

HOUSE BILL No. 2073

By Committee on Judiciary

1-24

1 AN ACT concerning orders of support of a child; amending K.S.A. 2010
2 Supp. 38-1121 and 60-1610 and repealing the existing sections.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 2010 Supp. 38-1121 is hereby amended to read as
6 follows: 38-1121. (a) The judgment or order of the court determining the
7 existence or nonexistence of the parent and child relationship is
8 determinative for all purposes, but if any person necessary to determine
9 the existence of a father and child relationship for all purposes has not
10 been joined as a party, a determination of the paternity of the child shall
11 have only the force and effect of a finding of fact necessary to determine
12 a duty of support.

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

17 (c) Upon adjudging that a party is the parent of a minor child, the
18 court shall make provision for support and education of the child
19 including the necessary medical expenses incident to the birth of the
20 child. The court may order the support and education expenses to be paid
21 by either or both parents for the minor child. When the child reaches 18
22 years of age, the support shall terminate unless: (1) The parent or parents
23 agree, by written agreement approved by the court, to pay support beyond
24 that time; (2) the child reaches 18 years of age before completing the
25 child's high school education in which case the support shall not
26 automatically terminate, unless otherwise ordered by the court, until June
27 30 of the school year during which the child became 18 years of age if the
28 child is still attending high school; or (3) the child is still a bona fide high
29 school student after June 30 of the school year during which the child
30 became 18 years of age, in which case the court, on motion, may order
31 support to continue through the school year during which the child
32 becomes 19 years of age so long as the child is a bona fide high school
33 student and the parents jointly participated or knowingly acquiesced in
34 the decision which delayed the child's completion of high school. The
35 court, in extending support pursuant to subsection (c)(3), may impose
36 such conditions as are appropriate and shall set the child support utilizing

1 the guideline table category for 16-year through 18-year old children.
2 Provision for payment of support and educational expenses of a child
3 after reaching 18 years of age if still attending high school shall apply to
4 any child subject to the jurisdiction of the court, including those whose
5 support was ordered prior to July 1, 1992. If an agreement approved by
6 the court prior to July 1, 1988, provides for termination of support before
7 the date provided by subsection (c)(2), the court may review and modify
8 such agreement, and any order based on such agreement, to extend the
9 date for termination of support to the date provided by subsection (c)(2).
10 If an agreement approved by the court prior to July 1, 1992, provides for
11 termination of support before the date provided by subsection (c)(3), the
12 court may review and modify such agreement, and any order based on
13 such agreement, to extend the date for termination of support to the date
14 provided by subsection (c)(3). For purposes of this section, "bona fide
15 high school student" means a student who is enrolled in full accordance
16 with the policy of the accredited high school in which the student is
17 pursuing a high school diploma or a graduate equivalency diploma
18 (GED). The judgment may require the party to provide a bond with
19 sureties to secure payment. The court may at any time during the minority
20 of the child modify or change the order of support, including any order
21 issued in a title IV-D case, within three years of the date of the original
22 order or a modification order, as required by the best interest of the child.
23 If more than three years has passed since the date of the original order or
24 modification order, a requirement that such order is in the best interest of
25 the child need not be shown. The court may make a modification of
26 support retroactive to a date at least one month after the date that the
27 motion to modify was filed with the court. Any increase in support
28 ordered effective prior to the date the court's judgment is filed shall not
29 become a lien on real property pursuant to K.S.A. 60-2202, and
30 amendments thereto.

31 (d) If both parents are parties to the action, the court shall enter such
32 orders regarding custody, residency and parenting time as the court
33 considers to be in the best interest of the child.

34 If the parties have an agreed parenting plan, it shall be presumed the
35 agreed parenting plan is in the best interest of the child. This presumption
36 may be overcome and the court may make a different order if the court
37 makes specific findings of fact stating why the agreed parenting plan is
38 not in the best interest of the child. If the parties are not in agreement on a
39 parenting plan, each party shall submit a proposed parenting plan to the
40 court for consideration at such time before the final hearing as may be
41 directed by the court.

42 (e) If during the proceedings the court determines that there is
43 probable cause to believe that the child is a child in need of care, as

1 defined by subsections (d)(1), (d)(2), (d)(3) or (d)(11) of K.S.A. 2010
2 Supp. 38-2202, and amendments thereto, or that neither parent is fit to
3 have residency, the court may award temporary residency of the child to a
4 grandparent, aunt, uncle or adult sibling, or another person or agency if
5 the court finds by written order that: (1)(A) The child is likely to sustain
6 harm if not immediately removed from the home; (B) allowing the child
7 to remain in home is contrary to the welfare of the child; or (C)
8 immediate placement of the child is in the best interest of the child; and
9 (2) reasonable efforts have been made to maintain the family unit and
10 prevent the unnecessary removal of the child from the child's home or
11 that an emergency exists which threatens the safety of the child. In
12 making such a residency order, the court shall give preference, to the
13 extent that the court finds it is in the best interests of the child, first to
14 awarding such residency to a relative of the child by blood, marriage or
15 adoption and second to awarding such residency to another person with
16 whom the child has close emotional ties. The court may make temporary
17 orders for care, support, education and visitation that it considers
18 appropriate. Temporary residency orders are to be entered in lieu of
19 temporary orders provided for in K.S.A. 2010 Supp. 38-2243 and 38-
20 2244, and amendments thereto, and shall remain in effect until there is a
21 final determination under the revised Kansas code for care of children.
22 An award of temporary residency under this paragraph shall not terminate
23 parental rights nor give the court the authority to consent to the adoption
24 of the child. When the court enters orders awarding temporary residency
25 of the child to an agency or a person other than the parent, the court shall
26 refer a transcript of the proceedings to the county or district attorney. The
27 county or district attorney shall file a petition as provided in K.S.A. 2010
28 Supp. 38-2234, and amendments thereto, and may request termination of
29 parental rights pursuant to K.S.A. 2010 Supp. 38-2266, and amendments
30 thereto. The costs of the proceedings shall be paid from the general fund
31 of the county. If a final determination is made that the child is not a child
32 in need of care, the county or district attorney shall notify the court in
33 writing and the court, after a hearing, shall enter appropriate custody
34 orders pursuant to this section. If the same judge presides over both
35 proceedings, the notice is not required. Any custody, residency or
36 parenting time order pursuant to the revised Kansas code for care of
37 children shall take precedence over any custody, residency or parenting
38 time order under this section.

39 (f) In entering an original order for support of a child under this
40 section, the court may award an additional judgment to reimburse the
41 expenses of support and education of the child from the date of birth to
42 the date the order is entered. If the determination of paternity is based
43 upon a presumption arising under K.S.A. 38-1114, and amendments

1 thereto, the court shall award an additional judgment to reimburse all or
2 part of the expenses of support and education of the child from at least
3 the date the presumption first arose to the date the order is entered, except
4 that no additional judgment need be awarded for amounts accrued under a
5 previous order for the child's support.

6 (g) In determining the amount to be ordered in payment and duration
7 of such payments, a court enforcing the obligation of support shall
8 consider all relevant facts including, but not limited to, the following:

9 (1) The needs of the child.

10 (2) The standards of living, *living expenses* and circumstances of the
11 parents.

12 (3) The relative financial means of the parents.

13 (4) The earning ability of the parents.

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

15 (6) The age of the child.

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

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

18 (9) The value of services contributed by both parents.

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

21 (i) An order granting parenting time pursuant to this section may be
22 enforced in accordance with K.S.A. 23-701, and amendments thereto, or
23 under the uniform child custody jurisdiction and enforcement act.

24 Sec. 2. K.S.A. 2010 Supp. 60-1610 is hereby amended to read as
25 follows: 60-1610. A decree in an action under this article may include
26 orders on the following matters:

27 (a) *Minor children.* (1) *Child support and education.* The court shall
28 make provisions for the support and education of the minor children.
29 Subject to the provisions of K.S.A. 23-9,207, and amendments thereto,
30 the court may modify or change any prior order, including any order
31 issued in a title IV-D case, within three years of the date of the original
32 order or a modification order, when a material change in circumstances is
33 shown, irrespective of the present domicile of the child or the parents. If
34 more than three years has passed since the date of the original order or
35 modification order, a material change in circumstance need not be shown.
36 The court may make a modification of child support retroactive to a date
37 at least one month after the date that the motion to modify was filed with
38 the court. Any increase in support ordered effective prior to the date the
39 court's judgment is filed shall not become a lien on real property pursuant
40 to K.S.A. 60-2202, and amendments thereto. Regardless of the type of
41 custodial arrangement ordered by the court, the court may order the child
42 support and education expenses to be paid by either or both parents for
43 any child less than 18 years of age, at which age the support shall

1 terminate unless: (A) The parent or parents agree, by written agreement
2 approved by the court, to pay support beyond the time the child reaches
3 18 years of age; (B) the child reaches 18 years of age before completing
4 the child's high school education in which case the support shall not
5 terminate automatically, unless otherwise ordered by the court, until June
6 30 of the school year during which the child became 18 years of age if the
7 child is still attending high school; or (C) the child is still a bona fide high
8 school student after June 30 of the school year during which the child
9 became 18 years of age, in which case the court, on motion, may order
10 support to continue through the school year during which the child
11 becomes 19 years of age so long as the child is a bona fide high school
12 student and the parents jointly participated or knowingly acquiesced in
13 the decision which delayed the child's completion of high school. The
14 court, in extending support pursuant to subsection (a)(1)(C), may impose
15 such conditions as are appropriate and shall set the child support utilizing
16 the guideline table category for 12-year through 18-year old children.
17 Provision for payment of support and educational expenses of a child
18 after reaching 18 years of age if still attending high school shall apply to
19 any child subject to the jurisdiction of the court, including those whose
20 support was ordered prior to July 1, 1992. If an agreement approved by
21 the court prior to July 1, 1992, provides for termination of support before
22 the date provided by subsection (a)(1)(C), the court may review and
23 modify such agreement, and any order based on such agreement, to
24 extend the date for termination of support to the date provided by
25 subsection (a)(1)(C). For purposes of this section, "bona fide high school
26 student" means a student who is enrolled in full accordance with the
27 policy of the accredited high school in which the student is pursuing a
28 high school diploma or a graduate equivalency diploma (GED). In
29 determining the amount to be paid for child support, the court shall
30 consider all relevant factors, without regard to marital misconduct,
31 including the financial resources and needs of both parents, *the living*
32 *expenses of both parents*, the financial resources and needs of the child
33 and the physical and emotional condition of the child. Until a child
34 reaches 18 years of age, the court may set apart any portion of property of
35 either the husband or wife, or both, that seems necessary and proper for
36 the support of the child. Except for good cause shown, every order
37 requiring payment of child support under this section shall require that
38 the support be paid through the central unit for collection and
39 disbursement of support payments designated pursuant to K.S.A. 23-
40 4,118, and amendments thereto. A written agreement between the parties
41 to make direct child support payments to the obligee and not pay through
42 the central unit shall constitute good cause, unless the court finds the
43 agreement is not in the best interest of the child or children. The obligor

1 shall file such written agreement with the court. The obligor shall
2 maintain written evidence of the payment of the support obligation and, at
3 least annually, shall provide such evidence to the court and the obligee. If
4 the divorce decree of the parties provides for an abatement of child
5 support during any period provided in such decree, the child support such
6 nonresidential parent owes for such period shall abate during such period
7 of time, except that if the residential parent shows that the criteria for the
8 abatement has not been satisfied there shall not be an abatement of such
9 child support.

10 (2) *Child custody and residency.* (A) *Changes in custody.* Subject to
11 the provisions of the uniform child custody jurisdiction and enforcement
12 act (K.S.A. 38-1336 through 38-1377, and amendments thereto), the
13 court may change or modify any prior order of custody, residency,
14 visitation and parenting time, when a material change of circumstances is
15 shown, but no ex parte order shall have the effect of changing residency
16 of a minor child from the parent who has had the sole de facto residency
17 of the child to the other parent unless there is sworn testimony to support
18 a showing of extraordinary circumstances. If an interlocutory order is
19 issued ex parte, the court shall hear a motion to vacate or modify the
20 order within 15 days of the date that a party requests a hearing whether to
21 vacate or modify the order.

22 (B) *Examination of parties.* The court may order physical or mental
23 examinations of the parties if requested pursuant to K.S.A. 60-235, and
24 amendments thereto.

25 (3) *Child custody or residency criteria.* The court shall determine
26 custody or residency of a child in accordance with the best interests of the
27 child.

28 (A) If the parties have entered into a parenting plan, it shall be
29 presumed that the agreement is in the best interests of the child. This
30 presumption may be overcome and the court may make a different order
31 if the court makes specific findings of fact stating why the agreed
32 parenting plan is not in the best interests of the child.

33 (B) In determining the issue of child custody, residency and
34 parenting time, the court shall consider all relevant factors, including but
35 not limited to:

36 (i) The length of time that the child has been under the actual care
37 and control of any person other than a parent and the circumstances
38 relating thereto;

39 (ii) the desires of the child's parents as to custody or residency;

40 (iii) the desires of the child as to the child's custody or residency;

41 (iv) the interaction and interrelationship of the child with parents,
42 siblings and any other person who may significantly affect the child's best
43 interests;

1 (v) the child's adjustment to the child's home, school and
2 community;

3 (vi) the willingness and ability of each parent to respect and
4 appreciate the bond between the child and the other parent and to allow
5 for a continuing relationship between the child and the other parent;

6 (vii) evidence of spousal abuse;

7 (viii) whether a parent is subject to the registration requirements of
8 the Kansas offender registration act, K.S.A. 22-4901, et seq., and
9 amendments thereto, or any similar act in any other state, or under
10 military or federal law;

11 (ix) whether a parent has been convicted of abuse of a child, K.S.A.
12 21-3609, and amendments thereto;

13 (x) whether a parent is residing with an individual who is subject to
14 registration requirements of the Kansas offender registration act, K.S.A.
15 22-4901, et seq., and amendments thereto, or any similar act in any other
16 state, or under military or federal law; and

17 (xi) whether a parent is residing with an individual who has been
18 convicted of abuse of a child, K.S.A. 21-3609, and amendments thereto.

19 (C) Neither parent shall be considered to have a vested interest in the
20 custody or residency of any child as against the other parent, regardless of
21 the age of the child, and there shall be no presumption that it is in the best
22 interests of any infant or young child to give custody or residency to the
23 mother.

24 (D) There shall be a rebuttable presumption that it is not in the best
25 interest of the child to have custody or residency granted to a parent who:

26 (i) Is residing with an individual who is subject to registration
27 requirements of the Kansas offender registration act, K.S.A. 22-4901, et
28 seq., and amendments thereto, or any similar act in any other state, or
29 under military or federal law; or

30 (ii) is residing with an individual who has been convicted of abuse
31 of a child, K.S.A. 21-3609, and amendments thereto.

32 (E) If a court of competent jurisdiction within this state has entered
33 an order pursuant to the revised Kansas code for care of children
34 regarding custody of a child or children who are involved in a proceeding
35 filed pursuant to this section, and such court has determined pursuant to
36 subsection (i)(2) of K.S.A. 38-2264, and amendments thereto, that the
37 orders in that case shall become the custody orders in the divorce case,
38 such court shall file a certified copy of the orders with the civil case
39 number in the caption and then close the case under the revised Kansas
40 code for care of children. Such orders shall be binding on the parties,
41 unless modified based on a material change in circumstances, even if
42 such courts have different venues.

43 (4) *Types of legal custodial arrangements.* Subject to the provisions

1 of this article, the court may make any order relating to custodial
2 arrangements which is in the best interests of the child. The order shall
3 provide one of the following legal custody arrangements, in the order of
4 preference:

5 (A) *Joint legal custody.* The court may order the joint legal custody
6 of a child with both parties. In that event, the parties shall have equal
7 rights to make decisions in the best interests of the child.

8 (B) *Sole legal custody.* The court may order the sole legal custody of
9 a child with one of the parties when the court finds that it is not in the
10 best interests of the child that both of the parties have equal rights to
11 make decisions pertaining to the child. If the court does not order joint
12 legal custody, the court shall include on the record specific findings of
13 fact upon which the order for sole legal custody is based. The award of
14 sole legal custody to one parent shall not deprive the other parent of
15 access to information regarding the child unless the court shall so order,
16 stating the reasons for that determination.

17 (5) *Types of residential arrangements.* After making a determination
18 of the legal custodial arrangements, the court shall determine the
19 residency of the child from the following options, which arrangement the
20 court must find to be in the best interest of the child. The parties shall
21 submit to the court either an agreed parenting plan or, in the case of
22 dispute, proposed parenting plans for the court's consideration. Such
23 options are:

24 (A) *Residency.* The court may order a residential arrangement in
25 which the child resides with one or both parents on a basis consistent with
26 the best interests of the child.

27 (B) *Divided residency.* In an exceptional case, the court may order a
28 residential arrangement in which one or more children reside with each
29 parent and have parenting time with the other.

30 (C) *Nonparental residency.* If during the proceedings the court
31 determines that there is probable cause to believe that the child is a child
32 in need of care as defined by subsections (d)(1), (d)(2), (d)(3) or (d)(11)
33 of K.S.A. 2010 Supp. 38-2202, and amendments thereto, or that neither
34 parent is fit to have residency, the court may award temporary residency
35 of the child to a grandparent, aunt, uncle or adult sibling, or, another
36 person or agency if the court finds by written order that: (i) (a) The child
37 is likely to sustain harm if not immediately removed from the home;

38 (b) allowing the child to remain in home is contrary to the welfare of
39 the child; or

40 (c) immediate placement of the child is in the best interest of the
41 child; and

42 (ii) reasonable efforts have been made to maintain the family unit
43 and prevent the unnecessary removal of the child from the child's home

1 or that an emergency exists which threatens the safety to the child. In
2 making such a residency order, the court shall give preference, to the
3 extent that the court finds it is in the best interests of the child, first to
4 awarding such residency to a relative of the child by blood, marriage or
5 adoption and second to awarding such residency to another person with
6 whom the child has close emotional ties. The court may make temporary
7 orders for care, support, education and visitation that it considers
8 appropriate. Temporary residency orders are to be entered in lieu of
9 temporary orders provided for in K.S.A. 2010 Supp. 38-2243 and 38-
10 2244, and amendments thereto, and shall remain in effect until there is a
11 final determination under the revised Kansas code for care of children.
12 An award of temporary residency under this paragraph shall not terminate
13 parental rights nor give the court the authority to consent to the adoption
14 of the child. When the court enters orders awarding temporary residency
15 of the child to an agency or a person other than the parent, the court shall
16 refer a transcript of the proceedings to the county or district attorney. The
17 county or district attorney shall file a petition as provided in K.S.A. 2010
18 Supp. 38-2234, and amendments thereto, and may request termination of
19 parental rights pursuant to K.S.A. 2010 Supp. 38-2266, and amendments
20 thereto. The costs of the proceedings shall be paid from the general fund
21 of the county. If a final determination is made that the child is not a child
22 in need of care, the county or district attorney shall notify the court in
23 writing and the court, after a hearing, shall enter appropriate custody
24 orders pursuant to this section. If the same judge presides over both
25 proceedings, the notice is not required. Any order pursuant to the revised
26 Kansas code for care of children shall take precedence over any order
27 under this section.

28 (6) *Priority.* Any custody or parenting time order, or order relating to
29 the best interests of a child, issued pursuant to the revised Kansas code
30 for care of children or the revised Kansas juvenile justice code, shall be
31 binding and shall take precedence over any order under article 16 of
32 chapter 60 of the Kansas Statutes Annotated, and amendments thereto
33 (divorce), until jurisdiction under the revised Kansas code for care of
34 children or the revised Kansas juvenile justice code is terminated.

35 (7) *Child health insurance coverage.* The court may order that each
36 parent execute any and all documents, including any releases, necessary
37 so that both parents may obtain information from and to communicate
38 with any health insurance provider regarding the health insurance
39 coverage provided by such health insurance provider to the child. The
40 provisions of this paragraph shall apply irrespective of which parent
41 owns, subscribes or pays for such health insurance coverage.

42 (b) *Financial matters.* (1) *Division of property.* The decree shall
43 divide the real and personal property of the parties, including any

1 retirement and pension plans, whether owned by either spouse prior to
2 marriage, acquired by either spouse in the spouse's own right after
3 marriage or acquired by the spouses' joint efforts, by: (A) A division of
4 the property in kind; (B) awarding the property or part of the property to
5 one of the spouses and requiring the other to pay a just and proper sum;
6 or (C) ordering a sale of the property, under conditions prescribed by the
7 court, and dividing the proceeds of the sale. Upon request, the trial court
8 shall set a valuation date to be used for all assets at trial, which may be
9 the date of separation, filing or trial as the facts and circumstances of the
10 case may dictate. The trial court may consider evidence regarding
11 changes in value of various assets before and after the valuation date in
12 making the division of property. In dividing defined-contribution types of
13 retirement and pension plans, the court shall allocate profits and losses on
14 the nonparticipant's portion until date of distribution to that
15 nonparticipant. In making the division of property the court shall consider
16 the age of the parties; the duration of the marriage; the property owned by
17 the parties; their present and future earning capacities; the time, source
18 and manner of acquisition of property; family ties and obligations; the
19 allowance of maintenance or lack thereof; dissipation of assets; the tax
20 consequences of the property division upon the respective economic
21 circumstances of the parties; and such other factors as the court considers
22 necessary to make a just and reasonable division of property. The decree
23 shall provide for any changes in beneficiary designation on: (A) Any
24 insurance or annuity policy that is owned by the parties, or in the case of
25 group life insurance policies, under which either of the parties is a
26 covered person; (B) any trust instrument under which one party is the
27 grantor or holds a power of appointment over part or all of the trust
28 assets, that may be exercised in favor of either party; or (C) any transfer
29 on death or payable on death account under which one or both of the
30 parties are owners or beneficiaries. Nothing in this section shall relieve
31 the parties of the obligation to effectuate any change in beneficiary
32 designation by the filing of such change with the insurer or issuer in
33 accordance with the terms of such policy.

34 (2) *Maintenance.* The decree may award to either party an allowance
35 for future support denominated as maintenance, in an amount the court
36 finds to be fair, just and equitable under all of the circumstances. The
37 decree may make the future payments modifiable or terminable under
38 circumstances prescribed in the decree. The court may make a
39 modification of maintenance retroactive to a date at least one month after
40 the date that the motion to modify was filed with the court. In any event,
41 the court may not award maintenance for a period of time in excess of
42 121 months. If the original court decree reserves the power of the court to
43 hear subsequent motions for reinstatement of maintenance and such a

1 motion is filed prior to the expiration of the stated period of time for
2 maintenance payments, the court shall have jurisdiction to hear a motion
3 by the recipient of the maintenance to reinstate the maintenance
4 payments. Upon motion and hearing, the court may reinstate the
5 payments in whole or in part for a period of time, conditioned upon any
6 modifying or terminating circumstances prescribed by the court, but the
7 reinstatement shall be limited to a period of time not exceeding 121
8 months. The recipient may file subsequent motions for reinstatement of
9 maintenance prior to the expiration of subsequent periods of time for
10 maintenance payments to be made, but no single period of reinstatement
11 ordered by the court may exceed 121 months. Maintenance may be in a
12 lump sum, in periodic payments, on a percentage of earnings or on any
13 other basis. At any time, on a hearing with reasonable notice to the party
14 affected, the court may modify the amounts or other conditions for the
15 payment of any portion of the maintenance originally awarded that has
16 not already become due, but no modification shall be made without the
17 consent of the party liable for the maintenance, if it has the effect of
18 increasing or accelerating the liability for the unpaid maintenance beyond
19 what was prescribed in the original decree. Except for good cause shown,
20 every order requiring payment of maintenance under this section shall
21 require that the maintenance be paid through the central unit for
22 collection and disbursement of support payments designated pursuant to
23 K.S.A. 23-4,118, and amendments thereto. A written agreement between
24 the parties to make direct maintenance payments to the obligee and not
25 pay through the central unit shall constitute good cause. If child support
26 and maintenance payments are both made to an obligee by the same
27 obligor, and if the court has made a determination concerning the manner
28 of payment of child support, then maintenance payments shall be paid in
29 the same manner.

30 (3) *Separation agreement.* If the parties have entered into a
31 separation agreement which the court finds to be valid, just and equitable,
32 the agreement shall be incorporated in the decree. A separation agreement
33 may include provisions relating to a parenting plan. The provisions of the
34 agreement on all matters settled by it shall be confirmed in the decree
35 except that any provisions relating to the legal custody, residency,
36 visitation parenting time, support or education of the minor children shall
37 be subject to the control of the court in accordance with all other
38 provisions of this article. Matters settled by an agreement incorporated in
39 the decree, other than matters pertaining to the legal custody, residency,
40 visitation, parenting time, support or education of the minor children,
41 shall not be subject to subsequent modification by the court except: (A)
42 As prescribed by the agreement or (B) as subsequently consented to by
43 the parties.

1 (4) *Costs and fees.* Costs and attorney fees may be awarded to either
2 party as justice and equity require. The court may order that the amount
3 be paid directly to the attorney, who may enforce the order in the
4 attorney's name in the same case.

5 (c) *Miscellaneous matters.* (1) *Restoration of name.* Upon the request
6 of a spouse, the court shall order the restoration of that spouse's maiden
7 or former name. The court shall have jurisdiction to restore the spouse's
8 maiden or former name at or after the time the decree of divorce becomes
9 final. The judicial council shall develop a form which is simple, concise
10 and direct for use with this paragraph.

11 (2) *Effective date as to remarriage.* Any marriage contracted by a
12 party, within or outside this state, with any other person before a
13 judgment of divorce becomes final shall be voidable until the decree of
14 divorce becomes final. An agreement which waives the right of appeal
15 from the granting of the divorce and which is incorporated into the decree
16 or signed by the parties and filed in the case shall be effective to shorten
17 the period of time during which the remarriage is voidable.

18 Sec. 3. K.S.A. 2010 Supp. 38-1121 and 60-1610 are hereby
19 repealed.

20 Sec. 4. This act shall take effect and be in force from and after its
21 publication in the statute book.