

Child Support and Tax Exemption for Unborn Child; HB 2062

HB 2062 amends law regarding child support to require such support be calculated from the date of conception; to require the court to consider the value of a qualified retirement account in determination of child support orders in certain circumstances; and to eliminate the exemption of such accounts from claims to collect child support. The bill also allows a personal exemption for any unborn child for the purposes of income taxation.

Child Support for Unborn Child

The bill requires determination of the child support to be calculated from the date of conception of the child, with accruing interest to be determined by the statutory rate provided in continuing law. The bill limits the maximum amount of child support to the direct medical and pregnancy-related expenses of the mother, excluding any costs related to an elective abortion.

The bill defines the following terms:

- “Elective abortion,” to mean an abortion for any reason other than to prevent the death of the mother upon whom the abortion is performed, except that an abortion may not be deemed one to prevent the death of the mother based on a claim or diagnosis that such mother will engage in conduct that would result in such mother’s death; and
- “Unborn child,” to mean a living individual organism of the species *Homo sapiens*, in utero, at any stage of gestation from fertilization to birth.

Consideration of Retirement Plan Accounts for Child Support

For purposes of the bill, a qualified retirement plan account is one that is qualified under certain subsections of the federal Internal Revenue Code of 1986.

The bill allows courts to consider and order the use of the total value of certain retirement plan accounts if the person has experienced a loss of income or termination from employment due to:

- Loss, revocation, suspension, or surrender of a professional license due to professional misconduct; or
- Voluntary underemployment.

If a parent accumulates a child support arrearage and experiences a loss of income or termination from employment as described above, the bill requires the court to order the arrearage paid with a one-time lump-sum distribution from the retirement account upon the occurrence of a distributable event as defined by the terms of the qualified plan.

The bill does not require a plan to make distributions that are not otherwise authorized, and such distributions continue to be subject to early withdrawal penalties and taxable income. The bill requires such distribution to be executed through direct payment from the retirement account through the Kansas Payment Center.

The bill clarifies that retirement accounts are not exempt under a qualified domestic relations or child support order, and recipients of funds for such orders are exempt from all claims of any creditor, other than the Kansas Department for Children and Families.

Tax Exemption for Unborn Child

The bill amends law concerning income taxation to allow a personal exemption of \$2,320 for any unborn child, as defined by the bill, starting in tax year 2025. The bill specifies that an unborn child is to be recognized as a dependent for this purpose. For live births, the personal exemption is an additional exemption for any qualifying dependent of the taxpayer who was born in the taxable year. For pregnancies resulting in stillbirth, the bill allows a personal exemption by the taxpayer who is a parent for the taxable year in which the certificate of stillbirth was issued.