be considered: the financial condition of the child, custodial parent and
18 responsible parent; the amount of the current support order; the exis-
19 tence of other dependents; and the total of unpaid arrearages.

20 (c) Unless stayed, an order issued pursuant to this section shall be
21 effective 30 days after the date of entry. The responsible parent may
22 request: (1) An administrative hearing pursuant to K.S.A. 75-3306, and
23 amendments thereto, by complying with procedures established by the
24 secretary within ten days after entry of the order; or (2) a de novo court
25 review pursuant to K.S.A. 39-7,139, and amendments thereto. If the order
26 is served by mail, the time shall be extended by three days.

27 (d) If, after an order issued pursuant to this section becomes effec-
28 tive, the responsible parent fails to make the minimum payments to defray
29 arrearages, the order may be enforced pursuant to the civil enforcement
30 provisions of the act for judicial review and civil enforcement of agency
31 actions, K.S.A. 77-601 et seq., and amendments thereto.

32 Sec. 18. K.S.A. 39-7,147 is hereby amended to read as follows: 39-
33 7,147. (a) Except as otherwise provided in K.S.A. 23-4,107 or K.S.A. 39-
34 7,149, and amendments thereto, if no income withholding order is in
35 effect to enforce a support order in a title IV-D case, an income with-
36 holding order may be entered by the secretary. A notice of intent to
37 initiate income withholding, as described in K.S.A. 23-4,107, and amend-
38 ments thereto, shall be served on the responsible parent at least seven
39 days before the secretary issues the income withholding order. If the
40 amount of arrearages is less than the amount of current support due for
41 one month, the requirements of subsection (d) must be met. The income
42 withholding order shall conform to the requirements of the income with-
43 holding act and amendments thereto and shall have the same force and

1 effect as an income withholding order issued by a district court of this
2 state.

3 (b) If an income withholding order is issued by the secretary to en-
4 force a support order entered by a court of this state, the original docu-
5 ment shall be delivered for filing to the clerk of the court that entered
6 the support order. Thereafter, if the secretary is no longer providing title
7 IV-D services in the case, the clerk of the district court shall use the
8 income withholding order issued by the secretary in the same manner as
9 an income withholding order issued by the court.

10 (c) If an income withholding order is issued by the secretary to en-
11 force a support order entered by a tribunal of another state, the secretary
12 shall transmit a copy of the income withholding order to the tribunal of
13 the other state.

14 (d) If there are no arrearages or the amount of arrearages under the
15 support order is less than the amount of current support due for one
16 month, the secretary may initiate income withholding only if:

17 (1) Any arrearages are owed;

18 (2) a medical child support order exists;

19 (3) the secretary determines that immediate issuance of the income
20 withholding order was required by K.S.A. 23-4,107, and amendments
21 thereto, or by a similar law of another state, but no income withholding
22 order was entered;

23 (4) the responsible parent consents;

24 (5) required payments have been received after the due date at least
25 twice within the preceding 12 months, regardless of whether any arrear-
26 ages are owed; or

27 (6) the support order was entered by a tribunal of another state.

28 ~~If the support order was entered by or registered with a court of~~
29 ~~this state, the notice of intent to initiate income withholding shall be~~
30 ~~served on the responsible parent by only personal service or registered~~
31 ~~mail, return receipt requested. In all other cases, the~~ *The* notice of intent
32 to initiate income withholding ~~shall~~ *may* be served upon the responsible
33 parent ~~only by personal service or registered mail, return receipt re-~~
34 ~~quested by first class mail.~~

35 (f) *This section shall not apply to any immediate income withholding*
36 *order entered pursuant to section 5, and amendments thereto.*

37 Sec. 19. K.S.A. 39-7,148 is hereby amended to read as follows: 39-
38 7,148. (a) At any time after issuing an income withholding order, the
39 secretary shall: (1) Modify or terminate the income withholding order
40 because of a modification or termination of the underlying support order;
41 (2) modify the amount of income withheld to reflect payment in full of
42 the arrearages; (3) modify or terminate the income withholding order to
43 reflect the final order in a fair hearing pursuant to K.S.A. 75-3306, and

1 amendments thereto; or (4) modify, or when appropriate terminate, an
2 income withholding order consisting in whole or in part of a medical
3 withholding order because of a modification or termination of the un-
4 derlying medical child support order.

5 (b) In addition to modifications required by subsection (a), at any
6 time the secretary may issue a modified income withholding order: (1)
7 To change the amount to be withheld to defray arrearages; or (2) to
8 conform the terms of a medical withholding order to the requirements
9 of a payer. The provisions of this subsection shall apply only to income
10 withholding orders issued pursuant to K.S.A. 39-7,147, and amendments
11 thereto, including any modifications of such orders.

12 (c) The secretary shall provide notice of any proposed modification
13 to the responsible parent by ~~only personal service or registered mail,~~
14 ~~return receipt requested~~ *first class mail* at least 14 days before entry of
15 the modified income withholding order. The responsible parent may re-
16 quest: (1) An administrative hearing pursuant to K.S.A. 75-3306, and
17 amendments thereto, for review of the proposed modification by com-
18 plying with procedures established by the secretary within ten days after
19 service of the notice; or (2) a de novo court review pursuant to K.S.A. 39-
20 7,139, and amendments thereto. If the notice is served by mail, the time
21 for requesting review shall be extended by three days. If the proposed
22 modification increases the total amount to be withheld from the respon-
23 sible parent's income, entry of the modified income withholding order
24 shall be stayed pending resolution of the review. In all other instances,
25 entry of the proposed modification shall be stayed only for cause. The
26 issues in the administrative hearing shall be limited to whether the
27 amount of current support is as stated in the proposed modification and
28 whether the total arrearages are less than the proposed installment to
29 defray arrearages.

30 (d) The responsible parent may request that the secretary terminate
31 an income withholding order for cash support if: (1) Withholding has not
32 previously been terminated and reinitiated; and (2) there is a written
33 agreement among the parties that provides for an alternative arrange-
34 ment. If an income withholding order is terminated and the obligor sub-
35 sequently accrues any arrearages, the secretary may issue another income
36 withholding order as provided in K.S.A. 39-7,147, and amendments
37 thereto.

38 (e) If the income withholding order includes both a medical with-
39 holding order and an income withholding order for cash support, modi-
40 fication or termination of one portion of the income withholding order
41 shall not modify or terminate any other portion of the income withholding
42 order except as expressly provided in the order.

43 (f) The provisions of K.S.A. 39-7,147, and amendments thereto, re-

1 lating to transmitting income withholding orders to the tribunal that is-
2 sued the underlying support order, shall apply to any order issued mod-
3 ifying or terminating income withholding that is issued pursuant to this
4 section.

5 Sec. 20. K.S.A. 39-7,150 is hereby amended to read as follows: 39-
6 7,150. (a) Upon determining that arrearages exist in a title IV-D case, the
7 secretary may enforce the support order by an administrative levy upon
8 the responsible parent's cash assets. Any retirement fund that may be
9 revoked or terminated by the responsible parent and is composed of cash
10 assets shall be subject to administrative levy under this section, notwith-
11 standing any other provision of law ~~unless the retirement fund has any~~
12 ~~primary beneficiary other than the responsible parent or the responsible~~
13 ~~parent's spouse.~~

14 (b) To initiate an administrative levy under this section, the secretary
15 shall serve an order to restrict transfer upon the holder of any cash asset
16 of the responsible parent. The secretary may include with the order to
17 restrict transfer an order to verify information concerning the cash asset.
18 Except as otherwise provided pursuant to subsection (i), the order to
19 restrict transfer ~~shall be served only by personal service or registered mail,~~
20 ~~return receipt requested~~ *may be served by first class mail.*

21 (c) The order to restrict transfer shall attach, upon receipt by the
22 holder, the interest of the responsible parent in any cash asset in the
23 possession or control of the holder subject to any *exemption*, prior at-
24 tachment or lien or any right of setoff that the holder may have against
25 such assets. *The amount attached shall not exceed the amount stated in*
26 *the order to restrict transfer.* If the total value of all attachable cash assets
27 is less than \$25 at that time, no interest shall be attached by the order to
28 restrict transfer. Upon attachment, the holder shall not transfer any of
29 the attached assets without the consent of the secretary until further order
30 of the secretary.

31 (d) Any cash asset ~~held~~ *owned* by the responsible parent in joint ten-
32 ancy with rights of survivorship shall be presumed to be owned entirely
33 by the responsible parent. The burden of proving otherwise shall be upon
34 any person asserting ownership of any attached cash asset. Neither the
35 holder nor the secretary shall be liable to the joint owners if the ownership
36 of the cash assets is later proven not to be the responsible parent's.

37 (e) The holder shall promptly notify any co-owner of the cash asset
38 or account about the attachment if the co-owner's interest appears to be
39 affected by the attachment.

40 (f) If an order to restrict transfer is issued, the secretary shall simul-
41 taneously send notice to the responsible parent by ~~only personal service~~
42 ~~or registered mail, return receipt requested~~ *first class mail.* The notice
43 shall state when review is available and how to request review.

1 (g) If the secretary includes with the order to restrict transfer an
2 order to verify information, the holder shall comply with the terms of the
3 order to verify information within 14 days of receipt.

4 (h) If the time allowed to request an administrative hearing has
5 elapsed and the proposed levy has not been challenged or the challenge
6 has been resolved, in whole or in part, in favor of the secretary, the
7 secretary shall issue an order to the holder to disburse the attached funds.

8 (i) If the holder is a financial institution *or insurance company* that
9 has entered into an agreement with the secretary, the agreement may
10 provide for alternative methods of: (1) Notifying the financial institution
11 *or insurance company* to restrict transfer of cash assets or to disburse
12 proceeds of the order; (2) resolving disputes between the financial insti-
13 tution *or insurance company* and the secretary concerning an adminis-
14 trative levy; and (3) exchanging any data related to the IV-D program.

15 (j) The exemptions contained in article 23 of chapter 60 shall apply
16 to any attachment under this section.

17 (k) The responsible parent, the holder or any co-owner *of the cash*
18 *asset* may contest any order entered under this section that affects the
19 person's rights or duties. The aggrieved person may request: (1) an ad-
20 ministrative hearing pursuant to K.S.A. 75-3306, and amendments
21 thereto, by complying with procedures established by the secretary within
22 ten days after entry of the order being contested; or (2) a de novo court
23 review pursuant to K.S.A. 39-7,139, and amendments thereto. If the order
24 is served on the person by mail, the person's time for requesting review
25 shall be extended by three days.

26 (l) Except as otherwise provided in this subsection, the effect of an
27 order to restrict transfer may be stayed pending resolution of any admin-
28 istrative hearing only upon request and only if the person requesting the
29 stay posts a cash or surety bond or provides other unencumbered security
30 equal in value to the amount of the attached assets. Upon notice and
31 opportunity for hearing, the presiding officer may stay or limit the effect
32 of an order to restrict transfer if the request for stay is accompanied by
33 a sworn statement that the responsible parent ~~is not the owner~~ *owns none*
34 *of the attached assets.*

35 The effect of an order to verify information or an order to disburse
36 attached funds shall be stayed only *for good cause shown and* at the
37 discretion of the presiding officer.

38 (m) An order issued pursuant to this section whose effect has not
39 been stayed may be enforced pursuant to the civil enforcement provisions
40 of the act for judicial review and civil enforcement of agency actions,
41 K.S.A. 77-601 et seq., and amendments thereto, after the time for com-
42 pliance with the order has expired. An order issued pursuant to this sec-
43 tion shall not be enforceable more than two years after the date of entry

1 shown on the face of the order.

2 Sec. 21. K.S.A. 39-7,151 is hereby amended to read as follows: 39-
3 7,151. (a) Nothing in this section shall be construed to prevent the sec-
4 retary from redirecting support payments by filing a notice of assignment
5 pursuant to K.S.A. 39-754, and amendments thereto, or to require the
6 secretary to issue an order to change payee in lieu of filing such a notice
7 of assignment.

8 (b) If a support order has been entered in any IV-D case, the sec-
9 retary may enter an order to change the payee. The order may be directed
10 to the clerk of court or any other payer under the support order and shall
11 require payments to be made and disbursed as provided in the order to
12 change payee until further notice. The order to change payee ~~shall may~~
13 ~~be served on the clerk of the court or other payer by only personal service~~
14 ~~or registered mail, return receipt requested first class mail.~~ The secretary
15 shall serve a copy of the order to change payee on the responsible parent
16 and the custodial parent and, if the previous payee is a real party in
17 interest, upon the previous payee by ~~only personal service or registered~~
18 ~~mail, return receipt requested first class mail.~~ An order to change payee
19 may be entered pursuant to this section only if the payer is subject, or
20 may be made subject, to the jurisdiction of the courts of this state. The
21 jurisdiction of the secretary over the payer for purposes of this section
22 shall commence when the payer is served with the order to change payee
23 and shall continue so long as the order to change payee is in effect and
24 has not been superseded.

25 (c) If an order to change payee is directed to any payer other than
26 the clerk of court, a copy shall also be filed with the tribunal that issued
27 the support order.

28 (d) If the underlying support order was entered or has been regis-
29 tered in this state, no order to change payee issued by any IV-D agency
30 shall be effective to require any payer, ~~other than who is not~~ a clerk of
31 court, to send payments to any location other than to the ~~clerk of court~~
32 ~~where the support order was entered or registered~~ *Kansas payment cen-*
33 *ter*, a location specified in the support order or a location specified by
34 court rule *or statute*. If the clerk of court receives an order to change
35 payee from anyone other than the secretary and a notice of assignment
36 pursuant to K.S.A. 39-754, and amendments thereto, or a conflicting or-
37 der to change payee is still in effect, the clerk of court ~~may at any time~~
38 *shall* request an administrative hearing pursuant to K.S.A. 75-3306, and
39 amendments thereto, by complying with procedures established by the
40 secretary.

41 (e) If the underlying support order was not entered and has not been
42 registered in this state, any person whose interest may be prejudiced by
43 the order to change payee may request: (1) An administrative hearing

1 pursuant to K.S.A. 75-3306, and amendments thereto, by complying with
2 procedures established by the secretary within 10 days after entry of the
3 order being contested; or (2) a de novo court review pursuant to K.S.A.
4 39-7,139, and amendments thereto. If the order is served on the person
5 by mail, the person's time for requesting review shall be extended by
6 three days.

7 (f) An order to change payee issued by a IV-D agency in another state
8 *shall be served upon the clerk of court where the support order was en-*
9 *tered and shall have the same force and effect in this state, and be subject*
10 *to the same limitations, as an order to change payee issued by the sec-*
11 *retary under this section. Subject to the provisions of subsection (d), the*
12 *clerk of court shall redirect disbursements as required by the order to*
13 *change payee, including disbursements made by the Kansas payment cen-*
14 *ter. Upon request of a IV-D agency in another state, the secretary may*
15 *enforce such an order to change payee as though it had been issued by*
16 *the secretary of social and rehabilitation services. By serving an order to*
17 *change payee related to a support order entered in this state, such IV-D*
18 *agency shall be deemed to have consented to the jurisdiction of this state*
19 *to determine how payments will be directed to maintain accurate pay-*
20 *ment records and rapid disbursement of support collections.*

21 (g) As used in this section, "clerk of court" includes any district court
22 trustee generally designated to process support payments ~~and includes~~
23 ~~any disbursement unit or entity that may be established by court rule to~~
24 ~~process support payments.~~

25 (h) In an administrative hearing pursuant to K.S.A. 75-3306, and
26 amendments thereto, the effect of an order to change payee may be
27 stayed only upon request and only if ~~the new payee is a person or entity~~
28 ~~other than the clerk of the court~~ *disbursements are held to the extent*
29 *necessary to protect the true owner pending resolution of the issues.*

30 (i) An order issued pursuant to this section whose effect has not been
31 stayed may be enforced pursuant to the civil enforcement provisions of
32 the act for judicial review and civil enforcement of agency actions, K.S.A.
33 77-601 et seq., and amendments thereto, after the time for compliance
34 with the order has expired.

35 Sec. 22. K.S.A. 2004 Supp. 65-2422d is hereby amended to read as
36 follows: 65-2422d. (a) The records and files of the division of health per-
37 taining to vital statistics shall be open to inspection, subject to the pro-
38 visions of this act and rules and regulations of the secretary. It shall be
39 unlawful for any officer or employee of the state to disclose data contained
40 in vital statistical records, except as authorized by this act and the secre-
41 tary, and it shall be unlawful for anyone who possesses, stores or in any
42 way handles vital statistics records under contract with the state to disclose
43 any data contained in the records, except as authorized by law.

1 (b) No information concerning the birth of a child shall be disclosed
2 in a manner that enables determination that the child was born out of
3 wedlock, except upon order of a court in a case where the information is
4 necessary for the determination of personal or property rights and then
5 only for that purpose, or except that employees of the office of child
6 support enforcement of the federal department of health and human
7 services shall be provided information when the information is necessary
8 to ensure compliance with federal reporting and audit requirements pur-
9 suant to title IV-D of the federal social security act or except that the
10 secretary of social and rehabilitation services or the secretary's designee
11 performing child support enforcement functions pursuant to title IV-D
12 of the federal social security act shall be provided information and copies
13 of birth certificates when the information is necessary to establish par-
14 entage in legal actions or to ensure compliance with federal reporting and
15 audit requirements pursuant to title IV-D of the federal social security
16 act. Nothing in this subsection shall be construed as exempting such em-
17 ployees of the federal department of health and human services or the
18 secretary of social and rehabilitation services or the secretary's designee
19 from the fees prescribed by K.S.A. ~~65-2418~~ 65-2418, and amendments
20 thereto.

21 (c) Except as provided in subsection (b), and amendments thereto,
22 the state registrar shall not permit inspection of the records or issue a
23 certified copy or abstract of a certificate or part thereof unless the state
24 registrar is satisfied the applicant therefor has a direct interest in the
25 matter recorded and the information contained in the record is necessary
26 for the determination of personal or property rights. The state registrar's
27 decision shall be subject, however, to review by the secretary or by a court
28 in accordance with the act for judicial review and civil enforcement of
29 agency actions, subject to the limitations of this section.

30 (d) The secretary shall permit the use of data contained in vital sta-
31 tistical records for research purposes only, but no identifying use of them
32 shall be made.

33 (e) Subject to the provisions of this section the secretary may direct
34 the state registrar to release birth, death and stillbirth certificate data to
35 federal, state or municipal agencies.

36 (f) On or before the 20th day of each month, the state registrar shall
37 furnish to the county election officer of each county, without charge, a
38 list of deceased residents of the county who were at least 18 years of age
39 and for whom death certificates have been filed in the office of the state
40 registrar during the preceding calendar month. The list shall include the
41 name, age or date of birth, address and date of death of each of the
42 deceased persons and shall be used solely by the election officer for the
43 purpose of correcting records of their offices.

1 (g) No person shall prepare or issue any certificate which purports to
2 be an original, certified copy or abstract or copy of a certificate of birth,
3 death or fetal death, except as authorized in this act or rules and regu-
4 lations adopted under this act.

5 (h) Records of births, deaths or marriages which are not in the cus-
6 tody of the secretary of health and environment and which were created
7 before July 1, 1911, pursuant to chapter 129 of the 1885 Session Laws of
8 Kansas, and any copies of such records, shall be open to inspection by
9 any person and the provisions of this section shall not apply to such
10 records.

11 (i) Social security numbers furnished pursuant to K.S.A. 65-2409a,
12 and amendments thereto, shall only be used as permitted by title IV-D
13 of the federal social security act and amendments thereto or as permitted
14 by section 7(a) of the federal privacy act of 1974 and amendments thereto.
15 The secretary shall make social security numbers furnished pursuant to
16 K.S.A. 65-2409a, and amendments thereto, available to the department
17 of social and rehabilitation services for purposes permitted under title IV-
18 D of the federal social security act.

19 (j) Fact of death information may be disseminated to state and federal
20 agencies administering benefit programs. Such information shall be used
21 for file clearance purposes only.

22 Sec. 23. K.S.A. 2004 Supp. 74-2012 is hereby amended to read as
23 follows: 74-2012. (a) (1) All motor vehicle records shall be subject to the
24 provisions of the open records act, except as otherwise provided under
25 the provisions of this section and by K.S.A. 74-2022, and amendments
26 thereto.

27 (2) For the purpose of this section, "motor vehicle records" means
28 any record that pertains to a motor vehicle drivers license, motor vehicle
29 certificate of title, motor vehicle registration or identification card issued
30 by the division of vehicles.

31 (b) All motor vehicle records which: (1) Relate to the physical or
32 mental condition of any person; (2) have been expunged; or (3) are pho-
33 tographs or digital images maintained in connection with the issuance of
34 drivers' licenses shall be confidential and shall not be disclosed except in
35 accordance with a proper judicial order or as otherwise more specifically
36 provided in this section or by other law. Photographs or digital images
37 maintained by the division of vehicles in connection with the issuance of
38 drivers' licenses shall be available to criminal justice agencies, as defined
39 in K.S.A. 22-4701, and amendments thereto, for use in criminal investi-
40 gations or criminal proceedings *and to the secretary of social and reha-*
41 *ilitation services for the purposes of providing child support enforcement*
42 *services pursuant to K.S.A. 39-753, and amendments thereto.* Motor ve-
43 hicle records relating to diversion agreements for the purposes of K.S.A.

1 8-1567, 12-4415 and 22-2908, and amendments thereto, shall be confi-
2 dential and shall not be disclosed except in accordance with a proper
3 judicial order or by direct computer access to:

4 (1) A city, county or district attorney, for the purpose of determining
5 a person's eligibility for diversion or to determine the proper charge for
6 a violation of K.S.A. 8-1567, and amendments thereto, or any ordinance
7 of a city or resolution of a county in this state which prohibits any acts
8 prohibited by K.S.A. 8-1567, and amendments thereto;

9 (2) a municipal or district court, for the purpose of using the record
10 in connection with any matter before the court;

11 (3) a law enforcement agency, for the purpose of supplying the record
12 to a person authorized to obtain it under paragraph (1) or (2) of this
13 subsection; or

14 (4) an employer when a person is required to retain a commercial
15 driver's license due to the nature of such person's employment.

16 (c) Lists of persons' names and addresses contained in or derived
17 from motor vehicle records shall not be sold, given or received for the
18 purposes prohibited by K.S.A. 2004 Supp. 45-230, and amendments
19 thereto, except that:

20 (1) The director of vehicles may provide to a requesting party, and a
21 requesting party may receive, such a list and accompanying information
22 from motor vehicle records upon written certification that the requesting
23 party shall use the list solely for the purpose of:

24 (A) Assisting manufacturers of motor vehicles in compiling statistical
25 reports or in notifying owners of vehicles believed to:

26 (i) Have safety-related defects,
27 (ii) fail to comply with emission standards; or
28 (iii) have any defect to be remedied at the expense of the
29 manufacturer;

30 (B) assisting an insurer authorized to do business in this state, or the
31 insurer's authorized agent, in processing an application for, or renewal or
32 cancellation of, a motor vehicle liability insurance policy;

33 (C) assisting the selective service system in the maintenance of a list
34 of persons 18 to 26 years of age in this state as required under the pro-
35 visions of section 3 of the federal military selective service act;

36 (D) assisting any federal, state or local agency, including any court or
37 law enforcement agency, or any private person acting on behalf of such
38 agencies in carrying out the functions required of such governmental
39 agency, except that such records shall not be redisclosed; or

40 (E) assisting businesses with the verification or reporting of infor-
41 mation derived from the title and registration records of the division to
42 prepare and assemble vehicle history reports, except that such vehicle
43 history reports shall not include the names or addresses of any current or

1 previous owners.

2 (2) Any law enforcement agency of this state which has access to
3 motor vehicle records may furnish to a requesting party, and a requesting
4 party may receive, such a list and accompanying information from such
5 records upon written certification that the requesting party shall use the
6 list solely for the purpose of assisting an insurer authorized to do business
7 in this state, or the insurer's authorized agent, in processing an application
8 for, or renewal or cancellation of, a motor vehicle liability insurance
9 policy.

10 (d) If a law enforcement agency of this state furnishes information to
11 a requesting party pursuant to paragraph (2) of subsection (c), the law
12 enforcement agency shall charge the fee prescribed by the secretary of
13 revenue pursuant to K.S.A. 74-2022, and amendments thereto, for any
14 copies furnished and may charge an additional fee to be retained by the
15 law enforcement agency to cover its cost of providing such copies. The
16 fee prescribed pursuant to K.S.A. 74-2022, and amendments thereto,
17 shall be paid monthly to the secretary of revenue and upon receipt thereof
18 shall be deposited in the state treasury to the credit of the electronic
19 databases fee fund, except for the \$1 of the fee for each record required
20 to be credited to the highway patrol training center fund under subsection
21 (f).

22 (e) The secretary of revenue, the secretary's agents or employees, the
23 director of vehicles or the director's agents or employees shall not be
24 liable for damages caused by any negligent or wrongful act or omission
25 of a law enforcement agency in furnishing any information obtained from
26 motor vehicle records.

27 (f) A fee in an amount fixed by the secretary of revenue pursuant to
28 K.S.A. 74-2022, and amendments thereto, of not less than \$2 for each
29 full or partial motor vehicle record shall be charged by the division, except
30 that the director may charge a lesser fee pursuant to a contract between
31 the secretary of revenue and any person to whom the director is author-
32 ized to furnish information under paragraph (1) of subsection (c), and
33 such fee shall not be less than the cost of production or reproduction of
34 any full or partial motor vehicle record requested. Except for the fees
35 charged pursuant to a contract for motor vehicle records authorized by
36 this subsection pertaining to motor vehicle titles or motor vehicle regis-
37 trations or pursuant to subsection (c)(1)(D), \$1 shall be credited to the
38 highway patrol training center fund for each motor vehicle record pro-
39 vided by the division of vehicles.

40 (g) The secretary of revenue may adopt such rules and regulations as
41 are necessary to implement the provisions of this section.

42 Sec. 24. K.S.A. 23-9,102, 39-759, 39-7,136, 39-7,138, 39-7,139, 39-
43 7,140, 39-7,141, 39-7,144, 39-7,145, 39-7,146, 39-7,147, 39-7,148, 39-

1 7,150, 39-7,151 and 39-7,153 and K.S.A. 2004 Supp. 23-4,107, 23-4,146,
2 65-2422d and 74-2012 are hereby repealed.
3 Sec. 25. This act shall take effect and be in force from and after its
4 publication in the statute book.