Approved: February 24, 1994
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Michael O'Neal at 3:30 p.m. on January 19, 1994 in Room 313-S of the Capitol.

All members were present except:
Representative Gilbert Gregory - Excused
Representative Doug Mays - Excused

Committee staff present:
Jerry Ann Donaldson, Legislative Research Department
Cindy Wulfkuhle, Committee Secretary

Conferees appearing before the Committee:
Kay Farley, Coordinator of Children and Family Programs,Office of Judicial Administration
Representative Ellen Samuelson
Tom Bell, Kansas Hospital Association
Jamie Corkhill, Department of Social & Rehabilitation Services
Charlene Satzler, Kansas Department of Health & Environment
Larry Tillotson, Kansas Bar Association
Joseph Ledbetter, Topeka
Ann Hebberger, League of Women Voters of Kansas

Others attending: See attached list

Hearings on **HB 2583** - establishment of parentage and child support, were opened.

Representative Ellen Samuelson appeared before the Committee in support of **HB 2583**. She handed out a copy of the *Report of the Joint Committee on Children and Families*, (copies may be obtained from Kansas Legislative Research Department). Section 2, page 5, talks about the paternity establishment issue. In 1993, The Omnibus Budget Reconciliation Act (OBRA) created new requirements relating to the establishment of paternity within one year of birth. Under the federal legislation, Kansas must have in place by July 1, 1994, a process applicable to paternity establishment. The Joint Committee of Children and Families studied this issue and reviewed the concept of a hospital-based program. Kansas currently requires the consent in writing, to both parents prior to placement of the father's name on the birth certificate if the mother was not married at the time of conception or birth and no judicial process has resulted in a determination of paternity. This process does not meet with the new federal standards for mandatory disclosure to both parents of the rights and responsibilities of acknowledgement of paternity and notice of availability of genetic testing at no cost to the parents.

The Joint Committee recommends state efforts to encourage the dissemination of information about the advantages of voluntary establishment of paternity and the rights and responsibilities of both parents and to encourage voluntary acknowledgement of paternity should be increased. The Committee learned that 44 percent of births to unmarried mothers that occurred in 1992 did not have the name of the father on the birth certificate. The Committee felt that increased efforts in the form of a hospital-based paternity program and changes in the Kansas Uniform Vital Statistics and the Kansas Parentage Act can result in a higher rate of voluntary acknowledgement of paternity. The Joint Committee met with six hospitals to see if they had any recommendations, some of which were included into this proposed legislation.

Kay Farley, Coordinator of Children and Family Programs, Office of Judicial Administration, appeared before the Committee in support of the proposed bill. On the last page of her testimony is a summary of paternity changes of OBRA of 1993, (see attachment 1). The first two provisions listed do not require legislation, they can be handled administratively. However, the rest of the provisions were incorporated into **HB 2583.** Since the proposed bill was drafted federal grant regulations were issued in November which would expand the requirements so that genetic test results meet or exceed the State's threshold of probability and must be recognized as a basis for seeking a support order without first requiring any further proceedings to establish paternity. Attached to her testimony is an amendment which would add this requirement to the proposed bill.

Chairman O'Neal questioned if the Kansas Parentage Act would be repealed by adopting this bill. Ms. Farley responded no, we would be fine tuning it. The Chairman then stated that he assumed that failure to comply would result in the lose of federal dollars. Ms. Farley responded that failure to implement certain parts would result in lose of federal funds. The Chairman then questioned that by this legislation are we implementing the bare minimums. Ms. Farley responded that with the proposed amendment this is the bare minimum. The Joint Committee did add on page 6, Section 7, line 18, that 'the state has the option of whether or not this would be binding on a minor'. Chairman O'Neal questioned why would the State want to bind a minor. Ms. Farley replied that it would save a judicial proceeding once the child turns 18. It would establish paternity at the time of the birth of the child, and it's voluntary in that the minor can refuse to sign it.

The Chairman stated that he had received a request from an attorney in Wichita to introduce a bill on artificial insemination, the point being that the rights are not really clear under the Kansas Parentage Act when there is artificial insemination by a sperm donor when the donor is not ascertainable. He questioned if this was addressed in the Parentage Act. Ms. Farley stated that she didn't think that this was addressed.

Tom Bell, Kansas Hospital Association, appeared before the Committee in support of the proposed bill. He stated that by adopting this bill hospital personnel would not be burdened with additional paperwork and parents would be informed of their rights, (see attachment 2). The Department of Social & Rehabilitation Services has the opinion that there should be some revisions made to this bill. However, they have introduced a bill in the Senate and maybe the Committee should look at both bills before it makes a decision.

Jamie Corkhill, Department of Social & Rehabilitation Services, appeared before the Committee with several concerns about wording in the bill. She stated that the deadline to meet OBRA's requirements is July, 1994. While **HB 2583** meets most of OBRA mandates it does not meet all the key requirements contained in the proposed regulations. There are five areas that are not adequately addressed: establishing an"In-hospital" paternity program which would require all birthing hospitals to participate; the use of genetic test results as the basis of seeking support order without further paternity proceedings; the use of genetic test results which are not court ordered; access of the IV-D agency to copies of voluntary acknowledgements filed with the state registrar of vital statistics; and the mandatory issuance of default judgment upon meeting minimum requirements, (see attachment 3).

Chairman O'Neal stated that **HB 2583** was drafted by the Joint Committee on Children and Families and questioned where the draft that is currently in the Senate came from? Ms. Corkhill responded the Senate bill is a SRS agency bill. The Chairman then questioned if SRS went before the Joint Committee, then why are there two bills that are inconsistent with each other. Ms. Corkhill stated that their proposed bill is a bit more comprehensive.

Representative Rock questioned if there was a 'in the best interest of the child standard' in this bill. Ms. Corkhill stated that this could be added.

Charlene Satzler, Department of Health & Environment, appeared before the Committee and stated that this proposed bill has little impact on KDHE and because there is another proposed piece of legislation dealing with the same issue, they take no position at this time, (see attachment 4).

The Chairman stated that **HB 2583 & HB 2582** would be assigned to a sub-committee.

Hearings on **HB 2582** - enacting the families in the court partnership act, were opened.

Representative Ellen Samuelson appeared before the Committee in support of the proposed bill. The 1992 Legislature appropriated $30,000 from the Judicial Education Fund to study the concept of family courts. The appropriation for the study was made to the Corporation for Change. They created a Family Court Advisory Committee to oversee the study. The report cited several reasons for the need for improved services to children and families within the judicial system. Some of those reasons are the sheer volume of juvenile and family matters in the district courts; the need for coordination among cases dealing with the same child or children; and the lack of resources and services for the judicial system and for the children and families that must enter it, (see attachment 5).

The study identified two basic principles that encompass the main reasons for establishing family courts in Kansas: the development and utilization of a less-adversarial means of adjudicating family disputes; and identification and implementation of an adequate standard of resource provision to children and families in need. The family court should be implemented voluntarily and it should establish a pilot program of family courts in three different types of judicial districts. This way there could be better estimates of implementation costs before the legislature has to make a commitment to providing statewide funding.

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY, Room 313-S Statehouse, at 3:30 p.m. on January 19, 1994.

Larry Rute, Kansas Legal Services, appeared before the Committee as a proponent of the bill. He stated that he serves as the Chairperson for the Corporation for Change and their goal is to explore the feasibility of a family court system in Kansas. They had hired two consultants to go around the state and interview members of the judiciary and to make an attempt to take the best aspects from the family court models and apply those concepts to our judicial system. The Corporation found that there might be a dramatic improvement in the quality and appropriateness of court services to Kansas children and families by pursing a family court system. They found that many families are directly and indirectly impacted by the judicial system. More than 56 percent of all civil cases filed in Kansas district courts are domestic relations and juvenile matters.

Some of the elements of the bill include: a centralized and integrated intake and dispositional system; development of a management information system; the principal of one judge, one family; appointment and assistance of legal counsel; protection and assistance for children and families; fair, prompt and uniform resolution of family disputes; and sound management. They would prefer that it be funded by the General Fund but other funding options have been suggested such as increase in all court filing fees from $.50 to $1.50, (see attachment 6).

Chairman O'Neal questioned if the program could be funded through post judgement filing fees. Mr. Rute stated that they could but haven't decided whether to apply a certain fee to all filings or just to certain ones. The Chairman asked if the Office of Judicial Administration could find out what amount of money the post judgment filing fees would raise.

Judge Buchele stated that Shawnee County went back and looked at the 1992 post judgement change of custody motions in domestic cases. Applying a $60 filing fee, they estimate they could have raised $120 to $150 thousand dollars. Chairman O'Neal stated that he was thinking of just the routine post judgement filings and attaching a $5.00 fee to each filing. This would be a good source of funding.

John Tillotson, Kansas Bar Association, appeared before the Committee in opposition of the bill. He stated that they have two concerns with the bill. The first is that this is an alternative means for dispute resolution. This means mediation, which produces self-imposed solutions. The second is the funding proposal. They feel that the 'one judge, one family' aspect is not really viable. However, they do like that the courts would have expanded authority and the integrated system of intake, (see attachment 7).

Chairman O'Neal stated that he doesn't see anywhere in the bill where mediation is mandated, and questioned where he believes it does so. Mr. Tillotson responded in Section 1, line 26 of the bill. The Chairman stated that this deals with the funding.

Ann Hebberger, League of Women Voters of Kansas, appeared before the Committee in support of the proposed bill. They have had this position on the subject since 1964. However, they are concerned about where the funding would come from and would hope that it would continue. Also, judges should be required to have both strong legal skills and special sensitivities to human and community relations, (see attachment 8)

Joseph Ledbetter, Topeka, appeared before the Committee with some general comments in regard to the court system and court services. Divorced fathers are given no adequate due process in regard to custody or support issues. He sees that this bill will give fathers equality, (see attachment 9).

Hearings on **HB 2582** will continue on Monday, January 24, 1994.

The Committee adjourned at 5:15 p.m. The next meeting is scheduled for January 24, 1994.

GUEST LIST

HOUSE JUDICIARY COMMITTEE

DATE January 19, 1994

NAME	ADDRESS	ORGANIZATION
Elaine Mann	Overland Park	League of Women Voters of Ks.
Ann Hebberger	Overland Park	L.W.V.K.
Myrna Stringer	Olathe	
EDWARD ROWE	EMPORIA	LWVK
Kay Farley	Topeka	OJA
Ellen Samuelson	Newton	Leg - Jt comm. Children & Families
Orville Johnson	Topeka	Loosely Organized Group
Aaron Hughes	Topeka	National Congress of Men + Children
Joseph LeDoux	Topeka	Father
Gary Bangert	Topeka	National Congress For Men + Children
Barbara Hohmark	Leawood	State Council of Jewish Women, JCC Section
ERIC ROSEN	TOPEKA	SHAWNEE COUNTY DISTRICT COURT
BARBARA MOUSIGIAN	Newton MA	KUKAS McPHEE & Co
John Fontana	Stow MA	"
Marjorie VanBuren	Topeka	self
Jerry Sloan	"	OJA
Paul Shelby	Topeka	OJA
Mary Rudy	Overbrook	—
Tom Sebastian	Topeka	Corporation for Change
Suzanne Southard	"	"
Connie Burk	Lawrence	Womens Transitional Care Services, Inc & KCSDV
Sandy Barnett	Manhattan	Ks. Coal Ag. Sex & Dom. Violence

(over)

Doug Bowman	Topeka	Corporation for Change
Renee Gardner	Topeka	Governor's Office
Tom Bell	Topeka	KS Hosp. Assn.
KEITH R LANDIS	TOPEKA	CHRISTIAN SCIENCE COMM. ON PUBLICATION FOR KS
Don Rittgers	Topeka	SRS
Melissa Ness	Topeka	Ks. Children's Service League
[illegible]	TOPEKA	KHS
Jim Clark	Topeka	KCDAA
Jamie Corkhill	Topeka	SRS
Irene M. Stidwell	"	Corporation for Change
Jim Buchele	"	District Judge
John Tillotson	Lear.	KBA

House Judiciary Committee
January 19, 1994

Testimony of Kay Farley
Coordinator of Children and Family Programs
Office of Judicial Administration

Representative O'Neal and members of the committee:

Thank you for the opportunity to appear before you today to support HB 2583 which relates to the establishment parentage.

The Omnibus Budget Reconciliation Act (OBRA) of 1993 (P. L. 103-66) enacted into law on August 10, 1993 contains a key amendment to the paternity requirements under Title IV-D of the Social Security Act (42 U.S.C. 651-669). Attached to my testimony is a one page summary of the OBRA provisions related to paternity establishment. The first two provisions do not require state legislative change and can be handled administratively. To remain in compliance with the Title IV-D program, Kansas will need to amend state law to meet the other seven provisions during the 1994 Legislative Session with an implementation date of July 1, 1994 for the changes.

I recently had the opportunity to attend the National Child Support Enforcement Association (NCSEA) conference. One of the seminars focused on non-adversarial paternity processes. One of the panel speakers was Jean Irlbeck who developed and implemented the hospital based paternity program for the state of Washington. Ms. Irlbeck is now a consultant with Paternity Acknowledgment Associates, Inc. and specializes in assisting states to develop hospital based paternity programs. As states develop plans to implement the OBRA provisions, Ms. Irlbeck based on her own experience gave the following observations and recommendations regarding hospital based paternity programs.

- The presumption of paternity is established by filing the signed voluntary acknowledgment form with an official entity and the entity most often used and simplest to use is the state vital statistics department.

- The process for obtaining the voluntary acknowledgment of paternity at the hospital should be separate from the process to establish a support obligation. Ms. Irlbeck recommended that only the paternity acknowledgment be obtained at the hospital and that the parents be advised to use whatever procedure the state already has in place for establishing support orders, if the parents desire the establishment of a support order.

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- The programs that use hospital staff rather than state staff to work with the parents to obtain the voluntary acknowledgments of paternity appear more successful. Ms. Irlbeck advised that a low key approach appears to make the parents the most comfortable and work the best.

- Ms. Irlbeck advised that the most effective role for the state is the development of forms and educational materials and to provide training to hospital staff.

Keeping in mind Ms. Irlbeck's advice, we believe that HB 2583 complies with all of the OBRA provisions for your consideration, builds on existing structures and expands the current procedure already in statute that allows putative fathers to sign birth certificates at the hospital within five days of the birth and file the acknowledgment with the State Registrar of Vital Statistics. While not specifically required by OBRA, we also believe that it is beneficial for all references in the Parentage Act that "blood tests" be changed to "genetic tests" as DNA testing can now be done with saliva.

Draft federal regulations were published in the Federal Register on November 29, 1993. From our reading of the draft regulations, we believe that Kansas would be able to comply with these regulations with one exception. It would appear that the proposed federal regulations go beyond the language in Public Law 103-66 in two instances. First, the draft federal regulations require that the hospital-based programs be implemented and operational on a statewide basis by January 1, 1995. The preamble to the regulations, however, does provide some flexibility for the states in allowing that the statewide coverage can be accomplished by state "law, regulation, and/or binding procedures." We are not proposing a change to HB 2583, as we think Kansas could comply with this provision administratively. Second, there is a requirement that "genetic test results meeting or exceeding the State's threshold probability...must be recognized as a basis for seeking a support order without first requiring any further proceedings to establish paternity." To comply with this provision, we have prepared a balloon to New Section 1 for your consideration.

Thank you for the opportunity to address you today and for your consideration of our proposal. I would be glad to answer any questions.

Summary of Paternity Changes
Omnibus Budget Reconciliation Act of 1993

- "Paternity establishment percentage" redefined.

- Paternity establishment mandated to be included in the state's expedited process.

- Each state must have a simple civil process for voluntarily acknowledging paternity.

  - Each state must provide that rights and responsibilities of acknowledging paternity are explained.

  - Due process safeguards must be afforded.

  - Such procedure must include a hospital-based program for voluntary acknowledgement of paternity during the period immediately before or after the birth of a child.

- Each state must have procedures under which the voluntary acknowledgement of paternity creates a rebuttable presumption of paternity and under which such voluntary acknowledgement is admissible as evidence of paternity.

- Each state must have procedures under which the voluntary acknowledgement of paternity must be recognized as a basis for establishing a support order, without requiring further proceedings to establish paternity.

- Each state must have procedures which provide that 1) any objection to genetic testing result must be made in writing within a specified number of days before any hearing at which such results may be introduced as evidence and 2) if no objection is made, test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

- Each state must have procedures which create a rebuttable presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the father of the child.

- Each state must have procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendant.

- Each state must have procedures under which a state must give full faith and credit to a determination of paternity made by any other state, whether established by judicial or administrative process or by voluntary acknowledgement.

Session of 1994

HOUSE BILL No. 2583

By Joint Committee on Children and Families

1-10

AN ACT concerning parents and children; relating to establishment of parentage and child support; amending K.S.A. 38-1114, 38-1118, 38-1119, 38-1120 and 65-2409a and repealing the existing sections; also repealing K.S.A. 65-2409.

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

New Section 1. (a) Full faith and credit shall be given to determinations of paternity made by any other state, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or Guam, whether the determination is established by judicial or administrative process or by voluntary acknowledgment.

(b) A voluntary acknowledgment of paternity made in accordance with K.S.A. 38-1130 or section 7, and amendments thereto, shall be sufficient basis for a court to issue a support order for the child without further paternity proceedings. The child support order shall be subject to due process safeguards, including notice to the father and a fair hearing if requested by the father.

Sec. 2. K.S.A. 38-1114 is hereby amended to read as follows: 38-1114. (a) A man is presumed to be the father of a child if:

(1) He and the child's mother are, or have been, married to each other and the child is born during the marriage or within 300 days after the marriage is terminated by death or by the filing of a journal entry of a decree of annulment or divorce.

(2) Before the child's birth, he and the child's mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is void or voidable and:

(A) If the attempted marriage is voidable, the child is born during the attempted marriage or within 300 days after its termination by death or by the filing of a journal entry of a decree of annulment or divorce; or

(B) if the attempted marriage is void, the child is born within 300 days after the termination of cohabitation.

(3) After the child's birth, he and the child's mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage

or a rebuttable presumption created by genetic testing results which meet or exceed the standard set by K.S.A. 38-1114, and any amendments thereto,

4-1

November 2, 1993

TO: JOINT COMMITTEE ON CHILDREN AND FAMILIES

FROM: KANSAS HOSPITAL ASSOCIATION

RE: **PATERNITY OUTREACH PROGRAM**

Representatives from the Kansas Hospital Association and various member hospitals, the Child Support Enforcement Division of SRS, the Vital Statistics Division of KDHE, and the Department of Judicial Administration met Monday, November 1, 1993, at HCA Wesley Medical Center to discuss voluntary paternity acknowledgment and hospital-based paternity establishment.

Federal legislation requires each state to establish a hospital-based program for paternity acknowledgement immediately before or after the birth of a child. The program must include a simple civil procedure for voluntarily acknowledging paternity, and it must explain the rights and responsibilities of acknowledging paternity.

Participants at the November 1 meeting agreed that to be most effective the program must encourage early acknowledgement of paternity. Statistics indicate that paternity is most likely to be established before or directly after birth. Because hospital stays are becoming increasingly shorter and many mothers are being released 24-36 hours after giving birth, the hospital may not be the best forum for establishing paternity. In considering ways to establish paternity before the actual birth, participants suggested making voluntary consent forms available in doctors' offices and clinics. In addition, the group suggested targeting the prenatal period by making information available at prenatal classes or health clinics and encouraging social workers to explain the legal consequences of paternity acknowledgment. If parents are informed in advance, their decisions will be easier to make during a potentially brief hospital stay. Participants also pointed out that informed consent would reduce the risk of parents claiming later that they did not know what they were signing. There was, however, some discussion about potential legal problems of pre-birth paternity acknowledgement.

Despite the importance of disseminating paternity acknowledgment information prenatally and seeking alternative approaches to establishing paternity, federal law requires the state to develop a hospital-based paternity acknowledgment program. Therefore, the focus must be on the best way to implement a hospital-based program. Hospitals currently establish paternity by asking unwed mothers and fathers to sign a "paternity consent form for birth registration." (see attachment). The group felt that the program could be most efficiently implemented by utilizing a modified version of this voluntary acknowledgment form. For example, a list of paternity rights and responsibilities could be printed on the back of the form in order to meet federal disclosure requirements. Some participants suggested that parents should also be required to acknowledge, in writing, that they have read and understand their rights and responsibilities. By amending the current form, hospital personnel will not be burdened with additional paperwork, and parents will be informed of their rights.

Participants at the meeting felt that the federal law currently provides much flexibility in developing hospital-based paternity acknowledgement programs, and that there is no reason for the state to limit that flexibility. For example, minimum requirements can be developed through SRS and KDHE, but individual hospitals should be able to work with these agencies to develop a more extensive program if they desire. States will have a better idea of specific federal requirements when regulations are proposed. Unfortunately, that has not yet happened. Once those regulations are adopted, it will be easier to determine what, if any, specific state legislation in this area is needed.

Kansas Department of Health and Environment, Office of Vital Statistics
900 SW Jackson, Room 151 South, Topeka, Kansas 66612-1290
(913) 296-1426

Paternity Consent Form for Birth Registration

This completed consent form or a court determination of paternity is required per KSA 65-2409(c) when the mother was not married at the time of conception or birth and a father's name is to be entered on the birth certificate. This form should be completed and witnessed by hospital personnel and submitted to the State Registrar along with the completed birth certificate.

Please print or type.

I, _____, am the father and state my social security number is _____,
first, middle, and last name of father

my date of birth is ___ / ___ / ___, and I hereby consent to the placing of my name as the father on the birth record of _____

_____ born ___ / ___ / ___.
first, middle, and last name of child

_____
signature of father

I, _____, state my social security number is _____, my date of birth
first, middle, and last name of mother

is ___ / ___ / ___, and state that as the mother of _____, I hereby consent to
first, middle, and last name of child

the placing of _____ on the birth record of my child as the father of said child.
first, middle, and last name of father

_____
signature of mother

The above signatures were witnessed by _____ on ___ / ___ / ___.
signature of hospital personnel

VS241 rev 4-92

Department of Social and Rehabilitation Services
Child Support Enforcement Program

Before the House Judiciary Committee
January 19, 1994

House Bill 2583

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The SRS Mission Statement

The Kansas Department of Social and Rehabilitation Services empowers individuals and families to achieve and sustain independence and to participate in the rights, responsibilities, and benefits of full citizenship by creating conditions and opportunities for change; by advocating for human dignity and worth; and by providing care, safety, and support in collaboration with others.

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Mr. Chairman and Members of the Committee, thank you for the opportunity to testify on behalf of Secretary Whiteman today concerning House Bill 2583. While we strongly support the work done by the Joint Committee on Children and Families which resulted in this bill, we do have concerns about the present wording of the measure.

This bill was drafted shortly after enactment of the federal Omnibus Budget Reconciliation Act of 1993 (OBRA), but before issuance of federal regulations interpreting the new OBRA requirements. Proposed regulations have now been issued, expanding upon the OBRA requirements. A copy is attached for reference.

July 1, 1994, is the deadline for Kansas to meet OBRA's requirements.

HB 2583 meets most of the OBRA mandates, however, it does not meet all the requirements contained in the proposed regulations. Furthermore, some provisions duplicate or conflict with existing statutes, creating potential areas for litigation.

From our perspective as the IV-D agency, there are five key areas which are not adequately addressed by HB 2583 in its present form:

- o In-hospital paternity establishment programs -- States must adopt procedures having the force of law which require all "birthing hospitals" to participate in voluntary establishments for newborns.

- o Use of genetic test results as the basis of seeking a support order without further paternity proceedings. This mandate is clearly in the proposed regulations and is expected to be in the final regulations.

- o Use of genetic test results which are not court-ordered. Neither OBRA nor the proposed regulations distinguish between genetic tests performed under court order or voluntarily before a petition is filed. Current Kansas law does make a distinction and needs to be amended.

- o Access of the IV-D agency (SRS) to copies of voluntary acknowledgements filed with the state registrar of vital statistics. This proposed regulation is expected to be part of the final rule. Kansas law

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currently prohibits the state registrar from releasing copies of voluntary acknowledgements received under K.S.A. 38-1130.

- o Mandatory issuance of default judgment (or summary judgment) upon meeting minimum requirements. This is clearly a requirement of both OBRA and the proposed regulations. Currently, the Kansas code of civil procedure meets the federal requirement. HB 2583, unfortunately, appears to allow the court a level of discretion (page 4, line 2) which both conflicts with the code of civil procedure and would jeopardize compliance with federal requirements.

If enacted as written, HB 2583 would create significant risk of Kansas' Title IV-D state plan being immediately (July 1) found out of compliance with one or more federal requirements, resulting in immediate termination of all Title IV-D federal funding. It should be noted that this would include federal IV-D funds not only for SRS and the Office of Judicial Administration, but also for the district court trustees and clerks of court. We estimate that $13.7 million dollars of federal IV-D funds would be at risk for FY 95.

Normally federal sanctions are imposed only after an audit, corrective action period, and follow-up audit. It is critical to recognize that there is no delay in terminating funding if the state plan, on its face, is out of compliance.

SRS, in coordination with the Kansas Hospital Association and the Department of Health and Environment, has developed a proposal which we believe would meet the federal statutory and regulatory requirements, as well as addressing some historically troublesome areas of paternity law. A copy of the draft proposal is attached, and we would encourage consideration of it as a possible alternative to HB 2583.

In closing, the Joint Committee on Children and Families is to be commended for the level of concern and support they have shown for children born out of wedlock. We believe that the intent of House Bill 2583 can and should be preserved, but in a manner that will insure Kansas is in compliance with federal requirements.

Respectfully submitted,

Jamie L. Corkhill
Policy Counsel
Child Support Enforcement
296-3237

the Act should result in administrative cost savings that exceed increased administrative costs as well as increased collections through the initiation of child support collections earlier than might otherwise have occurred.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this proposed regulation will not result in a significant impact on a substantial number of small entities. The primary impact is on State governments and individuals, which are not considered small entities under the act. Also, while the Federal law requires States to pass laws that may impact hospitals, these regulations do not govern hospitals per se and therefore do not have a significant impact on a substantial number of small entities.

List of Subjects in 45 CFR Parts 302, 303, and 304

Child support, Grant progams—social programs, Reporting and record keeping requirements.

(Catalog of Federal Domestic Assistance Program No. 93.023, Child Support Enforcement Program)

Dated: October 13, 1993.

Mary Jo Bane,

Assistant Secretary for Children and Families.

Approved: October 17, 1993.

Donna E. Shalala,

Secretary.

For the reasons set out in the preamble, we propose to amend title 45 chapter III of the Code of Federal Regulations as follows:

PART 301—STATE PLAN APPROVAL AND GRANT PROCEDURES

1. The authority citation for part 301 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 664, 666, 667, 1301, and 1302.

2. Section 301.1 is amended by adding the following definition of the term "Birthing hospital" after the definition of the term "Assignment":

§ 301.1 General definitions.

* * * * *

Birthing hospital means a hospital that has a licensed obstetric care unit or is licensed to provide obstetric services, or a licensed birthing center associated with a hospital. A birthing center is a facility outside a hospital that provides maternity services.

* * * * *

PART 302—STATE PLAN REQUIREMENTS

3. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

4. Section 302.70 is amended by revising paragraphs (a), introductory text, and (a)(2), and by adding new paragraphs (a)(5)(iii) through (a)(5)(viii) and (a)(11) to read as follows:

§ 302.70 Required State laws.

(a) *Required Laws.* The State plan shall provide that, in accordance with sections 454(20) and 466 of the Act, the State has in effect laws providing for and has implemented the following procedures to improve program effectiveness:

* * * * *

(2) Expedited processes to establish paternity and to establish and enforce child support obligations having the same force and effect as those established through full judicial process, in accordance with the requirements set forth in § 303.101 of this chapter;

* * * * *

(5) * * *

(iii) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that the rights and responsibilities of acknowledging paternity are explained, and ensure that due process safeguards are afforded. Such procedures must include:

(A) A hospital-based program in accordance with § 303.5(g) for the voluntary acknowledgment of paternity during the period immediately preceding or following the birth of a child to an unmarried mother, and a requirement that all public and private birthing hospitals participate in the hospital-based program defined in § 303.5(g)(2);

(B) A process for voluntarily acknowledging paternity outside of hospitals;

(C) A requirement that a voluntary acknowledgment be signed by both parents, and that the parents' signatures be authenticated by a notary or witness(es);

(D) A voluntary acknowledgment form that includes, at a minimum, instructions for filing the acknowledgement with the designated agency in accordance with paragraph (a)(5)(iii)(E) of this section, and lines for the parents' social security numbers and addresses; and

(E) Procedures for filing voluntary acknowledgments with either the State IV–D agency or a centralized State agency that provides the State IV–D agency access to copies of, and identifying information on, the acknowledgments.

(iv) Procedures under which the voluntary acknowledgment of paternity creates a rebuttable, or at the option of the State, conclusive presumption of paternity, and under which such voluntary acknowledgment is admissible as evidence of paternity;

(v) Procedures which provide that any objection to genetic testing results must be made in writing within a specified number of days before any hearing at which such results may be introduced into evidence; and if no objection is made, a written report of the test results is admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy;

(vi) Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability of the alleged father being the father of the child;

(vii) Procedures under which a voluntary acknowledgment or genetic test results meeting or exceeding the State's threshold probability established in accordance with paragraph (a)(5)(vi) of this section must be recognized as a basis for seeking a support order without first requiring any further proceedings to establish paternity; and

(viii) Procedures requiring a default order to be entered in a contested paternity case upon a showing that process was served on the defendant in accordance with State law, that the defendant has failed to appear at a hearing or respond within a reasonable period of time specified by the State, and any additional showing required by State law.

* * * * *

(11) Procedures under which the State must give full faith and credit to a determination of paternity made by any other State, whether established through voluntary acknowledgment or through administrative or judicial processes.

* * * * *

PART 303—STANDARDS FOR PROGRAM OPERATIONS

5. The authority citation for part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

6. Section 303.4 is amended by revising paragraph (d) to read as follows:

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§ 303.4 Establishment of support obligations.

* * * *

(d) Seek a support order based on a voluntary acknowledgment or genetic test results meeting or exceeding the State's threshold probability in accordance with § 302.70(a)(5)(vii).

* * * * *

7. Section 303.5 is amended by revising paragraph (a) and by adding paragraphs (f), (g), and (h) to read as follows:

§ 303.5 Establishment of paternity.

(a) For all cases referred to the IV–D agency or applying for services under § 302.33 of this chapter in which paternity has not been established and a voluntary acknowledgment has not been obtained, the IV–D agency must:

(1) Provide an alleged father the opportunity to voluntarily acknowledge paternity in accordance with § 302.70(a)(5)(iii); and

(2) Attempt to establish paternity by legal process established under State law if he fails to voluntarily acknowledge paternity.

* * * * *

(f) The IV–D agency must seek entry of a default order by the court or administrative authority in a paternity case by showing that process has been served on the defendant in accordance with State law, that the defendant has failed to appear at a hearing or respond within a reasonable period of time specified by the State, and any additional showing required by State law, in accordance with § 302.70(a)(5)(viii).

(g) Hospital-based program:

(1) The State must establish, in cooperation with hospitals, a hospital-based program in every public and private birthing hospital. These programs must be operational in birthing hospitals statewide no later than January 1, 1995.

(2) During the period immediately preceding or following the birth of a child to an unmarried woman in the hospital, a hospital-based program must, at a minimum:

(i) Provide to both the mother and alleged father, if he is present in the hospital: (A) Written materials about paternity establishment, (B) the forms necessary to voluntarily acknowledge paternity, (C) a written description of the rights and responsibilities of acknowledging paternity, and (D) the opportunity, prior to discharge from the hospital, to speak with staff, either by telephone or in person, who are trained to clarify information and answer questions about paternity establishment;

(ii) Provide the mother and alleged father, if he is present, the opportunity to voluntarily acknowledge paternity in the hospital;

(iii) Afford due process safeguards; and

(iv) Forward completed acknowledgements to the agency designated by the State in accordance with § 302.70(a)(5)(iii)(E).

(3) A hospital-based program need not provide services specified in paragraph (g)(2) of this section in cases where the mother or alleged father is a minor or a legal action is already pending, if the provision of such services is precluded by State law.

(4) The State must provide to all public and private birthing hospitals in the State (i) Written materials about paternity establishment, (ii) forms necessary to voluntarily acknowledge paternity, and (iii) a written description of the rights and responsibilities of acknowledging paternity.

(5) The State must provide training, guidance, and written instructions regarding voluntary acknowledgment of paternity, as necessary to operate the hospital-based program.

(6) The State must assess each birthing hospital's program on at least an annual basis.

(h) In IV–D cases needing paternity establishment, the IV–D agency must determine if a voluntary acknowledgement has been filed with the agency designated by the State in accordance with § 302.70(a)(5)(iii)(E).

8. Section 303.101 is amended by revising paragraphs (a), (b), (c) (1) and (3), (d) (2) through (4), and (e), and by adding paragraph (d)(5) to read as follows:

§ 303.101 Expedited processes.

(a) *Definition. Expedited processes* means administrative or expedited judicial processes or both which increase effectiveness and meet processing times specified in paragraph (b)(2) of this section.

(b) *Basic requirement.* (1) The State must have in effect and use, in interstate and intrastate cases, expedited processes as specified under this section to establish paternity and to establish and enforce support orders.

(2) Under expedited processes:

(i) In IV–D cases needing support order establishment, regardless of whether paternity has been established, action to establish support obligations must be completed from the date of locating the alleged father or noncustodial parent to the time of disposition within the following timeframes: (A) 75 percent in 9 months; (B) 85 percent in 12 months; and (C) 90 percent in 15 months;

(ii) In IV–D cases where a support obligation has been established, actions to enforce the support obligation must be completed within the timeframes specified in §§ 303.6(c)(2) and 303.100;

(iii) For purposes of the timeframe at § 303.101(b)(2)(i), in cases where the IV–D agency uses long-arm jurisdiction and disposition occurs within 15 months of locating the alleged father or noncustodial parent, the case may be counted as a success within either the 9, 12, or 15 month tier of the timeframe, regardless of when disposition occurs.

(iv) Disposition, as used in paragraphs (b) (2)(i) and (iii) of this section, means the date on which support obligations is officially established and/or recorded or action is dismissed.

(c) * * *

(1) Paternities and orders established by means other than full judicial process must have the same force and effect under State law as paternities and orders established by full judicial process within the State;

* * * * *

(3) The parties must be provided a copy of the paternity determination and support order;

* * * * *

(d) * * *

(2) Evaluating evidence and making recommendations or decisions to establish paternity and to establish and enforce orders;

(3) Accepting voluntary acknowledgment of paternity or support liability and stipulated agreements setting the amount of support to be paid;

(4) Entering default orders upon a showing that process has been served on the defendant in accordance with State law, that the defendant has failed to appear at a hearing or respond within a reasonable period of time specified by the State, and any additional showing required by State law; and

(5) Ordering genetic tests in contested paternity cases in accordance with § 303.5(d)(1).

* * * * *

(e) *Exemption for political subdivisions.* A State may request an exemption from any of the requirements of this section for a political subdivisions on the basis of the effectiveness and timeliness of paternity establishment, support order issuance or enforcement within the political subdivision in accordance with the provisions of § 302.70(d) of this chapter.

PART 304—FEDERAL FINANCIAL PARTICIPATION

9. The authority citation for part 304 continues to read as follows:

Authority: 42 U.S.C. 651 through 655, 657, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

10. Section 304.20 is amended by adding paragraph (b)(2)(vi) through (viii) to read as follows:

§ 304.20 Availability and rate of Federal financial participation.

* * * * *

(b) * * *

(2) The establishment of paternity including:

* * * * *

(vi) Payments up to $20 to birthing hospitals and other entities that provide prenatal or birthing services for each voluntary acknowledgment obtained;

(vii) Developing and providing to birthing hospitals and other entities that provide prenatal or birthing services written and audiovisual materials about paternity establishment and forms necessary to voluntarily acknowledge paternity; and

(viii) Reasonable and essential short-term training regarding voluntary acknowledgment of paternity associated with a State's hospital-based program as defined by § 303.5(g)(2).

* * * * *

11. Section 304.23 is amended by revising paragraph (d) to read:

§ 304.23 Expenditures for which Federal financial participation is not available.

* * * * *

(d) Education and training programs and educational services except direct cost of short term training provided to IV–D agency staff or pursuant to §§ 304.20(b)(2)(viii) and 304.21.

* * * * *

[FR Doc. 93–28783 Filed 11–26–93; 8:45 am]
BILLING CODE 4190–11–M

FEDERAL MARITIME COMMISSION

46 CFR Parts 571 and 572

[Docket No. 93–23]

Advance Notice of Proposed Rulemaking Concerning Section 6(g) of the Shipping Act of 1984

AGENCY: Federal Maritime Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission is considering whether it should issue regulations or guidelines that would describe the Commission's enforcement policy with respect to section 6(g) of the Shipping Act of 1984, which authorizes the Commission to seek an injunction against substantially anticompetitive agreements. This Advance Notice of Proposed Rulemaking recounts the background and legislative history of section 6(g), describes the Commission's procedures for evaluating and monitoring agreements, sets forth a possible section 6(g) guideline, and seeks comment on whether published guidelines would be useful and appropriate and, if so, what form they should take.

DATES: Comments due on or before January 28, 1994.

ADDRESSES: Send comments (original and 20 copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001 (202) 523–5725.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001 (202) 523–5740

Austin L. Schmitt, Director, Bureau of Trade Monitoring and Analysis, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001 (202) 523–5787

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission ("Commission" or "FMC") is considering the advisability of promulgating some form of public statement that would describe the Commission's analytic framework for determining whether an agreement filed pursuant to the Shipping Act of 1984 ("1984 Act") should be made the subject of an injunctive action under the standards of section 6(g) of that Act, i.e., whether the agreement, by a reduction in competition, is likely to produce or has produced "an unreasonable reduction in transportation service or an unreasonable increase in transportation cost." 46 U.S.C. app. 1705(g).

To date, statements by the Commission and opportunity for public comment regarding the section 6(g) general standard and the extent of the Commission's powers under it have been limited.[1] This Advance Notice of Proposed Rulemaking is intended both to provide a vehicle for increasing public awareness regarding the FMC's regulation of agreements under the 1984 Act, and to provide a means for input from shippers, carriers, government agencies and other interested persons on whether, in what form, and with what degree of specificity, publication of section 6(g) methodological guidelines would be helpful to the ocean transportation industry and the shipping public. The Notice recounts the background and legislative history of section 6(g) and describes the Commission's procedures for evaluating and monitoring agreements. It then sets forth a possible section 6(g) guideline and solicits comments on the guideline's contents and format.

Commenters may also suggest, if they wish, possible alternative methods of providing public guidance with regard to section 6(g). Such alternatives could include instituting a rulemaking such as that undertaken in FMC Docket No. 78–46, Financial Reports of Common Carriers by Water in the Domestic Offshore Trades, in which the Commission established its methodology for determining what constitutes a reasonable rate of return in the domestic offshore trades; publishing a set of specific guidelines similar in format to the Horizontal Merger Guidelines issued jointly by the Department of Justice and the Federal Trade Commission; or issuing a general statement of policy in the Commission's regulations under 46 CFR Part 571, Interpretations and Statements of Policy.

A. The Section 6(g) Standard

1. Background

Section 15 of the former Shipping Act, 1916 ("1916 Act"), required carriers to secure Commission approval for any agreement governing rates, conditions of service, or similar matters, before such an agreement could become effective. Under standards set forth in section 15, the Commission was permitted to disapprove, cancel, or modify any agreement which it found to be unjustly discriminatory or unfair, or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of the Act. 46 U.S.C. 814 (1982).

The Commission, with Supreme Court approval, took the position that agreements to set rates, pool revenues, restrict capacity, or to engage in other

[1] On February 12, 1992, the Advisory Commission on Conferences in Ocean Shipping ("ACCOS") held a public session to consider alternative antitrust standards. The FMC's staff briefed ACCOS on the Commission's section 6(g) review and monitoring procedures and their underlying rationale. However, ACCOS's final report did not comment on the FMC's interpretation of section 6(g). (See Report of the Advisory Commission on Conferences in Ocean Shipping, April 1992, p. 82.)

3-45

1/12/94 DRAFT Paternity Reform Bill (OBRA '93)

Section 1. As used in this act, except where the context otherwise requires:
(a) "Birthing hospital" means a hospital, as defined in K.S.A. 65-425, which has a licensed obstetric care unit or is licensed to provide obstetric services, or a maternity hospital or home, as defined in K.S.A. 65-502, which is associated with a hospital.
(b) "IV-D program" means a program for providing services pursuant to part D of title IV of the federal social security act (42 U.S.C. Sec. 651 et seq.) and acts amendatory thereof or supplemental thereto.
(c) "Unwed mother" means a mother who was not married at the time of conception, at the time of birth or at any time between conception and birth.
Section 2. (a) During the period immediately preceding or following the birth of a child to an unwed mother at a birthing hospital, the birthing hospital shall provide to both the mother and the alleged father, if he is present at the birthing hospital:

(1) Written information about paternity establishment;

(2) The forms necessary to voluntarily acknowledge paternity;

(3) A written description, which may be printed on the acknowledgement of paternity form, of the rights and responsibilities of acknowledging paternity as required by section 5;

(4) An opportunity, before discharge from the birthing hospital, to speak either by telephone or in person with staff who are trained to clarify information and answer questions about paternity establishment; and

(5) An opportunity, before discharge from the birthing hospital, to voluntarily acknowledge paternity.

(b) A birthing hospital shall adopt procedures to promote fairness in the acknowledgement process including, but not limited to, identifying a mother or alleged father who is unable to read or understand the written materials or forms.
(c) If an acknowledgement of paternity form is completed and returned on a timely basis, it shall be filed with the state registrar of vital statistics along with the birth certificate. A copy of the completed acknowledgement of paternity shall be made available to each parent.
(d) If an acknowledgement of paternity has been completed and either the mother or the child is receiving medical assistance from the secretary of social and rehabilitation services, the birthing hospital shall forward a copy of the

acknowledgement of paternity to the secretary of social and rehabilitation services.

(e) The written information required under subsection (a)(1) shall be provided or approved by the secretary of social and rehabilitation services.

Section 3. The secretary of social and rehabilitation services and a birthing hospital may enter into an agreement to encourage prompt establishment of paternity for children born to unwed mothers. Such an agreement may provide for additional information to parents, referrals for genetic testing, training, or any other matter related to paternity establishment.

Section 4. (a) The state registrar of vital statistics shall develop acknowledgement of paternity forms for use under K.S.A. 65-2409, 65-2409a, and K.S.A. 38-1130. In addition to appropriate identifying information the acknowledgement of paternity forms shall include or have attached:

(1) The father's statement that he is the father of the child and that he consents to being named the father on the child's birth certificate,

(2) The mother's consent to the father's acknowledgement of paternity and to entry of his name as the father on the child's birth certificate,

(3) Designated spaces for each parent's address and social security number,

(4) Instructions for returning the form so that it may be filed with the state registrar of vital statistics, and

(5) A written description pursuant to section 5 of the rights and responsibilities of acknowledging paternity.

(b) An acknowledgement of paternity shall be signed by both parents. Each parent's signature on an acknowledgement of paternity shall be given under oath or shall be certified as provided in K.S.A. 53-601 and amendments thereto and witnessed by an adult. The same person may witness both parents' signatures.

(c) Upon request, the state registrar of vital statistics shall provide a certified copy of the acknowledgement of paternity to an office providing IV-D program services.

Section 5. (a) A written description of the rights and responsibilities of acknowledging paternity shall state the following:

(1) An acknowledgement of paternity creates a permanent father and child relationship which can only be ended by court order.

(2) Both the father and the mother are responsible for the care and support of the child. If necessary, this duty may be enforced through legal action such as a child support order, an order to pay birth or other medical expenses of the

as a child support order, an order to pay birth or other medical expenses of the child, or an order to repay government assistance payments for the child's care. A parent's willful failure to support his or her child is a crime.

(3) Both the father and the mother have rights of custody and visitation with the child unless a court order changes their rights. If necessary, custody and visitation rights may be spelled out in a court order and enforced.

(4) Both the father and the mother have the right to consent to medical treatment for the child unless a court order changes those rights.

(5) The child may inherit from the father and his family or from the mother and her family. The child may receive public benefits (example: social security) or private benefits (examples: insurance or workers compensation) because of the father-child or mother-child relationship.

(6) The father or the mother may be entitled to claim the child as a dependent for tax or other purposes. The father or the mother may inherit from the child or the child's descendants.

(7) Each parent has the right to sign or not sign an acknowledgement of paternity. Each parent has the right to talk with an attorney before signing an acknowledgement of paternity. Each parent has the right to be represented by an attorney in any legal action involving paternity or their rights or duties as a parent. Usually each person is responsible for hiring his or her own attorney.

(b) Any duty to disclose rights or responsibilities related to signing an acknowledgement of paternity shall have been met by furnishing the written disclosures of subsection (a).

(c) An acknowledgement of paternity completed without the written disclosures of subsection (a) is not invalid solely for that reason and may create a presumption of paternity pursuant to K.S.A. 38-1114. Nothing in this act shall decrease the validity, force or effect of an acknowledgement of paternity executed in this state prior to the effective date of this act.

Section 6. (a) If a case meets the requirements of subsection (d), the secretary of social and rehabilitation services may schedule a negotiation conference and issue a notice of financial responsibility to a parent who is not receiving IV-D program services for the child.

(b) The notice of financial responsibility shall be issued not more than one year after the child's date of birth and not less than ten days before the date stated in the notice for the negotiation conference. The date of issuance shall be stated on the notice of financial responsibility.

(c) Service of the notice of financial responsibility shall be in any manner permitted for service of summons and petition by the statutes contained in article 3 of chapter 60 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto.

(d) A notice of financial responsibility shall only be issued if the secretary of social and rehabilitation services identifies a case in which, as of the date the notice of financial responsibility is issued:

(A) The child is receiving IV-D services,

(B) The child is less than one year of age, and

(C) If the respondent is the alleged father, there is no court or administrative order determining the child's paternity or establishing the father's duty to support the child or, if the respondent is the mother, there is no court or administrative order establishing the mother's duty to support the child.

Section 7. The notice of financial responsibility shall include:

(a) The facts which form the basis for the notice of financial responsibility;

(b) The claim of the secretary of social and rehabilitation services, including:

(1) The amount of current support which results from application of the Kansas child support guidelines to the facts stated,

(2) The amount of any claim for birth expenses, public assistance or other support already provided for the child, and

(3) Whether the secretary of social and rehabilitation services seeks an order for group health coverage for the child if such coverage is available to the respondent;

(c) Notice that, if an agency support order is established, the order will be registered with the clerk of the district court and may be enforced in the same manner as a court order;

(d) Notice that, if an agency support order is established, an income withholding order will be issued upon registration and the terms of the proposed income withholding order;

(e) Notice that the respondent may request genetic testing at any time prior to issuance of an agency support order, if paternity is relevant to the respondent's duty of support;

(f) Notice that a negotiation conference has been scheduled for the respondent with a IV-D representative; the date, time and place of the negotiation conference; the procedures for rescheduling the conference or obtaining

information before the conference and the agency address to which all correspondence concerning the case must be sent;

(g) Notice that if the respondent fails, within the time allowed, to respond in writing or to attend or reschedule the negotiation conference, the claim of the secretary of social and rehabilitation services will become the agency support order;

(h) Notice that if the respondent and the IV-D representative are unable to reach agreement at the negotiation conference, a petition may be filed with the district court for further proceedings to establish an order of support;

(i) Notice that, at any time before issuance of an agency support order, the respondent may request in writing that the secretary of social and rehabilitation services stop the proceedings to establish an agency support order and file a petition with the district court for further proceedings in the case, provided that the respondent voluntarily enters his or her appearance in the district court case; and

(j) Notice that the respondent is responsible for notifying the IV-D representative of any change of address.

Section 8. (a) The secretary of social and rehabilitation services is authorized to issue an agency support order, after notice and an opportunity for negotiation conference or other response, in cases meeting the requirements of subsection (d) of section 1. If an agency support order is issued in a case which does not meet the requirements of subsection (d) of section 1, the agency support order shall be voidable but not void.

(b) If the respondent and the IV-D representative reach agreement, whether at a negotiation conference or otherwise, the secretary of social and rehabilitation services shall issue an agency order consistent with the terms of the agreement. The order may be an agency support order or an order for genetic testing.

(c) If the respondent: (1) fails to request in writing that the secretary of social and rehabilitation services file a petition with the district court for further proceedings in the case, (2) fails to reschedule the negotiation conference within the time allowed or (3) fails to appear at a scheduled negotiation conference, at any time not less than 30 days after issuance of the notice of financial responsibility the secretary of social and rehabilitation services shall issue an agency support order consistent with the notice of financial responsibility.

(d) If, at any time before an agency support order is issued, the respondent requests in writing that the secretary of social and rehabilitation services stop the proceedings to establish an agency support order and file a petition with the district court for further proceedings in the case, the secretary of social and rehabilitation services shall stop the proceedings to establish an agency support order, but only if the respondent, within ten days of making the request, provides a written entry of his or her personal appearance in the district court case. The petition shall be filed with the district court, or the respondent shall be notified that no petition will be filed, no more than 30 days after the date the secretary of social and rehabilitation services received the request. A copy of the petition, including the filing date and the case number assigned by the clerk of the district court, shall be served on the respondent by first class mail.

Section 9. An agency support order shall include findings of fact and conclusions of law and may include any of the following:

(a) An order for current support pursuant to the Kansas child support guidelines;

(b) An order for reimbursement of the child's birth expenses;

(c) An order for reimbursement of public assistance provided for the child, provided that the total amount due shall not exceed the amount which could have been awarded pursuant to K.S.A. 39-718b and amendments thereto;

(d) An order for reimbursement of other support already provided to the child;

(e) An order for the respondent to provide health care coverage for the child when coverage is available to the respondent through a group plan;

(f) The terms of any income withholding order pursuant to K.S.A. 23-4,105 et seq. to be issued upon registration of the agency support order as provided in section 10, or an order that no income withholding order be issued upon registration; and

(g) Any other terms agreed upon by the IV-D representative and the respondent.

Section 10. (a) The secretary of social and rehabilitation services shall file the original agency support order with the clerk of the district court. The agency support order may be filed in the county where the child, the mother or the father resides or, if none are Kansas residents at the time of filing, in the county of the office of the IV-D representative. The clerk of the district court shall number the agency support order as a case filed under Chapter 60 of the Kansas Statutes Annotated and enter the numbering of the case on the

appearance docket of the case. Registration of an agency support order under this subsection shall be without cost or docket fee.

(b) The filing of the agency support order shall constitute registration under this section. Upon registration of the agency support order, all matters related to the registered order, including but not limited to modification of the order, shall proceed in the district court under the new case number. Registration of an agency support order under this section does not confer jurisdiction in the registration case for custody or visitation issues.

(c) If the registered order requires immediate issuance of an income withholding order, the court shall immediately issue an income withholding order in the terms set forth in the registered order.

(d) The secretary of social and rehabilitation services shall serve a copy of the registered order and the income withholding order, if any, upon the interested parties by first class mail.

(e) An agency support order registered pursuant to this section shall have the same force and effect as an original support order entered under Chapter 60 of the Kansas Statutes Annotated, including but not limited to:

(1) The registered order shall become a lien on the respondent's real estate in the county from the date of registration;

(2) Execution or other action to enforce the registered order may be had from the date of registration;

(3) The registered order may itself be registered pursuant to any law, including but not limited to the uniform reciprocal enforcement of support act;

(4) If any installment of support due under the registered order becomes a dormant judgment, it may be revived pursuant to K.S.A. 60-2404 and amendments thereto; and

(5) From and after the date of registration, the district court shall have continuing jurisdiction over the parties and subject matter and may modify any prior support order when a material change in circumstances is shown irrespective of the present domicile of the child or parents. The court may make a modification of child support retroactive to a date at least one month after the date that the motion to modify was filed with the court.

Section 11. Any party may in writing waive a time limitation contained in sections 6 through 10.

Section 12. (a) Sections 6 through 11 are for the purpose of simplifying and expediting the establishment of paternity and orders for support and are remedial in nature.

(b) If any provision of sections 6 through 11 or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of those sections which can be given effect without the invalid provision or application, and to this end the provisions of sections 6 through 11 are severable.

Section 13. K.S.A. 38-1110 is hereby amended to read as follows:

38-1110. Title and application of act. (a) K.S.A. 38-1110 through ~~38-1129~~ 38-1131 and acts amendatory thereto and supplemental thereof shall be known and may be cited as the Kansas parentage act.

(b) Proceedings concerning parentage of a child shall be governed by this act except to the extent otherwise provided by the Indian child welfare act of 1978 (25 U.S.C. §§ 1901 et seq.).

History: L. 1985, ch. 114, § 1; July 1.

3-18-14

Section 14. K.S.A. 38-1114 is hereby amended to read as follows:

3-4-15

38-1114. Presumption of paternity. (a) A man is presumed to be the father of a child if:

(1) He and the child's mother are, or have been, married to each other and the child is born during the marriage or within 300 days after the marriage is terminated by death or by the filing of a journal entry of a decree of annulment or divorce.

(2) Before the child's birth, he and the child's mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is void or voidable and:

(A) If the attempted marriage is voidable, the child is born during the attempted marriage or within 300 days after its termination by death or by the filing of a journal entry of a decree of annulment or divorce; or

(B) if the attempted marriage is void, the child is born within 300 days after the termination of cohabitation.

(3) After the child's birth, he and the child's mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is void or voidable and:

(A) He has acknowledged his paternity of the child in writing;

(B) with his consent, he is named as the child's father on the child's birth certificate; or

(C) he is obligated to support the child under a written voluntary promise or by a court order.

(4) He notoriously or in writing recognizes his paternity of the child.

(5) Genetic test results indicate a probability of 97% or greater that he is the father of the child.

(6) He has a duty to support the child under an order of support regardless of whether he has ever been married to the child's mother.

(b) A presumption under this section may be rebutted ~~in an appropriate action~~ only by clear and convincing evidence~~. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted~~ by a court decree establishing paternity of the child by another man or as provided in subsection(c). If a presumption is rebutted, the party alleging the existence of a father and child relationship shall have the burden of going forward with the evidence.

(c) If two or more presumptions under this section arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic, including the best interests of the child, shall control.

(d) Full faith and credit shall be given to a determination of paternity made by any other state or jurisdiction, whether the determination is established by judicial or administrative process or by voluntary acknowledgement. As used in this section, "full faith and credit" means that the determination of paternity shall have the same conclusive effect and obligatory force in this state as it has in the state or jurisdiction where made.

(e) If a presumption arises under this section, the presumption shall be sufficient basis for entry of an order requiring the man to support the child without further paternity proceedings.

(f) If a presumption arises under this section, nonpaternity must be raised as an affirmative defense.

History: L. 1985, ch. 114, § 5; July 1.

Section 15. K.S.A. 38-1115 is hereby amended to read as follows:

38-1115. Determination of father and child relationship; who may bring action; when action may be brought. (a) A child ~~whose paternity has not been determined,~~ or any person on behalf of such a child, may bring an action:

(1) At any time to determine the existence of a father and child relationship presumed under K.S.A. 38-1114 or

(2) at any time until three years after the child reaches the age of majority to determine the existence of a father and child relationship which is not presumed under K.S.A. 38-1114.

(b) When authorized under K.S.A. 39-755 or 39-756, and amendments thereto, the secretary of social and rehabilitation services may bring an action at any time during a child's minority to determine the existence of the father and child relationship.

(c) This section does not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to the probate of estates or determination of heirship.

(d) Any agreement between an alleged or presumed father and the mother or child does not bar an action under this section.

History: L. 1985, ch. 114, § 6; July 1.

delete

(e) Except as otherwise provided in this subsection, if an acknowledgement of paternity has been completed pursuant to section 2 and amendments thereto, the man named as the father, the mother or the child may bring an action to revoke the acknowledgement of paternity at any time until one year after the child's date of birth. If the person bringing the action was a minor at the time the acknowledgement of paternity was completed, the action to revoke the acknowledgement of paternity may be brought at any time until one year after that person attains age eighteen, unless the court finds that the child is more than one year of age and that revocation of the acknowledgement of paternity is not in the child's best interest.

If a court of this state has assumed jurisdiction over the matter of the child's paternity or the duty of a man to support the child, the court shall have exclusive jurisdiction to determine whether an acknowledgement of paternity may be revoked under this subsection.

If an acknowledgement of paternity has been revoked under this subsection, it shall not give rise to a presumption of paternity pursuant to K.S.A. 38-1114 and amendments thereto. Nothing in this subsection shall prevent a court from admitting a revoked acknowledgement of paternity into evidence for any other purpose.

If there has been an assignment of the child's support rights pursuant to K.S.A. 39-709 and amendments thereto, the secretary of social and rehabilitation services shall be necessary party to any action under this subsection.

3-16

Section 16. K.S.A. 38-1117 is hereby amended to read as follows:

3-16-17

38-1117. Parties. ~~The child shall be made a party to an action brought under this act. The~~ mother, each man presumed to be the father under K.S.A. 38-1114 and amendments thereto and each man alleged to be the father shall be made parties or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and shall be afforded the opportunity to be heard. If a man alleged or presumed to be the father is a minor, the court shall cause notice of the pendency of the proceedings and copies of the pleadings on file to be served upon the parents or guardian of the minor and shall appoint a guardian ad litem who shall be an attorney to represent the minor in the proceedings. If the parents or guardian of the minor cannot be found, notice shall be served in the manner directed by the court.

History: L. 1985, ch. 114, § 8; L. 1986, ch. 157, § 1; July 1.

(a) Except as otherwise provided in subsection (b), the child, the

(b) In an action to establish an order for support of the child, failure to join any person as a party shall not deprive the court of jurisdiction to determine whether a party to the action has a duty to support the child and, if so, to enter an order for support.

Section 17. K.S.A. 1993 Supp. 38-1118 is hereby amended to read as follows:

3-18

38-1118. ~~Blood~~ tests to determine paternity; order of court; refusal to submit to tests; expert witnesses. Whenever the paternity of a child is in issue in any action or judicial proceeding in which the child, mother and alleged father are parties, the court, upon its own motion or upon motion of any party to the action or proceeding, shall order the mother, child and alleged father to submit to ~~blood~~ tests. If ~~a paternity~~ action is filed by the secretary of social and rehabilitation services under K.S.A. 39-755 or 39-756, and amendments thereto, the court shall order ~~blood~~ tests on the motion of the secretary of social and rehabilitation services or any party to the action. If any party refuses to submit to the tests, the court may resolve the question of paternity against the party or enforce its order if the rights of others and the interests of justice so require. The tests shall be made by ~~experts qualified as examiners of blood types~~ who shall be appointed by the court. The verified written report of the ~~court-appointed~~ experts shall be considered to be stipulated to by all parties unless written notice of intent to challenge the validity of the report is given to all parties not more than 20 days after receipt of a copy of the report. If such notice is given, the experts shall be called by the court as witnesses to testify as to their findings and shall be subject to cross-examination by the parties. Any party ~~or person at whose suggestion the tests have been ordered may demand that other experts, qualified as examiners of blood types,~~ perform independent tests under order of the court, the results of which may be offered in evidence. The number and qualification of the other experts shall be determined by the court.

History: L. 1985, ch. 114, § 9; L. 1991, ch. 110, § 1; July 1.

Genetic

(a)

genetic

an

genetic

if the paternity of a child is in issue.

qualified

(b) Parties to an action may agree to conduct genetic tests prior to or during the pendency of an action for support of a child. The verified written report of the experts shall be admitted into evidence as provided in subsection (c) unless the court finds that paternity of the child is not in issue.

(c)

delete

but not less than 30 days before any hearing at which such results may be introduced into evidence.

may move that other qualified experts

Section 18. K.S.A. 1993 Supp. 38-1121 is hereby amended to read as follows:

3-18-19

38-1121. Judgment or order. (a) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes, but if any person necessary to determine the existence of a father and child relationship for all purposes has not been joined as a party, a determination of the paternity of the child shall have only the force and effect of a finding of fact necessary to determine a duty of support.

(b) If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a new birth certificate be issued, but only if any man named as the father on the birth certificate is a party to the action.

(c) Upon adjudging that a party is the parent of a minor child, the court shall make provision for support and education of the child including the necessary medical expenses incident to the birth of the child. The court may order the support and education expenses to be paid by either or both parents for the minor child. When the child reaches 18 years of age, the support shall terminate unless: (1) The parent or parents agree, by written agreement approved by the court, to pay support beyond that time; (2) the child reaches 18 years of age before completing the child's high school education in which case the support shall not automatically terminate, unless otherwise ordered by the court, until June 30 of the school year during which the child became 18 years of age if the child is still attending high school; or (3) the child is still a bona fide high school student after June 30 of the school year during which the child became 18 years of age, in which case the court, on motion, may order

support to continue through the school year during which the child becomes 19 years of age so long as the child is a bona fide high school student and the parents jointly participated or knowingly acquiesced in the decision which delayed the child's completion of high school. The court, in extending support pursuant to subsection (c)(3), may impose such conditions as are appropriate and shall set the child support utilizing the guideline table category for 16-year through 18-year old children. Provision for payment of support and educational expenses of a child after reaching 18 years of age if still attending high school shall apply to any child subject to the jurisdiction of the court, including those whose support was ordered prior to July 1, 1992. If an agreement approved by the court prior to July 1, 1988, provides for termination of support before the date provided by subsection (c)(2), the court may review and modify such agreement, and any order based on such agreement, to extend the date for termination of support to the date provided by subsection (c)(2). If an agreement approved by the court prior to July 1, 1992, provides for termination of support before the date provided by subsection (c)(3), the court may review and modify such agreement, and any order based on such agreement, to extend the date for termination of support to the date provided by subsection (c)(3). For purposes of this section, "bona fide high school student" means a student who is enrolled in full accordance with the policy of the accredited high school in which the student is pursuing a high school diploma or a graduate equivalency diploma (GED). The judgment shall specify the terms of payment and shall require payment to be made through the clerk of the district court or the court trustee except for good cause shown. The judgment may require the party to provide a bond with sureties to secure payment. The court may at any time during the minority of the child modify or change the order of support as required by the best interest of the child. The court may make a modification of support retroactive to a date at least one month after the date that the motion to modify was filed with the court. Any increase in support ordered effective prior to the date the court's judgment is filed shall not become a lien on real property pursuant to K.S.A. 60-2202, and amendments thereto. The court shall enter such orders regarding custody and visitation as the court considers to be in the best interest of the child.

(d) If both parents are parties to the action, the

B-XX 20

(e)

~~(d)~~ In entering an original order for support of a child under this section, the court may include ~~a requirement that~~ an additional amount ~~be paid~~ to reimburse the expenses of support and education of the child from the date of birth to the date the order is entered ~~and the necessary medical expenses incident to the birth of the child~~.

award

judgment

. If the determination of paternity is based upon a presumption arising under K.S.A. 38-1114 and amendments thereto, the court shall award an additional judgment to reimburse the expenses of support and education of the child from at least the date the presumption first arose to the date the order is entered, except that no additional judgment shall be awarded for amounts accrued under a previous order for the child's support.

~~(e)~~ In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall consider all relevant facts including, but not limited to, the following:

(f)

(1) The needs of the child.

(2) The standards of living and circumstances of the parents.

(3) The relative financial means of the parents.

(4) The earning ability of the parents.

(5) The need and capacity of the child for education.

(6) The age of the child.

(7) The financial resources and the earning ability of the child.

(8) The responsibility of the parents for the support of others.

(9) The value of services contributed by the custodial parent.

(g)

~~(f)~~ The provisions of K.S.A. 23-4,107, and amendments thereto, shall apply to all orders of support issued under this section.

(h)

~~(g)~~ An order granting visitation rights pursuant to this section may be enforced in accordance with K.S.A. 23-701, and amendments thereto.

History: L. 1985, ch. 114, § 12; L. 1985, ch. 115, § 39; L. 1986, ch. 138, § 5; L. 1986, ch. 137, § 22; L. 1988, ch. 137, § 1; L. 1991, ch. 171, § 3; L. 1992, ch. 273, § 1; July 1.

3-26-21

Section 19. K.S.A. 38-1125 is hereby amended to read as follows:

3-27

38-1125. Counsel for parties; free transcript for indigent on appeal. (a) If the petitioner is not represented by counsel, the petitioner in an action to determine paternity ~~shall be represented by~~: (1) The court trustee of the judicial district in which the action is brought, if the office of court trustee has been established in the county; (2) the department of social and rehabilitation services or its contractor, if the action is brought pursuant to part D of title IV of the federal social security act (42 (USC §651 *et seq.*), as amended; ~~or (3)~~ the county or district attorney of the county in which the action is brought ~~if~~ the action is not brought pursuant to part D of title IV of the federal social security act (42 USC §651 *et seq.*), as amended, and there is no court trustee in the county.

(b) The court shall appoint a guardian *ad litem* to represent the minor child if the court finds that the interests of the child and the interests of the petitioner differ. In any other case, the court may appoint such a guardian *ad litem*.

(c) The court shall appoint counsel for any other party to the action who is financially unable to obtain counsel.

(d) If a party is financially unable to pay the costs of a transcript, the court shall furnish on request a transcript for purposes of appeal.

History: L. 1985, ch. 114, § 16; L. 1986, ch. 157, § 2; July 1.

may apply for services from

or

. At the request of a petitioner in an action to determine paternity,

shall proceed on the petitioner's behalf if the petitioner is not represented by counsel,

Section 20. K.S.A. 38-1128 is hereby amended to read as follows:

3-22

38-1128. Paternity orders; birth certificates. (a) Upon receipt of a certified order from a court of this state or an authenticated order of a court of another state, the state registrar of vital statistics shall prepare a new birth registration consistent with the findings of the court.

(b) The fact that the father and child relationship was declared after the child's birth shall not be ascertainable from the new birth registration, but the actual place and date of birth shall be shown.

(c) The findings upon which the new birth registration was made and the original birth certificate shall be kept in a sealed and confidential file and be subject to inspection only in exceptional cases upon order of the court for good cause shown, except as otherwise provided in this subsection. Upon request of the secretary of social and rehabilitation services in a case being administered under Part D of Title IV of the Federal Social Security Act, the state registrar of vital statistics shall provide the secretary of social and rehabilitation services access to copies of, and identifying information on, any acknowledgement of paternity.

History: L. 1985, ch. 114, § 19; July 1.

3-25 24

Section 21. K.S.A. 38-1130 is hereby amended to read as follows:

38-1130. Amendment of birth certificate to change name of parent or child; procedure. (a) Whenever the parents of a minor child desire that the child's birth certificate be amended to add the name of a parent, correct the name of either parent or of the child or change the child's last name to that of either parent, both parents shall appear before a judge of the district court or a hearing officer authorized by rule of the supreme court to accept voluntary acknowledgments of parentage. The parents shall execute affidavits in the presence of the judge or hearing officer, attesting to the fact that each is a parent of the child and that they desire to amend the birth registration of the child. If both parents are not residents of this state and are outside this state, both parents shall forward to such judge or hearing officer affidavits, sworn to before a judicial officer of the state in which they reside and attesting to the fact that each is a parent of the child and that they desire to amend the birth registration of the child.

An acknowledgement of paternity completed pursuant to this section shall meet the requirements of subsection (a) of section 4.

(b) The judge or hearing officer shall require the parents to exhibit or to forward to the judge or hearing officer evidence of the birth of the child. If the judge or hearing officer finds that the birth certificate of the child fails to name either the father or mother of the child, that the name of either parent or the child is incorrect or that the child's name should be changed to that of either parent, the judge or hearing officer shall forward both parents' affidavits to the state registrar of vital statistics, together with a certified order to prepare a new birth registration in the manner provided by K.S.A. 38-1128 and amendments thereto and to seal the affidavits, court order and original birth certificate and allow inspection of them only as provided therein.

(c) The judge or hearing officer shall return all evidence and other exhibits to the parents of the child. No fee shall be charged for the performance of this service. No case file will be opened in the district court, nor will any record be made by the court of the performance of this act.

(d) This statute shall be part of and supplemental to the Kansas parentage act.

History: L. 1986, ch. 157, § 4; July 1.

Section 22. K.S.A. 39-755 is hereby amended to read as follows:

39-755. Actions by secretary to establish parentage and to enforce support rights; necessary parties to proceedings; counsel; orders; application of section. (a) In cases where the secretary of social and rehabilitation services is deemed to have an assignment of support rights in accordance with the provisions of K.S.A. 39-709 and amendments thereto, the secretary is authorized to bring a civil action in the name of the state of Kansas or of the obligee whose support rights are assigned to enforce such support rights, establish an order for medical support and, when appropriate or necessary, to establish the parentage of a child. ~~Civil actions by the secretary to determine the parentage of a child may be brought at any time if parentage is presumed under K.S.A. 38-1114 and amendments thereto or at any time until three years after the child reaches the age of majority if parentage is not presumed under K.S.A. 38-1114 and amendments thereto.~~ The secretary may also enforce any assigned support order or file a motion to modify any such order. — delete

(b) The secretary of social and rehabilitation services ~~and the attorney representing the secretary or an attorney with whom the secretary has entered into a contract or agreement for such services under this act~~ shall be deemed to ~~represent~~ the interests of all persons, officials and agencies having an interest in the assignment. The court shall determine, in accordance with applicable provisions of law, the parties necessary to the proceeding and whether independent counsel should be appointed to represent any party to the assignment or any other person having an interest in the support right. — delete — hold

In any action or proceeding brought by the secretary of social and rehabilitation services to establish paternity or to establish, modify or enforce a support obligation, the social and rehabilitation services' attorney or the attorneys with whom the agency contracts to provide legal services shall represent the state department of social and rehabilitation services. Nothing in this section shall be construed to modify any statutory mandate, authority or confidentiality required by any governmental agency. Any representation by such attorney shall not be construed to create an attorney-client relationship between the attorney and any party other than the state department of social and rehabilitation services.

(c) Any support order made by the court in such a proceeding shall direct that payments be made to the secretary of social and rehabilitation services so long as there is in effect an assignment of support rights to the secretary and, upon notification by the secretary to the court that the assignment is terminated, that payments be made to the person or family.

SB 25

(d) The provisions of this section shall also apply to cases brought by the secretary on behalf of persons who have applied for services pursuant to K.S.A. 39-756 and amendments thereto.

History: L. 1976, ch. 210, § 4; L. 1980, ch. 125, § 3; L. 1985, ch. 115, § 46; L. 1986, ch. 137, § 24; July 1.

3-26

Section 23. K.S.A. 38-1110, 38-1114, 38-1115, 38-1117, 38-1125, 38-1128, 38-1130 and 39-755 and K.S.A. 1993 Supp. 38-1118 and 38-1121 are hereby repealed.

Section 24. This act shall take effect and be in force from and after its publication in the statute book.

State of Kansas
Joan Finney, *Governor*

Department of Health and Environment
Robert C. Harder, *Secretary*

Testimony presented to

House Judiciary Committee

by

The Kansas Department of Health and Environment

House Bill 2583

The Omnibus Budget Reconciliation Act of 1993 required all states to develop a hospital-based paternity acknowledgement program. This proposed bill is a result of that requirement. We are aware of at least one other bill that will be introduced during this legislative session dealing with this same issue. Basically Kansas already has in place a hospital-based paternity acknowledgement program. In fact, we were told by personnel in other states that Kansas was one of the states used as a model for developing the OBRA requirements. However, we do agree that steps can be taken to strengthen the current process by adding the rights and responsibilities statement to the back of the paternity consent form and by disseminating educational material to the parents with regard to paternity acknowledgement.

Since there is minimal impact on KDHE as a result of H.B. 2583 and since we are aware of at least one other proposed piece of legislation dealing with this same issue, the Department takes no position on this bill.

Testimony presented by:

Charlene Satzler
Director and Assistant State Registrar
Office of Vital Statistics
Center for Health and Environmental Statistics
January 19, 1994

STATE OF KANSAS

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIRMAN: JOINT COMMITTEE
ON CHILDREN & FAMILIES
MEMBER: EDUCATION
PUBLIC HEALTH AND WELFARE

Date: January 19, 1994
Re: HB 2582

Chairman O'Neal, members of the House Judiciary Committee,

I would like to call your attention to the family court section of the Report of the 1994 Joint Committee on Children and Families. As you can see in section 2, page 15, there has been interest in family centered court services in prior sessions and the 1992 Legislature appropriated $30,000 from the Judicial Education Fund to study the concept of family courts. The appropriation for the study was made to the Corporation for Change. The Corporation for Change created a Family Court Advisory Committee to oversee the study. The report for the study was completed in May, 1993.

The report cited several reasons for the need for improved services to children and families within the judicial system. One reason was the sheer volume of juvenile and family matters in the district courts. Another reason was the need for coordination among cases dealing with the same child or children. In addition, they cited a lack of resources and

services for the judicial systems and for the children and families that must enter it.

The study identifies two basic principles that encompass the main reasons for establishing family courts in Kansas:

1. development and utilization of a less-adversarial means of adjudicating family disputes; and

2. identification and implementation of an adequate standard of resource provision to children and families in need.

There will be others speaking today, on this bill, but I want to conclude by emphasing two points from our conclusions and recommendations.

1. Family court should be implemented voluntarily as was recommended by the Family Court Advisory Committee.

2. By limiting establishment of family court departments to a maximum of three pilots in different types of judicial districts, better estimates of implementation costs could be developed before the Legislature makes a commitment to providing financial resources for family courts statewide. In addition, the Judicial Branch would have an opportunity to develop models that may be replicated in other districts that are interested in establishing family court departments.

TESTIMONY OF LARRY R. RUTE
(913) 233-2068

HOUSE JUDICIARY COMMITTEE
MICHAEL O'NEAL, CHAIRPERSON
WEDNESDAY, JANUARY 19, 1994
ROOM 313-S/STATE HOUSE

I would like to thank the Chairperson and members of the Judiciary Committee for the opportunity to appear before you today to speak in support of HB 2582.

Over the past several months, I have had the privilege to serve as chairperson of the Corporation for Change's Family Court Advisory Committee. I would like to take this opportunity to publicity acknowledge the hard work and dedication of the Committee membership which is made up of judges, legislators, court administrators, court service workers, family law practitioners, children's advocates, and others concerned about the future of Kansas families. Our goal has been to explore the feasibility of a family court system in Kansas.

The role of the Corporation for Change in developing its report was authorized by the 1992 Kansas Legislature and funded by a one-time grant from the Judicial Education Fund. The grant permitted the Corporation for Change to hire two consultants, E. Hunter Hurst, the Director of the National Center on Juvenile Justice, and Jeffery Kuhn, the Director of the National Family Court Resource Center.

Over a five-month period, these consultants interviewed members of the judiciary, court service workers, legislators, family law practitioners, and members of the general public to study the Kansas court system and to make an attempt to take the best aspects from family court models currently in existence and apply those concepts to our judicial system. The consultants' recommendations were put in final form by the Family Court Advisory Committee in May. In early June, the report was presented to Justice Holmes, and the other members of the Supreme Court by Jolene Grabill, Judge Jerry L. Mershon, and myself in a two-hour informal conference.

Early in July, the Corporation for Change issued its report suggesting that the Kansas Legislature and judiciary might "dramatically improve the quality and appropriateness of court services to Kansas children and families" by pursuing a family court system. The report entitled, "A Family Department for the District Courts of Kansas, "found that many Kansas families are directly and indirectly impacted by our judicial system. Excluding limited actions cases, in excess of 56 percent of all civil cases filed in Kansas district courts for the year ending June 30, 1992, were domestic relations and juvenile matters.

House Judiciary
Attachment 6
1-19-94

It is apparent from these statistics that for vast numbers of the public the first and only experience with our system of justice is a family law problem. These problems are extremely complex and diverse in terms of both substance and procedure. A not atypical divorce or juvenile case may involve more complex issues than many of the other civil and criminal cases handled by the district court.

For these reasons it is perhaps not surprising that persons seeking divorce or involved with our juvenile justice system utilize such terms such as, "frustrating, stressful, confusing or time consuming" to describe involvement with the court process. Certainly the increase in instances of violence in the home and even in the courthouse underscore the need for our judicial system to adopt methodologies that are more "user friendly" to families in crisis.

The July 1993 issue of the American Bar Association Journal discussed escalating violence in the courts by giving three examples, as follows:

- After bypassing courthouse security, a state parole officer shoots and kills his estranged wife in a Brooklyn court in March.
- A former member of the Grand Fork, North Dakota, city council shoots and severely wounds a local judge during a court appearance concerning late child support payments in May 1992.
- A lawyer sentenced to death in February for killing two other lawyers in a Fort Worth court room for wrongs he believes were done against him stemming from a divorce and child molesting charges brought by his ex-wife.

If anyone in this room believes that these examples are something that only occur in other states, I urge you to think again. Within the last two weeks the Topeka Capital Journal has reported incidences of local violence, as follows:

- In Shawnee County the Domestic Relation's Judge, Hon. Eric Rosen sought police protection from a defendant in on the case in which he presided who had made threatening telephone calls.
- In Lansing, a man video taped himself shooting his ex-wife in the head and then himself through the heart during an attempt by attorneys to divide property following a recent divorce.
- In 1993 the Kansas rate of violent crime exceeded any previous year.

FAMILY COURT MODELS IN SISTER STATES

The concept of a family court model is not a new one. In 1948 the American Bar Association went on record favoring the establishment of family courts. The first standard family court act was published in 1959 by the National Counsel of Crime and Delinquency. The first family court was established in Hamiliton county, (Cincinnati) Ohio in 1914.

The first state-wide comprehensive family court was established in Rhode Island in 1961, followed by Hawaii in 1966. During the 1970's and 80's, the states of Delaware, South Carolina, Connecticut, New Jersey, Louisiana, and the District of Columbia implemented family court jurisdiction. In recent years, the states of Florida, Vermont, Kentucky, Maine, Virginia, and Nevada have implemented versions of the family court.

There has also been support within the state of Kansas for the family court model. Various conferees to a one-and-a-half day "Children and Families Symposium," sponsored by the Supreme Court in November of 1991, spoke in favor of the establishment of family courts. In December of 1991, the Special Committee on Children's Initiatives issued a report recommending "family-centered" court services. We are particularly grateful to the Joint Committee on Children and Families through its Chairperson, Representative Ellen Samuelson, for introducing the Families in the Court Partnership Act.

FAMILY COURT PRINCIPLES

The term "family court" has different meanings to different persons. Many state and local jurisdictions call themselves a "family court" without any thought as to what that term might include either substantively or procedurally. There are, nonetheless, seven principles that are commonly discussed as encompassing a comprehensive family court. These principles include the following:

1. <u>The family court requires carefully selected, trained, and experienced judges and staff</u>. Upon assignment to the family court, judges and key personnel will be fully trained and experienced in all types of family law actions, as well as common intrafamily problems and methods of dispute resolution. The judges and key staff must have a working knowledge of psychological and sociological theories including child development, permanency planning, community-based treatment, extended family, the battering cycle, and others. They must be familiar with and be able to use available community social service resources, treatment and placement options.

2. Maintain an aggressive case processing and management system. A unified case processing and management system begins at one central point for the reception, filing, screening, procedural review and initial assignment of every complaint or petition filed. An indispensable part of the case processing is the establishment of certain priorities for court disposition of custody, visitation, abuse, neglect, domestic violence, guardianship, and institutionalized juvenile cases.

3. Maximize the use of non-advocarial methods of family dispute resolution. Maximization of non-advocarial dispute resolution recognizes that counseling and mediation techniques may often serve as the best way of dealing with family problems. By maximizing the use of counseling and mediation services, educational workshops, arbitration techniques, settlement conferences, neighborhood dispute teams, and conciliation techniques, the court is a facilitator to help people exhaust their own resources to resolve the matter prior to entering into a potentially destructive advocarial approach.

4. One judge, one staff, one family. This principle provides that the same judge is assigned to hear all matters involving a particular family. Once a judge has ruled on a substantial matter involving that family, all subsequent matters are assigned initially to that judge. This eliminates overlapping, judicial inconsistencies, judge shopping, and manipulation of the system to avoid enforcement of the judges orders.

5. Maximize the use of community services and train volunteers. Family courts increase significantly the use of trained volunteers to improve services, minimize costs and maximize the delivery of social services. This may include the increased usage of Court Appointed Special Advocates (CASA), Foster Care and Child Placement Review Boards and other methods to increase community involvement within the court process.

6. Broad-based jurisdiction. This involves a collection of all types of family dispute cases into one unified court system. One of the primary indicators of the establishment of a comprehensive family court is a placement of cases involving the juvenile court and divorce within one single court system.

7. Provide maximum access to all members of society. Steps which can be taken to maximize access include providing competent and relevant information and procedural advice to all who inquire at a central point or designated case reception unit. These services should be structured to ensure that they are fully available to all persons, regardless of financial status or geographic location.

OUR PROPOSAL FOR FAMILY COURT PILOT PROJECTS IN KANSAS

HB 2582 creates within the state treasury the Families in the Court Partnership Fund. Money collected within the fund would be expended for the purpose of establishing and operating three pilot family departments to improve the delivery of court services to families in crisis. The Family Court Advisory Committee believes that this Bill has adapted parameters which would allow judicial districts to submit grant proposals which will follow a structure calculated to include the best aspects of the various family court systems that exist in other states. Some of these family court elements include the following:

1. A centralized and integrated intake and dispositional system;

2. Develop a management information system;

3. The goals and standards of a family department may include:

   (a) protection and assistance for children and families in Kansas;

   (b) fair, prompt and uniform resolution of family disputes;

   (c) examination of the principle of one judge, one staff, one family;

   (d) nonadversarial resolution approaches to solving children and family problems;

   (e) prompt dissolutions and terminations when appropriate;

   (f) appointment and assistance of legal counsel;

   (g) sound management;

(h) effective recordkeeping;

(i) use of local family department advisory committees;

(j) education of judges and department employees; and

(k) community mobilization.

The bill also provides that a family department of the district court may be assigned and have primary responsibility for a wide jurisdictional base, as follows:

1. Marital dissolution and annulment;
2. Custody, visitation, support and related matters;
3. Paternity;
4. Adoption, termination of parental rights and related matters;
5. Juvenile offenders and juvenile traffic offenses;
6. Child in Need of Care;
7. Protection from Abuse and domestic violence;
8. Alcohol - and drug related matters; and
9. Conservatorship, guardianship and mental health matters for juveniles and adults.

FUNDING OPTIONS FOR HB 2582

We fully understand that the House Judiciary Committee does not have within its power to appropriate funds for this concept; nonetheless, we feel that we would be remiss if we did not at least discuss various funding options. Naturally, our first choice would be that this important pilot project be funded from the General Fund. Other funding options that have been suggested have been the following:

1. Increase the court filing fee for all court cases by $.50;
2. Increase the court filing fee for all court cases by $1.50;
3. Increase the court filing fee for all but traffic cases by $.50;
4. Increase the court filing fee for all but traffic cases by $1.50;
5. Initiate a new post-judgment filing fee;
6. Increase the trustee fee paid by the obligor in child support enforcement cases;
7. Increase the trustee fee paid by both the obligor and the obligee in child support enforcement cases.

The Family Court Advisory Committee is of agreement that whatever funding mechanism is developed should adequately fund the various services that would be required to make the Families In The Court

Partnership Act affective. Nothing could be more damaging to the family court concept than an underfunded program that is not given the opportunity to meet its full potential.

This bill would also authorize the Supreme court to appoint an Advisory Committee which would likely be charged with the development of criteria for the release of funds to the various pilot projects. Part of the Advisory Committee's responsibilities would also likely be the development of an evaluation mechanism to determine the effectiveness of the Pilot Project Family Departments. The bill further provides that a family department of the district court may be assigned and have primary responsibility for a wide jurisdictional base, as follows:

ADVANTAGES OF THE FAMILY COURT SYSTEM

An outline of but a few of the advantages I see in the establishment of a family court system in Kansas are as follows:

I. Advantages to the consumer (taxpayer):

* Allows for the more efficient use of resources;
* Helps to eliminate the duplication on effort;
* Encourage development of a comprehensive information data base;
* Encourage the development of alternatives to the adversarial model;
* Encourage the development of a comprehensive array of services to families (legal, social and psychiatric); and
* Encourages the family court to serve as an important liaison to social service agencies providing case-related services.

II. Advantages to the Judiciary

* Continued development of judges with a strong interest and experience in family law;
* Permits the appointment of judges who are specifically interested and experienced in family law issues;
* Permits development of family law judgeships which enjoy a higher status in the eyes of the judiciary and the bar;
* Encourages the development of specialized judicial training; and

* Encourages the development of a comprehensive court services program.

III. Advantages to the Family Law Practitioner

* Added consistency in judicial decision-making;

* Development of standardized rules, practice standards, guidelines, and bench books.

CONCLUSION

For years, child advocates, family law practitioners, and domestic and juvenile judges have searched for a way to improve the quality and appropriateness of court services and the judicial system to Kansas children and families. This particular family court study provides a vision of how Kansas courts can and should be structured to build-in a less adversarial and more client-centered system. The report is not a panacea; nonetheless, I believe it to be a step in the right direction in our attempt to better serve Kansas families in crisis. Certainly, if we wish to settle our disputes in the courthouse rather than in the streets, we must be prepared to provide additional resources to our overburdened and underfunded court system.

KANSAS BAR ASSOCIATION

TESTIMONY OF JOHN C. TILLOTSON
FOR THE KANSAS BAR ASSOCIATION

Re: House Bill No. 2582
Families in the Court Partnership Act

Thank you for the opportunity to address the subject of this legislation. The Kansas Bar Association has adopted an official position opposing House Bill No. 2582.

I. Family Courts Should be Judicially Created.

The Kansas Bar Association position is that the Kansas Supreme Court should establish one or more family departments of the District Court on a trial basis by court rule. KBA feels that, in order for the concept of the family court to be successful, it must be initiated by and receive the unqualified support of the Kansas judiciary.

Even the proponents of the concept of family courts acknowledge that this position is correct. The Corporation for Change report states: "Absent committed support and leadership from the judiciary, the family court concept, however legislated, will not serve children and families in the way it was intended... No state or individual jurisdiction has ever implemented an effective family court without productive judicial leadership."

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Chief Justice Richard Holmes, in a letter to the Joint Committee on Children and Families on November 15, 1993, acknowledged the willingness of the Court to consider implementation of a family court concept on a pilot project basis. Even more important than this pilot project, however, is the current need to fund the basic judicial budget. Only after the basic budget has been taken care of should the Court consider a pilot family court project and then only with adequate, sustained legislative fiscal support.

II. The Concept of Unified Courts Should Not Be Diluted.

One rationale for the adoption of a unified court system in Kansas was the full utilization of judicial resources. This promise has become reality in that district judges in Kansas, with their present ability to handle all types of cases, are used more fully than when their functions were departmentalized prior to unification. KBA believes that, if judicial functions are specialized to the extent that judges are used only for particular types of cases, the promise and benefit of judicial economy will be lost.

The concept of trained, experienced and expert judges dealing with sensitive family issues is a goal which may be achievable in metropolitan areas. It is not a goal that can be achieved in other

judicial districts without diluting the effectiveness of available judicial resources.

III. Providing Nonadversarial Resolution of Family Conflicts.

The advocates of this proposal already acknowledge that 75% of family law related cases will be settled by voluntary agreement among the parties. It is the balance of these cases where the polarity of the antagonist's interests are sought to be reduced and the commonality of a solution mutually adopted, which is a worthy goal.

Anyone considering promoting the use of mediation to resolve family conflicts should realize that the very elements that make mediation appealing also create potential dangers. Mediation is conducted in private, often without the presence of counsel. Because it is not tightly bound by rules of procedure, there is always a question of whether the process is fair or productive of just results. There is always the constant risk of dominance of one party by the other who might be more knowledgable, powerful or less emotional. Mediation lacks the precise and perfect checks that are the principal benefit of an adversarial process. Private settlements which may be arrived at as a result of mediation are usually only subjected to judicial review to determine if they are "unconscionable". The consensual nature of a marital settlement

makes it unlikely to be judicially scrutinized. Because of these downsides to the use of mediation, there are two principal safeguards: a) skilled mediators; and b) lawyer involvement.

A skilled mediator will help the disputants arrive at a fair and reasoned decision. A mediator's presence serves as a check against intimidation and overreaching. A mediator is not simply an advocate of compromise but must be a concerned participant, though not an advocate for either party. The subject of mediator qualifications, training, experience and continued skills enhancement is the responsibility of the courts (since mediation is being imposed). It is noted that the Kansas Supreme Court is considering rules regarding the training, qualification, certification/licensing of mediators and KBA submits that this is an <u>essential prerequisite</u> to any broad implementation of mediation practices in the courts.

The second essential check on the fairness of mediation procedures is the legal advice which should be available to litigants to assure that there is no advantage taken or overbearance in the mediation process and that the product of any agreement is free of legal pitfalls. KBA believes that no system should be encouraged which would encourage persons to arrive at settlements, whether mediated or not, which do not involve some oversight and protection resulting from the presence of each

party's legal representative. The proposal of pro se manuals and forms and the providing of pre-adjudication services to those pro se litigants will not protect the legitimate interests of the disputants.

Reliance on mediation as a panacea should not be misplaced. Even the proponents of this proposal acknowledge that 75% of cases will settle. Once parties become fully informed of their rights and their alternatives, they will arrive at a negotiated settlement. The proponents state that the remaining cases will be subjected to mandatory mediation averaging twelve hours per case and that must be settled. In fact, only 70%-80% of mediated cases will settle. Accordingly, no one should be falsely presuaded that the hard core of disputed cases will be resolved other than by an imposed settlement as a result of litigation. To the costs of the family court proposal must be added the costs of mediation and litigation for those hard core cases that will not settle.

IV. Case Management Information Systems.

KBA applauds the concept of facilitating the development of better communications among the judiciary, SRS, law enforcement agencies and the Department of Corrections. It is essential for the proper performance of the judicial function that all available information be marshaled and presented to the Court considering any

domestic, juvenile or family matter. The question is not whether a single judge should determine all family court matters and hear all matters pertaining to any single family, but whether an informed judge will have available at his fingertips all available resources to reach an appropriate decision in any given case.

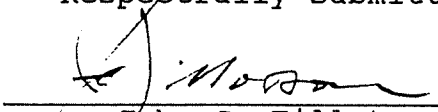
KBA acknowledges that appropriate consideration should be given to expanding the authority of the courts to coordinate the functions of law enforcement, Department of Corrections and SRS personnel to serve any given family or resolve any given situation. Consideration should be given to relaxing confidentiality standards of abuse and neglect records and juvenile arrest records. As the proponents of this concept acknowledge, K.S.A. 38-1507 and K.S.A. 38-1608 should both be examined, not only for the benefit of any family court pilot project that might be undertaken but any judge properly performing his functions in this area could benefit from more comprehensive resource management.

SUMMARY

It is the position of the Kansas Bar Association that the concept of a statewide family court or the imposition of a pilot project leading thereto as embodied in House Bill No. 2582 should be left to the unqualified responsibility of the Kansas Supreme Court through the unified court system. KBA endorses the

appropriate and timely use of mediation in domestic relations actions but cautions it has its own drawbacks and is not uniformly appropriate. Broadened authority for supervision of social agencies which might contribute to the resolution of family crises should be found and implemented.

Respectfully submitted,



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LEAGUE OF WOMEN VOTERS OF KANSAS

STATEMENT TO THE HOUSE JUDICIARY COMMITTEE: H.B. 2582
1/19/94
The Proposed Families in the Court Partnership Act

Chairman O'Neal and Members of the House Judiciary Committee:

I am Ann Hebberger speaking for the League of Women Voters of Kansas in favor of H.B. 2582.

We are happy to be speaking about family courts because we have had a position on the subject since 1964 or so.

LWVK began studying the Kansas courts in the early 1960's. The outcome was, "The LWVK supports measures to establish a court which has centralized jurisdiction over family matters."

In 1973 the State League decided it was timely to reevaluate the Family Court position as an extension of the Juvenile Corrections study just completed. The reevaluation was then broadened to include the total court system because of the possibility of court unification. The following position was determined by the LWVK in 1975:

"The LWVK supports the establishment of a division of the trial court of general jurisdiction which would deal with matters relating to the family.

a. This division of the unified court shall guarantee every child (as well as adult) equal protection under the law.

b. Jurisdiction should include delinquency, neglect, support, adoption, child custody, paternity actions, divorce, annulment, and assult offenses in which both the victim and the alleged offender are members of the same family.

c. This division should have access to resources to enable it to deal effectively with family problems that may underlie the legal matters coming before it. An adequately staffed and supported intake unit should be authorized to identify and develop alternatives to formal processing delinquent juveniles, and determine which delinquents are appropriate subjects for these alternatives. Detention and shelter care decisions should be made only with direct judicial supervision.

d. The division should be authorized to order the institutionalization of a juvenile only upon a determination of delinquency, and a finding that no alternative desposition would acccomplish the desired result. A determination of delinquency should require

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a finding that the state has proved beyond a reasonable doubt that the juvenile has committed an act that, if committed by an adult, would constitute a criminal offense.

e. Specialized training should be provided for all persons participating in the processing of cases through this division including prosecutors, defense and other attorneys, and those judges who hear court cases related to family matters.

f. Confidentiality of records must be maintained for juveniles and should be maintained to the maximum extent possible for adults who come before this division.

g. The division should utilize community corrections programs and community services such as probation, counseling and diagnostic services when available, but should provide such services directly when necessary". (We now talk about contracting for all kinds of services).

Although changes have taken place in the court system, we believe that the League position is a valid one. We do want to express some concerns that were valid in 1975 as well as now:

1. Will adequate funding be available? Lines 22 and 23, P.1, "Subject to and in accordance with the provisions of appropriation acts" sounds like it means if the money is available? We hope that is not what that means. Since a family court is similar in philosophy to a juvenile court, and that division seems to have very few services available, (intake for example in some divisions), it is of great importance that the act be well funded not only to start up but on a continuing basis.

2. When judges are selected or running for office, it seems to be absolutely necessary that those people understand that family court judge will be assigned at some point. Family court division judges require both strong legal skills and special sensitivities in human and community relations. They also require a strong working knowledge of community rehabilitation agency services and science research.

3. Although many District Courts rotate judges, some don't or rotate only occasionally. There is danger that the juvenile court's problem of isolation from the judicial mainstream would continue with a family court setting. Although it is a specialized division, it must have strong linkages with the general trial bench; it should not be viewed as the exclusive domain of a particular judge or judges.

Thank you for the opportunity to speak to you today. The League hopes that you will take our support for H.B. 2582 as well as our concerns into your deliberations.

Letter ~~to the Editor~~
To Legislature

Gulags for Children in Kansas

Children are being locked away from their fathers. This is what Kansas courts and court services do for them in 1994. Children are sentenced to a Gulag system of "prisons" without their divorced fathers, whom they love very much. They are confined to a twilight existence, rarely seeing or speaking to their fathers after being ripped from them in divorce.

This is a total violation of the 14th Amendment of the United States Constitution (the Equal Protection Clause). Divorced fathers are given no adequate due process in regard to custody or support issues. Most attorneys are too afraid for their jobs to challenge an arbitrary and obviously biased, system that has wretched results for society down the road.

Many of these boys wind up a few years later committing suicide or violent crimes against other citizens because judges blocked fathers from having equal time with their children. Fathers are blocked from guiding or protecting their children in any moral way.

When will society wake up and demand fathers get equality? By the way, most Kansas legislators agree "joint custody" means equal time and support. The courts have twisted this law to be a 90% mom, 10% dad, system; a corruption of the laws passed in Kansas a few years ago that demanded equality for men. I wonder outloud, did some of these judges have a terrible relationship with their own fathers and they have been "getting even" with all fathers ever since? I feel sorry for them if this is the case. However, prejudice and inequality have no place in the United States Court System. None!

Joseph Ledbetter

Joseph Ledbetter

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