

Representative Waymaster, Chair
Representative Davis, Vice Chair
Members of the House Appropriations Committee

Official Written Testimony
In Opposition to HB2068
Enforcement against child support payors in arrears
March 6, 2014

Brian J. Mull
Wichita, Kansas Resident

Dear Chairman Waymaster and Members of the Committee,

Thank you for the opportunity to provide my written testimony in opposition to HB2068.

Background

I am a Kansas licensed engineer from Wichita, KS. I am also one of 13 members of the Kansas child support guidelines advisory committee. If you are not already aware, the child support committee is the sole body responsible for the Kansas child support guidelines. The advisory committee is overseen and reports directly to the Kansas Supreme Court.

I have approximately 17 years experience with the child support guidelines, enforcement methods, and their impact on families. I have authored numerous articles, provided reports, presentations, and technical assessments on the topic of child support. I also write software to calculate child support. My perspective on child support and child support enforcement may differ quite significantly from a family law attorney as I not only know the inner workings of the child support guidelines, I live with them every day. Through relationships with other parents, I'm able to understand some of the issues surrounding child support enforcement. I believe HB2068 is concerning and the committee should carefully consider alternative options.

No Due Process

HB2068 appears to bypass any right a parent has to due process. I believe this is just asking for future problems. Allowing the DCF to issue notices to limit the livelihood of a parent without any oversight or checks and balances is dangerous. We all know mistakes are made by both people and the software they operate every day. If one mistake is made in this process, someone could be asking for damages. For example, assume a parent makes timely child support payment to the KPC pursuant to Kansas statute. If the payment is mishandled and somehow missed, the parent will most likely incur more expenses after having to correct someone else's mistakes. I am personally aware of mistakes that have occurred in transactions by the DCF, court trustees, and the KPC. They can and do happen. If that results in lost wages or loss of employment, who have you helped in the process? No one.

There is no requirement to notify to the offending party. At bare minimum, the DCF should notify the delinquent party before issuing such notice to suspend privileges. In any other matter, a person could not lose a privilege without notification or an opportunity to defend themselves in a court of law.

Shortsighted

HB2068 fails to consider the children it is likely believed to help. A parent's loss of the privilege to operate a motor vehicle, register a vehicle, register a boat, or practice a profession has the potential to hurt children. There is nothing in HB2068 which considers the parent's activity in

the child's life. The only qualification setup by HB2068 is the parent's child support status - money. This is an important point. Child support payors may have residency of their children 50% of the time. If HB2068 is about helping children, it would contain language considering children and their time with both parents. Married couples go through financial struggles every day. We don't criminalize married couples or deprive them of their ability to get their kids to their obligations because of their finances are 15 days delinquent. Why would we do this to a separated family?

Let's be honest with ourselves, HB2068 is really about giving the DCF power to punish a payor for not paying. It has nothing to do with helping children. Who will pay for the increased activity by the Kansas agencies involved in both suspending and reinstating such privileges? The Kansas tax payer. I want smarter solutions from my legislators.

Interference with parenting time

Suspending a parent's privilege to drive will obviously cripple that parent's ability to exercise parenting time. Kansas has made the distinction for decades between parenting time and child support. If a parent cannot lawfully restrict parenting time due to nonpayment of child support, why is the DCF allowed to do just that? If suspension of such privileges occurs which results in loss of parenting time, the next course of action may be a motion to reduce custody or parenting time of the offending parent. From my observation of family courts, it is not uncommon for a parent to motion the court to change custody or parenting time in the event the opposing parent loses their driving privileges. So HB2068 could ultimately result in a child not being able to see a parent. I can only hope that's not the type of consequence the committee really intends.

The bigger picture

There is a bigger picture that needs to be kept in view at all times. Spite, greed, and vindictiveness are being allowed to flourish and manifest themselves within our state statutes. I fear even our government agencies who's intentions are to protect us are losing sight of the bigger picture as well. This is something we simply cannot and should not allow.

While we continue to pass more and more legislation limiting the livelihood of child support payors, we do not balance that with requirements on child support payees to adequately provide for their children. Protecting children is what this should be about. Sometimes we hear the statement "you can't possibly raise a child on that amount of child support." The fact is, that is by design - the income shares economic model. Child support is merely one parent's proportional share. Both parents are actually financially responsible. But that point gets lost all the time. Please look at the bigger picture of what is happening. The payor is being pushed out of the equation. This is not healthy for children. There has to be a smarter way.

Closing

In closing, I remind each of you to think well beyond your sincerely appreciated years serving Kansans in the legislature. Think not only about your children, but your grandchildren and great grandchildren. You probably know someone close to you who pays or receives child support. There are smarter ways to address issues. Taking a risky move which may inadvertently hurt even one child is not worth the risk. A parent who has made poor financial decisions or is at odds with the other parent is not necessarily a bad parent. I cannot reinforce that statement enough - a financially disadvantaged parent is not necessarily a bad parent! I ask you to work to find smarter solutions. Please vote **NO** on HB2068.

Thank you for your time.



Brian J. Mull