

HOUSE BILL No. 2558

By Committee on Children and Seniors

1-31

1 AN ACT concerning domestic relations; prohibition of case management
2 process; amending K.S.A. 2013 Supp. 23-3401, 23-3507 and 38-2223
3 and repealing the existing sections; also repealing K.S.A. 2013 Supp.
4 23-3508 and 23-3509.
5

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

7 Section 1. K.S.A. 2013 Supp. 23-3401 is hereby amended to read as
8 follows: 23-3401. (a) The purpose of this section is to enhance the
9 enforcement of court ordered child visitation rights and parenting time by
10 establishing a simplified, expedited procedure to provide justice without
11 necessitating the assistance of legal counsel.

12 (b) A party who has been granted visitation rights or parenting time
13 may file with the court a motion alleging denial or interference with those
14 rights and enforcement of those rights. The district court shall provide a
15 form on which such motion may be filed. Such expedited matters shall be
16 heard by a district judge, ~~court trustee~~, or magistrate, sitting as a hearing
17 officer. The provisions of this section are in addition to those enforcement
18 procedures provided in the uniform child custody jurisdiction and
19 enforcement act, and amendments thereto, and other remedies provided by
20 law.

21 (c) When a motion seeking expedited enforcement under subsection
22 (b) is filed, the hearing officer shall immediately:

23 (1) Set a time and place for a hearing on the motion, which shall not
24 be more than 21 days after the date on which the motion was filed; or

25 (2) if deemed appropriate, issue an ex parte order for mediation in
26 accordance with K.S.A. 2013 Supp. 23-3501 through 23-3506, and
27 amendments thereto.

28 (d) If mediation ordered pursuant to subsection (c) is completed, the
29 mediator shall submit a summary of the parties' understanding to the
30 hearing officer within five days after it is signed by the parties. Upon
31 receipt of the summary, the hearing officer shall enter an order in
32 accordance with the parties' agreement or set a time and place for a hearing
33 on the matter, which shall be not more than 10 days after the summary is
34 received by the hearing officer.

35 (e) If mediation ordered pursuant to subsection (c) is terminated
36 pursuant to K.S.A. 2013 Supp. 23-3504, and amendments thereto, the

1 mediator shall report the termination to the hearing officer within five days
2 after the termination. Upon receipt of the report, the matter shall be set for
3 hearing. Any such hearing shall be not more than 10 days after the
4 mediator's report of termination is received by the hearing officer.

5 (f) Notice of the hearing date set by the hearing officer shall be given
6 to all interested parties by certified mail, return receipt requested, or as the
7 court may order.

8 (g) If, upon hearing the hearing officer finds that there has been an
9 unreasonable interference with or denial of visitation or parenting time, the
10 hearing officer shall enter an order providing for one or more of the
11 following:

12 (1) A specific schedule for visitation or parenting time;

13 (2) compensating visitation or parenting time to the party suffering
14 interference or denial of visitation or parenting time, which time shall be
15 of the same type (e.g., holiday, weekday, weekend, summer) as for which
16 denial or interference was found and which shall be at the convenience of
17 the party suffering the denial or interference of visitation or parenting
18 time;

19 (3) the posting of a bond, either cash or with sufficient sureties,
20 conditioned upon compliance with the order granting visitation rights or
21 parenting time;

22 (4) assessment of reasonable attorney fees, mediation costs and costs
23 of the proceedings to enforce visitation rights or parenting time against the
24 person responsible for the unreasonable denial or interference with
25 visitation or parenting time other than the child;

26 (5) attendance of one or more of the parties to the action at
27 counseling or educational sessions which focus on the impact on children
28 of disputes regarding visitation or parenting time. Expenses shall be
29 assessed to the person responsible for the denial or interference with
30 visitation or parenting time;

31 (6) supervised visitation or parenting time; or

32 (7) any other remedy which the hearing officer considers appropriate,
33 except, if a hearing officer is not a district judge, the hearing officer shall
34 not enter any order which grants a new order, or modifies an existing order
35 for child support, child custody, residency, or maintenance.

36 (h) Decisions of any hearing officer who is not a district judge shall
37 be subject to review by a district judge on the motion of any party filed
38 within 14 days after the order was entered.

39 (i) In no case shall final disposition of a motion filed pursuant to this
40 section take place more than 45 days after the filing of such motion.

41 Sec. 2. K.S.A. 2013 Supp. 23-3507 is hereby amended to read as
42 follows: 23-3507. (a) *As used in this section, "case management—under*
43 ~~this act~~" is the process by which a neutral case manager appointed by the

1 court, or by a hearing officer in a proceeding pursuant to K.S.A. 2013
2 Supp. 23-3401, and amendments thereto, or through agreement by the
3 parties, assists the parties by providing a procedure, other than mediation,
4 which facilitates negotiation of a plan for child custody, residency or
5 visitation or parenting time. ~~In the event that the parties are unable to reach
6 an agreement, the case manager shall make recommendations to the court.~~

7 (b) *Case management is hereby prohibited.*

8 (1) *Any court order appointing a case manager for the purpose of
9 case management is void and vacated.*

10 (2) *Any court rule or administrative order authorizing case
11 management is void and vacated.*

12 Sec. 3. K.S.A. 2013 Supp. 38-2223 is hereby amended to read as
13 follows: 38-2223. (a) *Persons making reports.* (1) When any of the
14 following persons has reason to suspect that a child has been harmed as a
15 result of physical, mental or emotional abuse or neglect or sexual abuse,
16 the person shall report the matter promptly as provided in subsections (b)
17 and (c);

18 (A) The following persons providing medical care or treatment:
19 Persons licensed to practice the healing arts, dentistry and optometry,
20 persons engaged in postgraduate training programs approved by the state
21 board of healing arts, licensed professional or practical nurses and chief
22 administrative officers of medical care facilities;

23 (B) the following persons licensed by the state to provide mental
24 health services: Licensed psychologists, licensed masters level
25 psychologists, licensed clinical psychotherapists, licensed social workers,
26 licensed marriage and family therapists, licensed clinical marriage and
27 family therapists, licensed professional counselors, licensed clinical
28 professional counselors and registered alcohol and drug abuse counselors;

29 (C) teachers, school administrators or other employees of an
30 educational institution which the child is attending and persons licensed by
31 the secretary of health and environment to provide child care services or
32 the employees of persons so licensed at the place where the child care
33 services are being provided to the child;

34 (D) firefighters, emergency medical services personnel, law
35 enforcement officers, juvenile intake and assessment workers, court
36 services officers, community corrections officers, ~~case managers appointed
37 under K.S.A. 2013 Supp. 23-3508, and amendments thereto;~~ and mediators
38 appointed under K.S.A. 2013 Supp. 23-3502, and amendments thereto;
39 and

40 (E) any person employed by or who works as a volunteer for any
41 organization, whether for profit or not-for-profit, that provides social
42 services to pregnant teenagers, including, but not limited to, counseling,
43 adoption services and pregnancy education and maintenance.

1 (2) In addition to the reports required under subsection (a)(1), any
2 person who has reason to suspect that a child may be a child in need of
3 care may report the matter as provided in subsection (b) and (c).

4 (b) *Form of report.* (1) The report may be made orally and shall be
5 followed by a written report if requested. Every report shall contain, if
6 known: The names and addresses of the child and the child's parents or
7 other persons responsible for the child's care; the location of the child if
8 not at the child's residence; the child's gender, race and age; the reasons
9 why the reporter suspects the child may be a child in need of care; if abuse
10 or neglect or sexual abuse is suspected, the nature and extent of the harm
11 to the child, including any evidence of previous harm; and any other
12 information that the reporter believes might be helpful in establishing the
13 cause of the harm and the identity of the persons responsible for the harm.

14 (2) When reporting a suspicion that a child may be in need of care,
15 the reporter shall disclose protected health information freely and
16 cooperate fully with the secretary and law enforcement throughout the
17 investigation and any subsequent legal process.

18 (c) *To whom made.* Reports made pursuant to this section shall be
19 made to the secretary, except as follows:

20 (1) When the ~~department of social and rehabilitation services~~ *Kansas*
21 *department for children and families* is not open for business, reports shall
22 be made to the appropriate law enforcement agency. On the next day that
23 the department is open for business, the law enforcement agency shall
24 report to the department any report received and any investigation initiated
25 pursuant to K.S.A. 2013 Supp. 38-2226, and amendments thereto. The
26 reports may be made orally or, on request of the secretary, in writing.

27 (2) Reports of child abuse or neglect occurring in an institution
28 operated by the ~~secretary of social and rehabilitation~~ *Kansas department*
29 *for aging and disability* services or the commissioner of juvenile justice
30 shall be made to the attorney general. All other reports of child abuse or
31 neglect by persons employed by or of children of persons employed by the
32 ~~department of social and rehabilitation~~ *Kansas department for aging and*
33 *disability* services and the *Kansas department for children and families*
34 shall be made to the appropriate law enforcement agency.

35 (d) *Death of child.* Any person who is required by this section to
36 report a suspicion that a child is in need of care and who knows of
37 information relating to the death of a child shall immediately notify the
38 coroner as provided by K.S.A. 22a-242, and amendments thereto.

39 (e) *Violations.* (1) Willful and knowing failure to make a report
40 required by this section is a class B misdemeanor. It is not a defense that
41 another mandatory reporter made a report.

42 (2) Intentionally preventing or interfering with the making of a report
43 required by this section is a class B misdemeanor.

1 (3) Any person who willfully and knowingly makes a false report
2 pursuant to this section or makes a report that such person knows lacks
3 factual foundation is guilty of a class B misdemeanor.

4 (f) *Immunity from liability.* Anyone who, without malice, participates
5 in the making of a report to the secretary or a law enforcement agency
6 relating to a suspicion a child may be a child in need of care or who
7 participates in any activity or investigation relating to the report or who
8 participates in any judicial proceeding resulting from the report shall have
9 immunity from any civil liability that might otherwise be incurred or
10 imposed.

11 Sec. 4. K.S.A. 2013 Supp. 23-3401, 23-3507, 23-3508, 23-3509 and
12 38-2223 are hereby repealed.

13 Sec. 5. This act shall take effect and be in force from and after its
14 publication in the statute book.