

MEMORANDUM

To: Senate Committee on Judiciary

From: Office of Revisor of Statutes

Date: February 14, 2025

Subject: Bill Brief on SB 237

Senate Bill 237 requires the court to consider the value of retirement accounts if a person loses income for certain reasons and eliminates the exemption of pension and retirement moneys from claims to fulfill child support obligations.

Section 1 amends K.S.A. 23-3002, the statute about determining the amount to be paid for child support. Current law provides that the court shall follow the Kansas child support guidelines. This bill adds that the court shall take into consideration and shall order the use of the total value of any individual retirement plan if the person has experienced a loss of income or termination from employment due to criminal conduct, loss, revocation, suspension or surrender of a professional license because of professional misconduct or voluntary underemployment. If a parent experiences loss of income due to the above, the court shall order the use of individual retirement plan accounts to maintain the existing child support obligation until (1) all funds in such accounts are exhausted or (2) the parent establishes other means to satisfy the child support obligations.

Claims for child support against individual retirement plan accounts shall (1) take priority over all other claims, (2) not be subject to early withdrawal penalties if used for child support payments, and (3) be executed through direct payment from the retirement account through the Kansas payment center.

Section 2 amends K.S.A. 23-3005, the statute that governs modification of a child support order. Current law authorizes the court to modify an order within three years of the date of the original order when a material change in circumstances is shown. This bill would provide that as used in this section, a material change in circumstances shall not include a loss of income or termination from employment due to criminal conduct, loss, revocation, suspension or

surrender of a professional license because of professional misconduct or voluntary underemployment.

Section 3 amends K.S.A. 60-2308, the statute that provides what types of orders that pension and retirement moneys are exempt from. Subsection (c) is amended to provide that retirement plans that are qualified under 401(a), 401(k), 403(a), 403(b), 408, 408A or 409 of the federal internal revenue code of 1986 or any other similar retirement instruments or accounts shall not be exempt from claims under qualified domestic relations orders or child support orders issued under article 30 of chapter 23 of the Kansas Statutes Annotated.