

As Amended by House Committee

Session of 2008

HOUSE BILL No. 2904

By Committee on Insurance and Financial Institutions

2-15

10 AN ACT relating to child support enforcement; concerning payments  
11 under certain insurance policies ~~and workers' compensation~~; **provid-**  
12 **ing notice to certain licensing bodies**; amending K.S.A. 39-759 **and**  
13 **74-147** and repealing the existing ~~section sections~~.

14

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

16 New Section 1. (a) The secretary of social and rehabilitation services  
17 is authorized to enter into an agreement with any entity that engages in  
18 the business of matching information about child support debtors against  
19 information about insurance claimants. Any such agreement shall be sub-  
20 ject to the provisions of K.S.A. 39-759, and amendments thereto, con-  
21 cerning confidential information. If the entity is a consortium or similar  
22 joint venture of two or more states, or if the entity is an agency of the  
23 United States, the requirements of K.S.A. 75-5365, and amendments  
24 thereto, shall not apply.

25 (b) Pursuant to an agreement made under subsection (a), the secre-  
26 tary of social and rehabilitation services may disclose information about  
27 any individual who owes past due support in a title IV-D case if the  
28 support debtor owes at least \$25 in past due support. "Title IV-D" means  
29 part D of title IV of the federal social security act (42 U.S.C. §651 et  
30 seq.).

31 (c) To the extent feasible, the secretary of social and rehabilitation  
32 services shall require or provide secure electronic processes for disclosing  
33 information about support debtors to any entity conducting matches pur-  
34 suant to this section and for any insurers disclosing information about  
35 claimants to such an entity.

36 (d) The secretary of social and rehabilitation services shall have the  
37 authority to adopt such rules and regulations as may be necessary to ad-  
38 minister the provisions of this act.

39 New Sec. 2. (a) As used in section 1 and 2, and amendments thereto:

40 (1) "Insurer" means any entity regulated under chapter 40 of the  
41 Kansas Statutes Annotated, and amendments thereto, that provides cov-  
42 erage for ~~workers compensation or~~ liability insurance.

43 (2) "Claimant" means any individual who has submitted a claim for

1 payment under a ~~workers compensation or~~ liability insurance contract.

2 (b) An insurer shall be required to comply with the provisions of this  
3 section only after the secretary of social and rehabilitation services has  
4 entered into an agreement pursuant to section 1, and amendments  
5 thereto. The secretary of social and rehabilitation services shall make  
6 available to insurers information about the data matching process, in-  
7 cluding instructions for disclosing claimant information.

8 (c) An insurer shall disclose information about a claimant as in-  
9 structed by the secretary of social and rehabilitation services if the claim-  
10 ant's aggregate claim totals \$1,000 or more.

11 (d) A disclosure required pursuant to subsection (c) may be made at  
12 any time following submission of the claim, but shall be made no less  
13 than 30 days before an insurance payment is disbursed to the claimant.

14 (e) An insurer, including any agent of the insurer, shall not be liable  
15 under any state law to any person for any disclosure required or author-  
16 ized by this section, or for any other action taken in good faith in accord-  
17 ance with this section.

18 (f) At the insurer's discretion, an insurer may disclose information as  
19 provided in this section about a claimant whose aggregate claim is less  
20 than \$1,000.

21 (g) Nothing in this section shall require an insurer to make any pay-  
22 ment that is not otherwise required under the contract of insurance.

23 Sec. 3. K.S.A. 39-759 is hereby amended to read as follows: 39-759.

24 (a) With respect to information obtained by the secretary under K.S.A.  
25 39-758 ~~or K.S.A.~~ 39-7,136, 39-7,143 ~~and~~ or 39-7,150, and amendments  
26 thereto, *or section 1 and 2, and amendments thereto*, any person who  
27 willfully requests, obtains or seeks to obtain confidential information ex-  
28 cept in accordance with any law permitting such disclosure shall be guilty  
29 of a class B nonperson misdemeanor. With respect to information ob-  
30 tained by the secretary under K.S.A. 39-758 ~~or K.S.A.~~ 39-7,136, 39-7,143  
31 ~~and~~ or 39-7,150, and amendments thereto, *or section 1 and 2, and amend-*  
32 *ments thereto*, any person who willfully requests, obtains or seeks to ob-  
33 tain confidential information under false pretenses or who willfully com-  
34 municates or seeks to communicate such information to any person  
35 except in accordance with any law permitting such disclosure shall be  
36 guilty of a severity level 10, nonperson felony. If the offender is an officer  
37 or employee of the state or a political subdivision of the state, such officer  
38 or employee shall be dismissed from office. If the offender's supervisor  
39 does not dismiss the offender, such supervisor shall be dismissed from  
40 office. Any violation of this subsection by a IV-D contractor or an agent  
41 of a IV-D contractor shall be grounds for termination of the IV-D contract  
42 and the contract shall be terminated. The provisions of this subsection  
43 shall be a complete defense in any civil action concerning such dismissal,

1 termination of the IV-D contract or termination of a contractor's rela-  
2 tionship with an individual offender. When the individual is hired as an  
3 officer or employee of the state or a political subdivision or hired by a  
4 IV-D contractor, such individual shall be given verbal and written notice  
5 of the provisions of this subsection. Such individual shall sign a statement  
6 stating that such information was received.

7 (b) ~~Effective October 1, 1997,~~ The secretary shall safeguard, to the  
8 extent required by title IV-D or any other provision of law, any confiden-  
9 tial information handled by the secretary. Unauthorized use or disclosure  
10 of information relating to proceedings or actions to establish paternity or  
11 to establish or enforce a support obligation is prohibited, except that noth-  
12 ing in this provision shall prevent the secretary or the secretary's desig-  
13 nees from using or disclosing information, or authorizing use or disclosure  
14 of information, as needed in the administration of the IV-D program or  
15 as authorized by title IV-D.

16 The release of information concerning the location of one party to  
17 another party against whom a protective order with respect to the former  
18 party has been entered is prohibited. The release of information con-  
19 cerning the location of one party to another party is prohibited if the  
20 secretary has reason to believe that the release of such information may  
21 result in physical or emotional harm to the former party. For purposes of  
22 this subsection, "has reason to believe" means that the former party has  
23 claimed good cause for refusing to cooperate in IV-D activities, so long  
24 as the claim is pending or has been approved. Such good cause shall relate  
25 to one of the following: (1) The child was conceived as a result of incest  
26 or rape; (2) there are legal proceedings for adoption of the child pending  
27 before a court; (3) the custodial parent is currently being assisted by a  
28 public or licensed private social agency in determining whether to keep  
29 the child or relinquish the child for adoption; (4) there is documented  
30 evidence to support the claim that the child may be physically or emo-  
31 tionally harmed; or (5) there is documented evidence to support the claim  
32 that the custodial parent may be physically or emotionally harmed so  
33 seriously as to reduce the capacity to adequately care for the child.

34 (c) The provisions of this section shall be in addition to any other  
35 prohibition against further disclosure, remedy or sanction provided by  
36 law.

37 **New Sec. 4. (a) When an order for the support of a child has**  
38 **been entered and the court upon motion finds that the require-**  
39 **ments of subsection (b) have been met, the court shall order that**  
40 **a notice pursuant to subsection (a) of K.S.A. 74-147, and amend-**  
41 **ments thereto, be served on the licensing body. If the person who**  
42 **owes support is a licensed attorney, the court shall file a complaint**  
43 **with the disciplinary administrator if the licensing body is the Kan-**

1 sas supreme court, or the appropriate bar counsel's office if the  
2 licensee practices in another state.

3 (b) The provisions of subsection (a) shall apply if the court finds  
4 that: (1) The support debtor owes past due child support equal to  
5 or greater than \$1,000; (2) the support debtor is or may be licensed  
6 to practice a profession by a licensing body as defined in K.S.A.  
7 74-146, and amendments thereto; and (3) the debtor has failed,  
8 after a reasonable opportunity, to comply with a payment plan  
9 previously established by the court or a written payment plan  
10 agreed upon by the parties.

11 Sec. 5. K.S.A. 74-147 is hereby amended to read as follows: 74-  
12 147. (a) Any notice to a licensing body served pursuant to K.S.A.  
13 20-1204a and amendments thereto, shall have attached a copy of  
14 the court order finding the licensee in contempt of court in a child  
15 support proceeding. Any notice to a licensing body served pursu-  
16 ant to K.S.A. ~~2002-Supp.~~ 60-1622 and amendments thereto shall  
17 have attached a copy of the warrant or subpoena outstanding  
18 against the licensee. *Any notice to a licensing body served pursuant to*  
19 *section 4, and amendments thereto, shall have attached a copy of the court*  
20 *order stating the findings of fact required by section 4, and amendments*  
21 *thereto. The notice shall advise the licensing body of the duty to*  
22 *comply with K.S.A. 74-146 and 74-147 and amendments thereto;*  
23 *shall provide the name of the licensee and information which will*  
24 *assist the licensing body to identify the correct person; and shall*  
25 *provide the name, mailing address and telephone number of the*  
26 *person serving the notice. If inadequate identifying information is*  
27 *included in the notice, the licensing body shall promptly contact*  
28 *the person serving the notice to request additional information.*

29 (b) If a licensing body receives a notice pursuant to subsection  
30 (a), the licensing body shall, within 30 days after receiving the no-  
31 tice, notify the licensee of the licensing body's intent to suspend  
32 or to withhold issuance or renewal of the licensee's authorization  
33 to practice a profession in this state and of the licensee's rights and  
34 duties under this section. If the licensing body does not receive  
35 sufficient information with the notice to identify the correct li-  
36 censee, the 30 days shall commence when sufficient identifying  
37 information is received.

38 (c) If the licensing body receives a notice pursuant to subsec-  
39 tion (a), the licensing body shall provide the licensee a temporary  
40 license, authorizing the individual to practice a profession in this  
41 state, if the licensee is otherwise eligible. The temporary license  
42 shall be valid for a period of six months from the date the notice  
43 to the licensee pursuant to subsection (b) was issued. A temporary

1 license issued under this section shall not be extended, except that  
2 the licensing body may extend the temporary license up to 30 days  
3 to prevent extreme hardship for a person being served by the li-  
4 censee. If the licensee does not furnish a release pursuant to sub-  
5 section (c) within the time required by the licensing body, the li-  
6 censing body shall proceed to suspend, terminate, deny or refuse  
7 to renew the licensee's authority to practice a profession in this  
8 state.

9 (d) If an authorization to practice a profession in this state is  
10 suspended, denied or not renewed pursuant to this section, any  
11 funds paid by the licensee shall not be refunded by the licensing  
12 body.

13 (e) If a temporary license has been issued pursuant to subsec-  
14 tion (c), the licensee shall obtain a release from the court that au-  
15 thorized the notice to the licensing body, as a condition for the  
16 issuance or renewal of the licensee's authorization to practice a  
17 profession in this state. The licensing body may require the li-  
18 censee to furnish the release before the temporary license expires.

19 (f) In any review of the licensing body's actions pursuant to  
20 K.S.A. 74-146 and 74-147 and amendments thereto, conducted by  
21 the licensing body at the request of the licensee, the issues shall  
22 be limited to the identity of the licensee and the validity of notices  
23 pursuant to this section. The licensing body shall have no jurisdic-  
24 tion over issues related to the support obligation of the licensee.

25 (g) *The licensing body shall immediately terminate any proceedings*  
26 *against a licensee upon presentation by the licensee of a release from the*  
27 *court that authorized the notice as provided in subsection (a). The court*  
28 *shall issue a release to the licensee if the licensee has contacted the court*  
29 *and is attempting to comply with a payment plan. If the licensee's license*  
30 *has been suspended or not renewed, and the licensee has provided the*  
31 *release from the court and otherwise qualifies for the license, the licensing*  
32 *body shall reinstate the license or issue the renewal license to the licensee.*

33 Sec. ~~4~~ **6**. K.S.A. 39-759 ~~is~~ and **74-147** are hereby repealed.

34 Sec. ~~5~~ **7**. This act shall take effect and be in force from and after its  
35 publication in the statute book.