

*As Amended by Senate Committee*

*Session of 2013*

**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 35<sup>th</sup> 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~~ *income support* is withheld ~~from a periodic payment~~ or \$10 for each  
34 month for which ~~income support~~ *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.