

SENATE BILL No. 125

By Committee on Judiciary

2-5

1 AN ACT concerning enforcement of support orders; relating to income
2 withholding; income withholding act; support enforcement services;
3 amending K.S.A. 39-7,148 and K.S.A. 2012 Supp. 23-3102, 23-3103,
4 23-3104, 23-3105 and 39-7,147 and repealing the existing sections.
5

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

7 New Section 1. (a) On and after July 1, ~~2014~~**2015**, notwithstanding
8 any other law to the contrary, for any order of support required to be paid
9 through the central unit for collection and disbursement of support
10 payments designated pursuant to K.S.A. 2012 Supp. 39-7,135, and
11 amendments thereto, regardless of when such order was entered or
12 modified, amounts collected by such central unit shall be distributed based
13 on child support distribution requirements as set forth in part D of title IV
14 of the federal social security act, 42 U.S.C. § 651 et seq., as amended, and
15 federal regulations promulgated pursuant thereto.

16 (b) Prior to July 1, ~~2014~~**2015**, the secretary of the department for
17 children and families shall adopt rules and regulations to implement the
18 provisions of this section. Such rules and regulations shall not become
19 effective until July 1, ~~2014~~**2015**.

20 New Sec. 2. (a) Except as otherwise provided in this section, an
21 income withholding order for attachment of a lump sum payment shall
22 have the effect of attaching: (1) Any intangible property, funds, credits or
23 other indebtedness of a non-recurring nature belonging or owing to the
24 obligor which is due from the payor or in the possession or under the
25 control of the payor at the time of service of the order; and (2) all such
26 personal property becoming due to the obligor between the time the order
27 is served on the payor and the 35th day after the date the order is served.

28 (b) The payor shall hold the attached funds, credits or indebtedness at
29 least 14 days following the date the income withholding order for
30 attachment of a lump sum payment was served. Thereafter, except as
31 otherwise provided in this section, the payor shall remit the amount
32 attached no later than the date the lump sum payment would have been
33 paid to the obligor or 21 days after the date the order was served,
34 whichever is later.

35 (c) The payor shall hold the attached funds, credits or indebtedness
36 until further order of the court if, before remitting funds pursuant to

1 subsection (b), the payor receives notice of a hearing on the obligor's
2 claim of exemption concerning the income withholding order for
3 attachment of a lump sum payment.

4 (d) This section shall be part of and supplemental to the income
5 withholding act, K.S.A. 2012 Supp. 23-3101 et seq., and amendments
6 thereto.

7 New Sec. 3. (a) Immediately following the date the income
8 withholding order for attachment of a lump sum payment is served on the
9 payor, the person or public office seeking the withholding shall send a
10 notice to the obligor, notifying the obligor: (1) That an income withholding
11 order to attach a lump sum payment has been served on the payor and the
12 effect of such order; (2) of the obligor's right to assert any claim of
13 exemption allowed under the income withholding act; and (3) of the
14 obligor's right to a hearing on such claim. The notice shall be substantially
15 in compliance with the form developed pursuant to K.S.A. 2012 Supp. 23-
16 3113, and amendments thereto, and shall contain a description of the
17 exemptions that are applicable under the income withholding act and the
18 procedure by which the obligor can assert any claim of exemption.

19 (b) If the obligor requests a hearing to assert any claim of exemption,
20 the request shall be filed no later than 10 days following the date the notice
21 is served on the obligor. If a hearing is requested, the hearing shall be held
22 by the court no sooner than five days nor later than 10 days after the
23 request is filed. At the time the request for hearing is filed, the obligor
24 shall obtain from the clerk of the court the date and time for the hearing
25 which shall be noted on the request form. Immediately after the request
26 for hearing is filed, the obligor shall hand-deliver or mail, by first-class
27 mail, a copy of the request for hearing to the payor and to the person or
28 public office seeking the withholding or such person's attorney, if the
29 person is represented by an attorney.

30 (c) If a hearing is held, the obligor shall have the burden of proof to
31 show that some or all of the property subject to the withholding is exempt,
32 and the court shall enter an order determining the exemption and such
33 other order as is appropriate.

34 (d) This section shall be part of and supplemental to the income
35 withholding act, K.S.A. 2012 Supp. 23-3101 et seq., and amendments
36 thereto.

37 New Sec. 4. (a) (1) The secretary of the department for children and
38 families may collect, pursuant to the income withholding act, K.S.A. 2012
39 Supp. 23-3101 et seq., and amendments thereto, support owed in a title IV-
40 D case from unemployment insurance benefits payable to the obligor.
41 Such collections may be remitted directly to the secretary. The secretary,
42 and any other agency affected, shall use electronic processes to the greatest
43 extent feasible.

1 (2) All provisions of the income withholding act shall apply to the
2 withholding of support from unemployment insurance benefits from the
3 state employment security agency, which shall be considered a payor for
4 the purposes of the income withholding act, except that any cost recovery
5 fee as a result of such withholding shall be paid by the department for
6 children and families and shall not be paid by the obligor.

7 (b) If the secretary of the department for children and families
8 receives an income withholding collection directly from another state
9 agency for a debtor with more than one income withholding order and the
10 payor agency does not identify the amount to be applied to each
11 withholding order, the secretary may apply the collection in any manner
12 allowed under title IV-D, provided that all current support due for the
13 month under the withholding orders is satisfied first.

14 (c) This section shall be part of and supplemental to the income
15 withholding act, K.S.A. 2012 Supp. 23-3101 et seq., and amendments
16 thereto.

17 New Sec. 5. (a) Nothing in K.S.A. 75-6201 et seq., and amendments
18 thereto, shall prevent the secretary of the department for children and
19 families from entering into agreements directly with the agencies that
20 control or process any funds sought under K.S.A. 75-6201 et seq., and
21 amendments thereto, to pay child support obligations being enforced
22 pursuant to title IV-D of the social security act by the secretary of
23 department for children and families or the secretary's designees. Agencies
24 controlling or processing any such funds sought by the secretary of the
25 department for children and families shall cooperate with the secretary in
26 negotiating and implementing such agreements. Any setoffs occurring as a
27 result of direct agreement with the source agency or agencies shall be
28 subject to the other provisions of K.S.A. 75-6201 et seq., and amendments
29 thereto, and in such instances, the secretary of the department for children
30 and families will be responsible for the obligations contained in such
31 provisions.

32 (b) This section shall be part of and supplemental to article 62 of
33 chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

34 Sec. 6. K.S.A. 2012 Supp. 23-3102 is hereby amended to read as
35 follows: 23-3102. As used in the income withholding act:

36 (a) "Arrearage" means the total amount of unpaid support which is
37 due and unpaid under an order for support, based upon the due date
38 specified in the order for support or, if no specific date is stated in the
39 order, the last day of the month in which the payment is to be made. If the
40 order for support includes a judgment for reimbursement, an arrearage
41 equal to or greater than the amount of support payable for one month
42 exists on the date the order for support is entered.

43 (b) "Business day" means a day on which state offices in Kansas are

1 open for regular business.

2 (c) "Health benefit plan" means any benefit plan, other than public
3 assistance, which is able to provide hospital, surgical, medical, dental or
4 any other health care or benefits for a child, whether through insurance or
5 otherwise, and which is available through a parent's employment or other
6 group plan.

7 (d) "Income" means any form of ~~periodic~~ payment to an individual,
8 regardless of source, including, but not limited to, wages, salary, trust,
9 royalty, commission, bonus, compensation as an independent contractor,
10 annuity and retirement benefits, workers compensation and any other
11 periodic payments made by any person, private entity or federal, state or
12 local government or any agency or instrumentality thereof. "Income" does
13 not include: (1) Any amounts required by law to be withheld, other than
14 creditor claims, including but not limited to federal and state taxes, social
15 security tax and other retirement and disability contributions; (2) any
16 amounts exempted by federal law; (3) public assistance payments; and (4)
17 unemployment insurance benefits except to the extent otherwise provided
18 by law. Any other state or local laws which limit or exempt income or the
19 amount or percentage of income that can be withheld shall not apply.
20 Workers compensation shall be considered income only for the purposes of
21 child support and not for the purposes of maintenance. *Unemployment*
22 *insurance benefits shall be considered income for purposes of this act*
23 *when such funds are sought by the secretary of the department for children*
24 *and families, or the secretary's designee, in administration of the title IV-D*
25 *program.*

26 (e) "*Income withholding agency*" means the department for children
27 and families.

28 ~~(e)~~ (f) "Income withholding order" means an order issued under this
29 act which requires a payor to withhold income to satisfy an order for
30 support or to defray an arrearage.

31 (g) "*Lump sum payment*" means income in the form of a bonus,
32 commission, an amount paid in lieu of vacation or other leave time, or any
33 other payment to an obligor. "*Lump sum payment*" does not include
34 payments made on regular paydays as compensation, reimbursement of
35 expenses incurred by the obligor on behalf of the payor, or an amount paid
36 as severance pay on termination of employment.

37 ~~(f)~~ (h) "Medical child support order" means an order requiring a
38 parent to provide coverage for a child under a health benefit plan and,
39 where the context requires, may include an order requiring a payor to
40 enroll a child in a health benefit plan.

41 ~~(g)~~ (i) "Medical withholding order" means an income withholding
42 order which requires an employer, sponsor or other administrator of a
43 health benefit plan to enroll a child under the health coverage of a parent.

1 ~~(h)~~ (j) "Nonparticipating parent" means, if one parent is a
2 participating parent as defined in this section, the other parent.

3 ~~(i)~~ (k) "Obligee" means the person or entity to whom a duty of
4 support is owed.

5 ~~(j)~~ (l) "Obligor" means any person who owes a duty to make
6 payments or provide health benefit coverage under an order for support.

7 ~~(k)~~ (m) "Order for support" means any order of a court, or of an
8 administrative agency authorized by law to issue such an order, which
9 provides for payment of funds for the support of a child, or for
10 maintenance of a spouse or ex-spouse, and includes an order which
11 provides for modification or resumption of a previously existing order;
12 payment of uninsured medical expenses; payment of an arrearage accrued
13 under a previously existing order; a reimbursement order, including, but
14 not limited to, an order established pursuant to K.S.A. 39-718a or 39-718b,
15 and amendments thereto; an order established pursuant to K.S.A. 23-451 et
16 seq., and amendments thereto; or a medical child support order.

17 ~~(l)~~ (n) "Participating parent" means a parent who is eligible for single
18 coverage under a health benefit plan as defined in this section, regardless
19 of the type of coverage actually in effect, if any.

20 ~~(m)~~ (o) "Payor" means any person or entity owing income to an
21 obligor or any self-employed obligor and includes, with respect to a
22 medical child support order, the sponsor or administrator of a health
23 benefit plan.

24 (p) "*Periodic payment*" means wages, salary, royalties, trust
25 payments, annuity payments, retirement payments and any other regularly
26 occurring, scheduled payment to an obligor.

27 ~~(n)~~ (q) "Public office" means any elected or appointed official of the
28 state or any political subdivision or agency of the state, or any
29 subcontractor thereof, who is or may become responsible by law for
30 enforcement of, or who is or may become authorized to enforce, an order
31 for support, including but not limited to the department of social and
32 rehabilitation services, court trustees, county or district attorneys and other
33 subcontractors.

34 ~~(o)~~ (r) "Title IV-D" means part D of title IV of the federal social
35 security act, (42 U.S.C. § 651 et seq.), and amendments thereto, as in
36 effect on December 31, ~~1999~~ 2009. "Title IV-D cases" means those cases
37 required by title IV-D to be processed by the department of ~~social and~~
38 ~~rehabilitation services for children and families~~ under the state's plan for
39 providing title IV-D services.

40 Sec. 7. K.S.A. 2012 Supp. 23-3103 is hereby amended to read as
41 follows: 23-3103. (a) Any new or modified order for support shall include
42 a provision for the withholding of income to enforce the order for support.

43 (b) Except as otherwise provided in subsection (j), (k) or ~~(h)~~ (m), all

1 new or modified orders for support shall provide for immediate issuance of
2 an income withholding order. *The income withholding order shall be*
3 *issued regardless of whether a payor subject to the jurisdiction of this*
4 *state can be identified at the time the order for support is entered.* The
5 income withholding order shall be issued without further notice to the
6 obligor and shall specify ~~an amount sufficient to satisfy the order for~~
7 ~~support and to defray any arrearage.~~ The income withholding order shall
8 ~~be issued regardless of whether a payor subject to the jurisdiction of this~~
9 ~~state can be identified at the time the order for support is entered. :~~

10 (1) *If the income withholding order is to attach to periodic payments,*
11 *an amount sufficient to satisfy the order for support and to defray any*
12 *arrears; or*

13 (2) *if the income withholding order is to attach a lump sum payment,*
14 *the amount the payor is required to withhold for support from the lump*
15 *sum payment.*

16 (c) Except as otherwise provided in this subsection or subsections (j)
17 or ~~(m)~~ (m), if no income withholding order is in effect to enforce the
18 support order, an income withholding order shall be issued by the court
19 upon request of the obligee or public office, provided that the obligor
20 accrued an arrearage equal to or greater than the amount of support
21 payable for one month and the requirements of subsections (d) and (h)
22 have been met. The income withholding order shall be issued without
23 further notice to the obligor and shall specify an amount sufficient to
24 satisfy the order for support and to defray any arrearage. The income
25 withholding order shall be issued regardless of whether a payor subject to
26 the jurisdiction of this state can be identified at the time the income
27 withholding order is issued.

28 (d) Not less than seven days after the obligee or public office has
29 served a notice pursuant to subsection (h), the obligee or public office may
30 initiate income withholding pursuant to paragraph (1) or (2).

31 (1) The obligee or public office may apply for an income withholding
32 order by filing with the court an affidavit stating: (A) The date that the
33 notice was served on the obligor and the manner of service; (B) that the
34 obligor has not filed a motion to stay issuance of the income withholding
35 order or, if a motion to stay has been filed, the reason an income
36 withholding order must be issued immediately; (C) a specified amount to
37 be withheld by the payor to satisfy the order of support and to defray any
38 arrearage; (D) whether the income withholding order is to include a
39 medical withholding order; and (E) that the amount of the arrearage as of
40 the date the notice to the obligor was prepared was equal to or greater than
41 the amount of support payable for one month. In addition to any other
42 penalty provided by law, the filing of such an affidavit with knowledge of
43 the falsity of a material declaration is punishable as a contempt.

1 Upon the filing of the affidavit, the income withholding order shall be
2 issued without further notice to the obligor, hearing or amendments of the
3 support order. Payment of all or part of the arrearage before issuance of the
4 income withholding order shall not prevent issuance of the income
5 withholding order, unless the arrearage is paid in full and the order for
6 support does not include an amount for the current support of a person. No
7 affidavit is required if the court, upon hearing a motion to stay issuance of
8 the income withholding order or otherwise, issues an income withholding
9 order.

10 (2) In a title IV-D case, the IV-D agency may issue an income
11 withholding order as authorized by K.S.A. 39-7,147, and amendments
12 thereto. Any such income withholding order shall be considered an income
13 withholding order issued pursuant to this act.

14 (e) (1) An income withholding order shall be directed to any payor of
15 the obligor. Notwithstanding any other requirement of this act as to form
16 or content, ~~any only an~~ income withholding order prepared in a standard
17 format prescribed by the secretary of ~~social and rehabilitation services~~ *the*
18 *department of children and families, or the standard federal notices and*
19 *forms promulgated under 42 U.S.C. § 652 (a)(11) and 42 U.S.C. § 666 (b)*
20 *(A)(ii)*, shall be deemed to be in compliance with this act.

21 (2) An income withholding order which does not include a medical
22 withholding order shall require the payor to withhold from any income
23 due, or to become due, to the obligor a specified amount sufficient to
24 satisfy the order of support and to defray any arrearage and shall include
25 notice of and direction to comply with the provisions of K.S.A. 2012
26 Supp. 23-3104 and 23-3105, and amendments thereto.

27 (3) An income withholding order which consists only of a medical
28 withholding order shall include notice of the medical child support order
29 and shall conform to the requirements of K.S.A. 2012 Supp. 23-3116, and
30 amendments thereto. The medical withholding order shall include notice of
31 and direction to comply with the requirements of K.S.A. 2012 Supp. 23-
32 3104, 23-3105, 23-3114 and 23-3117, and amendments thereto.

33 (4) An income withholding order which includes both a medical
34 withholding order and an income withholding order for cash support shall
35 meet the requirements of paragraphs (2) and (3).

36 (f) (1) Upon written request and without the requirement of further
37 notice to the obligor, the clerk of the district court shall cause a copy of the
38 income withholding order to be served on the payor ~~only by personal~~
39 ~~service or registered mail, return receipt requested by first-class mail.~~

40 (2) Without the requirement of further notice to the obligor, the court
41 trustee or IV-D agency may cause a copy of any income withholding order
42 to be served on the payor ~~only by personal service or registered mail,~~
43 ~~return receipt requested by first-class mail~~ or by any alternate method

1 acceptable to the payor, *including, but not limited to: Facsimile*
2 *transmission, electronic mail attachment or electronic interface allowing*
3 *for the download of a document or transmission of the terms of the income*
4 *withholding order. No payor shall be liable to any person solely because of*
5 *the method of service accepted by the payor.*

6 (3) As used in this section, "copy of the income withholding order"
7 means *a copy of any document or notice, regardless of copy format, that*
8 *advises the payor of the same general duties, requires the same amount to*
9 *be withheld from income and requires medical withholding to the same*
10 *extent as the original income withholding order that complies with the*
11 *requirements of subsection (e)(1).*

12 (g) An income withholding order shall be binding on any existing or
13 future payor on whom a copy of the order is served and shall require the
14 continued withholding of income from each periodic payment of income
15 until further order of the court or agency that issued the income
16 withholding order. At any time following issuance of an income
17 withholding order, a copy of the income withholding order may be served
18 on any payor without the requirement of further notice to the obligor.

19 (h) Except as provided in subsection (k) or (4) (m), at any time
20 following entry of an order for support the obligee or public office may
21 serve upon the obligor a written notice of intent to initiate income
22 withholding. If any notice in the court record indicates that title IV-D
23 services are being provided in the case, whether or not the IV-D services
24 include enforcement of current support, the person or public office
25 requesting issuance of the income withholding order shall obtain the
26 consent of the IV-D agency to the terms of the proposed income
27 withholding order.

28 The notice of intent to initiate income withholding shall be served on
29 the obligor ~~only~~ by personal service, *first-class mail* or registered mail,
30 return receipt requested. The notice served on the obligor must state: (1)
31 The terms of the order of support and the total arrearage as of the date the
32 notice was prepared; (2) the amount of income that will be withheld, not
33 including premiums to satisfy a medical withholding order; (3) whether a
34 medical withholding order will be included; (4) that the provision for
35 withholding applies to any current or subsequent payor; (5) the procedures
36 available for contesting the withholding and that the only basis for
37 contesting the withholding is a mistake of fact concerning the amount of
38 the support order, the amount of the arrearage, the amount of income to be
39 withheld or the proper identity of the obligor; (6) the period within which
40 the obligor must act to stay issuance of the income withholding order and
41 that failure to take such action within the specified time will result in
42 payors' being ordered to begin withholding; and (7) the action which will
43 be taken if the obligor contests the withholding.

1 The obligor may, at any time, waive in writing the notice required by
2 this subsection.

3 (i) On request of an obligor, the court shall issue an income
4 withholding order which shall be honored by a payor regardless of whether
5 there is an arrearage. Nothing in this subsection shall limit the right of the
6 obligee to request modification of the income withholding order.

7 (j) (1) In a nontitle IV-D case, upon presentation to the court of a
8 written agreement between the parties providing for an alternative
9 arrangement, no income withholding order shall be issued pursuant to
10 subsection (b). In any case, before entry of a new or modified order for
11 support, a party may request that no income withholding order be issued
12 pursuant to subsection (b) if notice of the request has been served on all
13 interested parties and: (A) The party demonstrates, and the court finds, that
14 there is good cause not to require immediate income withholding; or (B) a
15 written agreement among all interested parties provides for an alternative
16 arrangement. If child support and maintenance payments are both made to
17 an obligee by the same obligor, and if the court has determined that good
18 cause has been shown that direct child support payments to the obligee
19 may be made, then the court shall provide for direct maintenance
20 payments to the obligee and no income withholding order shall be issued
21 pursuant to subsection (b). In a title IV-D case, the determination that there
22 is good cause not to require immediate income withholding must include a
23 finding that immediate income withholding would not be in the child's best
24 interests and, if an obligor's existing obligation is being modified, proof of
25 timely payment of previously ordered support.

26 (2) Notwithstanding the provisions of subsection (j)(1), the court
27 shall issue an income withholding order when an affidavit pursuant to
28 subsection (d) is filed if an arrearage exists in an amount equal to or
29 greater than the amount of support payable for one month.

30 (3) If a notice pursuant to subsection (h) has been served in a title IV-
31 D case, there is no arrearage or the arrearage is less than the amount of
32 support payable for one month, and the obligor files a motion to stay
33 issuance of the income withholding order based upon the court's previous
34 finding of good cause not to require immediate income withholding
35 pursuant to subsection (j)(1), the obligor must demonstrate the continued
36 existence of good cause. Unless the court again finds that good cause not
37 to require immediate income withholding exists, the court shall issue the
38 income withholding order.

39 (4) If a notice pursuant to subsection (h) has been served in a title IV-
40 D case, there is no arrearage or the arrearage is less than the amount of
41 support payable for one month, and the obligor files a motion to stay
42 issuance of an income withholding order based upon a previous agreement
43 of the interested parties for an alternative arrangement pursuant to

1 subsection (j)(1), the court shall issue an income withholding order,
2 notwithstanding any previous agreement, if the court finds that:

3 (A) The agreement was not in writing;

4 (B) the agreement was not approved by all interested parties;

5 (C) the terms of the agreement or alternative arrangement are not
6 being met;

7 (D) the agreement or alternative arrangement is not in the best
8 interests of the child; or

9 (E) the agreement or alternative arrangement places an unnecessary
10 burden upon the obligor, obligee or a public office.

11 (5) The procedures and requirements of K.S.A. 2012 Supp. 23-3106,
12 and amendments thereto, apply to any motion pursuant to paragraph (3) or
13 (4) of this subsection.

14 (k) (1) An ex parte interlocutory order for support may be enforced
15 pursuant to subsection (b) only if the obligor has consented to the income
16 withholding in writing.

17 (2) An ex parte interlocutory order for support may be enforced
18 pursuant to subsection (c) only if 14 or more days have elapsed since the
19 order for support was served on the obligor.

20 (3) Any other interlocutory order for support may be enforced by
21 income withholding pursuant to this act in the same manner as a final
22 order for support.

23 (4) No bond shall be required for the issuance of an income
24 withholding order to enforce an interlocutory order pursuant to this act.

25 *(l) All remittances from any income withholding order, regardless of*
26 *when such order was entered or modified, shall be required to be directed*
27 *to the central unit for collection and disbursement of support payments*
28 *designated pursuant to K.S.A. 2012 Supp. 39-7,135, and amendments*
29 *thereto.*

30 ~~(h)~~ (m) All new or modified orders for maintenance of a spouse or ex-
31 spouse, except orders for a spouse or ex-spouse living with a child for
32 whom an order of support is also being enforced, entered on or after July
33 1, 1992, shall include a provision for the withholding of income to enforce
34 the order of support. Unless the parties consent in writing to earlier
35 issuance of a withholding order, withholding shall take effect only after
36 there is an arrearage in an amount equal to or greater than the amount of
37 support payable for two months and after service of a notice as provided in
38 subsection (h).

39 Sec. 8. K.S.A. 2012 Supp. 23-3104 is hereby amended to read as
40 follows: 23-3104. (a) It shall be the affirmative duty of any payor to
41 respond within 10 days to written or electronic requests for information
42 presented by the public office concerning: (1) The full name of the obligor;
43 (2) the current address of the obligor; (3) the obligor's social security

1 number; (4) the obligor's work location; (5) the number of the obligor's
2 claimed dependents; (6) the obligor's gross income; (7) the obligor's net
3 income; (8) an itemized statement of deductions from the obligor's
4 income; (9) the obligor's pay schedule; (10) the obligor's health insurance
5 coverage; and (11) whether or not income owed the obligor is being
6 withheld pursuant to this act. This is an exclusive list of the information
7 that the payor is required to provide under this section.

8 (b) It shall be the duty of any payor who has been served a copy of an
9 income withholding order for payment of an order for cash support that
10 meets the requirements of subsection ~~(h)~~ (i) to deduct and pay over income
11 as provided in this section. The payor shall begin the required deductions
12 no later than the next payment of income due the obligor after 14 days
13 following service of the order on the payor.

14 (c) Within seven business days of the time the obligor is normally
15 paid, the payor shall pay the amount withheld as directed by the income
16 withholding agency pursuant to K.S.A. 2012 Supp. 23-3105, and
17 amendments thereto, as directed by the income withholding order or by a
18 rule of the Kansas supreme court. The payor shall identify each payment
19 with the name of the obligor, the county and case number of the income
20 withholding order, and the date the income was withheld from the obligor.
21 The payor shall pay the amounts withheld and identify each payment in
22 the same business day. A payor subject to more than one income
23 withholding order payable to the same payee may combine the amounts
24 withheld into a single payment, but only if the amount attributable to each
25 income withholding order is clearly identified. Premiums required for a
26 child's coverage under a health benefit plan shall be remitted as provided
27 in the health benefit plan and shall not be combined with any other support
28 payment required by the income withholding order.

29 (d) The payor shall continue to withhold income as required by the
30 income withholding order until further order of the court or agency.

31 (e) From income due the obligor, the payor may withhold and retain
32 to defray the payor's costs a cost recovery fee of \$5 for each pay period for
33 which ~~income support~~ is withheld ~~from a periodic payment~~ or \$10 for each
34 month for which ~~income support~~ is withheld ~~from a periodic payment~~,
35 whichever is less. *For income withholding from a lump sum payment, a*
36 *cost recovery fee of up to \$10 per withholding may be withheld by the*
37 *payor and shall be in addition to any cost recovery fee charged for*
38 *withholding from periodic payments. Any such cost recovery fee shall be in*
39 *addition to the amount withheld as support.*

40 (f) The entire sum withheld by the payor, including the cost recovery
41 fee and premiums due from the obligor which are incurred solely because
42 of a medical withholding order, shall not exceed ~~the limits provided for~~
43 ~~under section 303(b)~~ *50% of the obligor's disposable income as defined by*

1 ~~section 302(b)~~ of the consumer credit protection act, ~~(15 U.S.C. § 1673(b))~~
2 ~~1672(b)~~. If amounts of earnings required to be withheld exceed the
3 maximum amount of earnings which may be withheld ~~according to the~~
4 ~~consumer credit protection act under this section~~, priority shall be given to
5 payment of current and past due support, and the payor shall promptly
6 notify the holder of the limited power of attorney of any nonpayment of
7 premium for a health benefit plan on the child's behalf. An income
8 withholding order issued pursuant to this act shall not be considered a
9 wage garnishment as defined in subsection (b) of K.S.A. 60-2310, and
10 amendments thereto. If amounts of earnings required to be withheld in
11 accordance with this act are less than the maximum amount of earnings
12 which could be withheld according to *section 303(b)* of the consumer
13 credit protection act, *15 U.S.C. § 1673(b)*, the payor shall honor
14 garnishments filed by other creditors to the extent that the total amount
15 taken from earnings does not exceed consumer credit protection act
16 limitations.

17 (g) *A payor who has been served an income withholding order by the*
18 *IV-D agency which includes an amount to defray an arrearage shall*
19 *contact the IV-D agency no less than 14 days prior to making payment of*
20 *any lump sum amount to the obligor. The payor may make payment of the*
21 *lump sum to the obligor once 14 days have passed after providing such*
22 *contact unless additional process, or notice of intended process, has been*
23 *received.*

24 ~~(g)~~ (h) The payor shall promptly notify the court or agency that issued
25 the income withholding order of the termination of the obligor's
26 employment or other source of income, or the layoff of the obligor from
27 employment, and provide the obligor's last known address and the name
28 and address of the individual's current employer, if known.

29 ~~(h)~~ (i) A payor who complies with a copy of an income withholding
30 order that is regular on its face shall not be subject to civil liability to any
31 person or agency for conduct in compliance with the income withholding
32 order. As used in this section, "regular on its face" means a completed
33 document ~~in the standard format for any income withholding notice that~~
34 ~~has been adopted by the United States secretary of health and human~~
35 ~~services in a final rule or a certified copy of the income withholding order~~
36 *that is in compliance with subsection (e)(1) of K.S.A. 2012 Supp. 23-3103,*
37 *and amendments thereto.*

38 ~~(i)~~ (j) Except as provided further, if any payor violates the provisions
39 of this act, the court may enter a judgment against the payor for the total
40 amount which should have been withheld and paid over. If the payor,
41 without just cause or excuse, fails to pay over income within the time
42 established in subsection (c) and the obligee files a motion to have such
43 income paid over, the court shall enter a judgment against the payor and in

1 favor of the obligee for three times the amount of the income owed and
2 reasonable attorney fees. If the payor, without good cause, fails to pay over
3 the income and identify each payment in the same business day, the court
4 shall enter a judgment against the payor and in favor of the obligee for
5 twice the amount of the cost recovery fee, as established in subsection (e),
6 per obligor.

7 (j) (k) In addition to any judgment authorized by subsection (i), a
8 payor shall be subject to a civil penalty not exceeding \$500 and other
9 equitable relief as the court considers proper if the payor: (1) Discharges,
10 refuses to employ or takes disciplinary action against an obligor subject to
11 an income withholding order because of such withholding and the
12 obligations or additional obligations which it imposes upon the payor; or
13 (2) fails to withhold support from income or to pay such amounts in the
14 manner required by this act.

15 (l) *The provisions of this section as amended by this act shall apply to*
16 *all income withheld on or after July 1, 2013, regardless of when the*
17 *applicable income withholding order was entered or modified.*

18 Sec. 9. K.S.A. 2012 Supp. 23-3105 is hereby amended to read as
19 follows: 23-3105. (a) An income withholding order shall have priority over
20 any other legal process under state law against the same income.
21 Withholding of income under this section shall be made without regard to
22 any prior or subsequent garnishments, attachments, wage assignments or
23 other claims of creditors.

24 (b) Except as provided by K.S.A. 60-2310, and amendments thereto,
25 any state law which limits or exempts income from legal process or the
26 amount or percentage of income that can be withheld shall not apply to
27 withholding income under this act.

28 (c) Subject to the provisions of K.S.A. 2012 Supp. 23-36,503, and
29 amendments thereto, if more than one income withholding order requires
30 withholding from the same source of income of a single obligor, the payor
31 shall withhold and disburse as ordered the total amount required by all
32 income withholding orders if such amount does not exceed the limits of
33 subsection (f) of K.S.A. 2012 Supp. 23-3104, and amendments thereto,~~as~~
34 ~~shown in the withholding order which specifies the highest percentage of~~
35 ~~income allowed to be withheld.~~ If the total amount required by all income
36 withholding orders, including premiums due from the obligor which are
37 incurred solely because of a medical withholding order, exceeds such
38 limits, the payor shall withhold the amount permitted to be withheld under
39 such limits and from the amount withheld the payor shall retain any cost
40 recovery fee charged by the payor. The remaining funds shall first be
41 prorated by the payor among all income withholding orders for the obligor
42 that require payment of current support. When all current support for the
43 month has been satisfied, any remaining funds shall be prorated among all

1 income withholding orders for the obligor that require payment of an
2 amount for arrearages. With respect to a medical withholding order, the
3 payor shall promptly notify the affected holder of the limited power of
4 attorney of any nonpayment of premium. The payor may request
5 assistance from the income withholding agency in determining the amount
6 to be disbursed for each income withholding order, but such assistance
7 shall not relieve the payor from any responsibility under this act. Upon
8 request of a public office or of any obligee whose income withholding
9 order is affected by this subsection, the payor shall provide the county,
10 case number and terms of all the obligor's income withholding orders.

11 (d) The provisions of this section as amended by this act shall apply
12 to all income withheld on or after July 1, ~~1992~~ 2012, regardless of when
13 the applicable income withholding order was entered or modified.

14 Sec. 10. K.S.A. 2012 Supp. 39-7,147 is hereby amended to read as
15 follows: 39-7,147. (a) Except as otherwise provided in K.S.A. 39-7,149 or
16 K.S.A. 2012 Supp. 23-3103, and amendments thereto, if no income
17 withholding order is in effect to enforce a support order in a title IV-D
18 case, an income withholding order may be entered by the secretary. A
19 notice of intent to initiate income withholding, as described in K.S.A. 2012
20 Supp. 23-3103, and amendments thereto, shall be served on the
21 responsible parent at least seven days before the secretary issues the
22 income withholding order. If the amount of arrearages is less than the
23 amount of current support due for one month, the requirements of
24 subsection (d) must be met. The income withholding order shall conform
25 to the requirements of the income withholding act, and amendments
26 thereto and shall have the same force and effect as an income withholding
27 order issued by a district court of this state.

28 (b) If an income withholding order is issued by the secretary to
29 enforce a support order entered by a court of this state, the original
30 document shall be delivered for filing to the clerk of the court that entered
31 the support order. Thereafter, if the secretary is no longer providing title
32 IV-D services in the case, the clerk of the district court shall use the
33 income withholding order issued by the secretary in the same manner as an
34 income withholding order issued by the court.

35 (c) If an income withholding order is issued by the secretary to
36 enforce a support order entered by a tribunal of another state, the secretary
37 shall transmit a copy of the income withholding order to the tribunal of the
38 other state.

39 (d) If there are no arrearages or the amount of arrearages under the
40 support order is less than the amount of current support due for one month,
41 the secretary may initiate income withholding only if:

- 42 (1) Any arrearages are owed;
- 43 (2) a medical child support order exists;

1 (3) the secretary determines that immediate issuance of the income
2 withholding order was required by K.S.A. 2012 Supp. 23-3103, and
3 amendments thereto, or by a similar law of another state, but no income
4 withholding order was entered;

5 (4) the responsible parent consents;

6 (5) required payments have been received after the due date at least
7 twice within the preceding 12 months, regardless of whether any
8 arrearages are owed; or

9 (6) the support order was entered by a tribunal of another state.

10 (e) If the support order was entered by or registered with a court of
11 this state, the notice of intent to initiate income withholding shall be served
12 on the responsible parent by ~~only~~ personal service, *first-class mail* or
13 registered mail, return receipt requested. In all other cases, the notice of
14 intent to initiate income withholding shall be served upon the responsible
15 parent only by personal service or registered mail, return receipt requested.

16 Sec. 11. K.S.A. 39-7,148 is hereby amended to read as follows: 39-
17 7,148. (a) At any time after issuing an income withholding order, the
18 secretary shall: (1) Modify or terminate the income withholding order
19 because of a modification or termination of the underlying support order;
20 (2) modify the amount of income withheld to reflect payment in full of the
21 arrearages; (3) modify or terminate the income withholding order to reflect
22 the final order in a fair hearing pursuant to K.S.A. 75-3306, and
23 amendments thereto; or (4) modify, or when appropriate terminate, an
24 income withholding order consisting in whole or in part of a medical
25 withholding order because of a modification or termination of the
26 underlying medical child support order.

27 (b) In addition to modifications required by subsection (a), at any
28 time the secretary may issue a modified income withholding order: (1) To
29 change the amount to be withheld to defray arrearages; or (2) to conform
30 the terms of a medical withholding order to the requirements of a payer.
31 The provisions of this subsection shall apply only to income withholding
32 orders issued pursuant to K.S.A. 39-7,147, and amendments thereto,
33 including any modifications of such orders.

34 (c) The secretary shall provide notice of any proposed modification to
35 the responsible parent by ~~only~~ personal service, *first-class mail* or
36 registered mail, return receipt requested, at least 14 days before entry of
37 the modified income withholding order. The responsible parent may
38 request: (1) An administrative hearing pursuant to K.S.A. 75-3306, and
39 amendments thereto, for review of the proposed modification by
40 complying with procedures established by the secretary within ten days
41 after service of the notice; or (2) a de novo court review pursuant to K.S.A.
42 39-7,139, and amendments thereto. If the notice is served by mail, the time
43 for requesting review shall be extended by three days. If the proposed

1 modification increases the total amount to be withheld from the
2 responsible parent's income, entry of the modified income withholding
3 order shall be stayed pending resolution of the review. In all other
4 instances, entry of the proposed modification shall be stayed only for
5 cause. The issues in the administrative hearing shall be limited to whether
6 the amount of current support is as stated in the proposed modification and
7 whether the total arrearages are less than the proposed installment to
8 defray arrearages.

9 (d) The responsible parent may request that the secretary terminate an
10 income withholding order for cash support if: (1) Withholding has not
11 previously been terminated and reinitiated; and (2) there is a written
12 agreement among the parties that provides for an alternative arrangement.
13 If an income withholding order is terminated and the obligor subsequently
14 accrues any arrearages, the secretary may issue another income
15 withholding order as provided in K.S.A. 39-7,147, and amendments
16 thereto.

17 (e) If the income withholding order includes both a medical
18 withholding order and an income withholding order for cash support,
19 modification or termination of one portion of the income withholding
20 order shall not modify or terminate any other portion of the income
21 withholding order except as expressly provided in the order.

22 (f) The provisions of K.S.A. 39-7,147, and amendments thereto,
23 relating to transmitting income withholding orders to the tribunal that
24 issued the underlying support order, shall apply to any order issued
25 modifying or terminating income withholding that is issued pursuant to
26 this section.

27 Sec. 12. K.S.A. 39-7,148 and K.S.A. 2012 Supp. 23-3102, 23-3103,
28 23-3104, 23-3105 and 39-7,147 are hereby repealed.

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