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January 21, 2011

The Senate Committee on Judiciary  
c/o Senator Timothy Owens, Chair  
Kansas State Capitol  
10<sup>th</sup> and Jackson, Office 559-S  
Topeka, KS 66612

Re: Senate Bill No. 24

Senators:

I write today in support of Senate Bill No. 24 concerning the recodification of Domestic Relations Statutes. I am a family law attorney practicing in Johnson County, Kansas. I have been practicing in this county and state, and primarily in the areas of family law, since 1987. I am currently a member and Chair of the Johnson County Bar Association Family Law Bench Bar Committee, a member of the Johnson County Family Law Section, and a member of the Kansas Bar Association. As a family law attorney, I think it would be very helpful to recodify the family law statutes so they can all be found in one location.

Currently, when dealing with various family law matters, it may be necessary to consult statutes which are located in several separate chapters. Routinely, one must review statutes contained in Chapters 23, 38 and 60. Currently, Chapter 20 contains statutes regarding the establishment of expedited procedures for the collection of support and the establishment of child support guidelines. Chapter 23 defines marriage, defines marital property containing statutes regarding the mediation of domestic law disputes, the enforcement of visitation rights, the Uniform Pre-Marital Agreement Act, the Uniform Interstate Family Support Act and statutes controlling the case management process for family law cases. Parentage proceedings and divorces involving children necessarily involve many of the same statutes. Chapter 38 contains the statutes controlling child custody jurisdiction, and the Parenting Act. Chapter 60 contains the divorce code, and statutes that not only govern matters concerning the children of divorcing families but children of unmarried parents as well. Chapter 60 also has statutes concerning visitation rights for third parties, including grandparents and

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step-parents, as does Chapter 38. One can also find in Chapter 60 laws concerning child support enforcement. Statutes within Chapter 60, such as 60-1610, contain a myriad of seemingly unrelated provisions. 60-1610 deals with everything from parenting plans to spousal maintenance (alimony); child support to property division.

As an attorney who has been involved in presenting continuing legal education programs for a number of years, I can attest to the fact that the dizzying array of places containing these statutes is not only difficult but confusing. The differentiation between the statutes concerning children in divorce in one chapter, and statutes concerning the children in paternity actions in another has, on occasion, caused confusion in the application of laws uniformity. The law may mean one thing in one situation, and something different in another. When the Legislature modifies statutes, there has been confusion in the past when, for example, the paternity statute changed but the divorce code did not. If the language is different, does the Legislature intend for children in these differing circumstances to be treated differently?

In the 23 years I have been practicing in the area of family law, the law and statutes themselves have become increasingly complex. The application of uniform statutes such as the Uniform Child Custody Jurisdiction Enforcement Act, the Uniform Interstate Family Support Act, and the like, coupled with the increasing federalization of certain areas of family law, has made the clear and logical organization of all relevant statutes more important than ever. Currently, it is quite difficult for someone to find all statutes that might apply to their particular case. Chapter 23 is titled Domestic Relations. One would think the laws concerning such matters would be found there, but the vast majority of the most important statutes are found elsewhere. The important jurisdictional statutes are found under the chapter entitled "Minors." (Chapter 38). It would seem appropriate that as many of the statutes concerning marriage, the termination of marriage, the determination of paternity, the issues regarding the support of children, support of parties, the parenting of children in non-intact families and services available to those families, (i.e. mediation, case management and the like), be located in one place.

The recodification of the statute is also an access to justice issue. As most family law practitioners can attest, more and more persons involved in divorce, post divorce and paternity actions, are representing themselves. While, laudably, there is increasing access to appropriate self-help forms through the Kansas Supreme Court and Kansas Legal Services, as well as an increased use of reduced fee services and limited scope representation by attorneys, many families, by choice or necessity, find themselves in a situation where self-representation is the manner in which they interact with the courts. As difficult as it is for someone trained in the law to keep up with the various statutes concerning domestic relations law when they are spread throughout the statute books, it is exponentially more difficult for those untrained in the law. As a member of the Supreme Court's Access to Justice Study Group, formerly known as a Self-Represented Study Committee, I have developed a greater appreciation for the

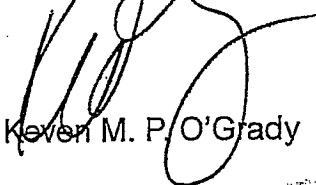
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difficulties faced by those representing themselves. Placing all of the relevant statutes in the same place will make it easier for those litigants to have appropriate access to the relevant law.

While this written testimony is offered individually, I can also offer a sense of other practitioners in Johnson County. As Chair of the Johnson County Family Law Bench Bar Committee, I have polled the Committee, and support for Senate Bill 24 is unanimous. As a member of the Executive Board of the Johnson County Family Law Section, I can also report that, after polling the Board, Senate Bill 24 was also strongly supported.

I thank the Committee for considering my thoughts in this matter and urge you to favorably consider Senate Bill 24. This bill will not only assist the smooth and efficient administration of justice in the family law arena, but will increase access to the courts for all and will be a significant improvement of the organization and maintenance of our statutes.

Yours very truly,



Kevin M. P. O'Grady

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