

SENATE BILL No. 304

AN ACT concerning domestic relations; enacting the batterer intervention program certification act; relating to case management; recodification of the Kansas family law code; amending K.S.A. 13-1246a, 20-1204a, 20-2618, 39-7,138, 39-7,147, 44-514, 60-2308, 60-3103, 65-2409a and 74-7334 and K.S.A. 2011 Supp. 12-4509, 12-5005, 20-164, 20-165, 20-302b, 21-5414, 21-5808, 21-5924, 21-6604, as amended by section 1 of 2012 House Bill No. 2465, 22-4616, 23-2217, 23-2704, 23-2706, 23-2709, 23-2710, 23-2715, 23-2717, 23-2802, 23-2902, 23-2905, 23-3001, 23-3004, 23-3005, 23-3207, 23-3208, 23-3215, 23-3219, 23-3221, 23-3222, 23-3301, 23-3302, 23-3304, 23-3403, 23-3508, 38-1518, 38-2201, 38-2202, 38-2203, 38-2220, 38-2221, 38-2223, 38-2255, 38-2264, 38-2304, 38-2313, 38-2318, 38-2362, 39-7,135, 39-7,145, 59-2136, 60-308, 60-703, 60-2403, 60-2803, 60-3107, 65-6608, as amended by section 1 of 2012 Senate Bill No. 290, 74-147 and 74-4923 and repealing the existing sections; also repealing K.S.A. 23-4,125, 23-4,126, 23-4,127, 23-4,128, 23-4,129, 23-4,130, 23-4,131, 23-4,132, 23-4,133, 23-4,134, 23-4,135, 23-4,136 and 23-4,137 and K.S.A. 2011 Supp. 38-2255b and 60-1613.

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

New Section 1. (a) There is hereby created in the office of the attorney general a batterer intervention program certification unit.

(b) Except as otherwise provided by law, the books, documents, papers, records or other sources of information obtained and the investigations conducted by the unit shall be confidential as required by state or federal law.

(c) The purpose of the batterer intervention program certification unit is to certify and inspect batterer intervention programs in Kansas. To accomplish this purpose, upon request of the unit, the unit shall have access to all records of reports, investigation documents and written reports of findings related to confirmed cases of domestic violence or exploitation of persons or cases in which there is reasonable suspicion to believe domestic violence has occurred which are received or generated by the department of social and rehabilitation services, department on aging, department of health and environment or Kansas bureau of investigation.

(d) The attorney general shall develop a set of tools, methodologies, requirements and forms for the domestic violence offender assessment required by subsection (p) of K.S.A. 2011 Supp. 21-6604, and amendments thereto. The batterer intervention program tools, methodologies, requirements and forms shall be developed in consultation with the agency certified by the centers for disease control and prevention and the department of health and human services as the domestic violence coalition for the state and with local domestic violence victims' services organizations.

(e) The attorney general may appoint a panel to assist the attorney general by making recommendations regarding the:

(1) Content and development of a batterer intervention certification program; and

(2) rules and regulations.

(f) The attorney general may appoint such advisory committees as the attorney general deems necessary to carry out the purposes of the batterer intervention program certification act. Except as provided in K.S.A. 75-3212, and amendments thereto, no member of any such advisory committee shall receive any compensation, subsistence, mileage or other allowance for serving on an advisory committee or attending any meeting thereof.

New Sec. 2. (a) No person shall operate or provide services as a batterer intervention program unless such program has been certified as required by this section.

(b) Except as provided in subsection (i), any program desiring to be certified in Kansas as a batterer intervention program shall submit an application thereof to the attorney general. All completed applications for initial, renewal, or reinstatement certification shall be verified and on a form approved by the attorney general. The completed application shall include:

(1) The full name and resident address of the applicant;

(2) the name under which the applicant intends to do business and the business address;

(3) a statement as to the general nature of the business in which the applicant intends to engage;

(4) a statement of the educational and work experience of each individual, including any employee or agent of applicant, who will be directly providing intervention services to clients of a batterer intervention program;

(5) a statement that the applicant has complied with such other qualifications as may be established by the attorney general by rules and regulations;

(6) payment of the application fee; and

(7) such other information, evidence, statements or documents as may be required by the attorney general.

(c) If in evaluating an applicant's application the attorney general finds any deficiency in the applicant's qualifications, the attorney general may require such applicant to fulfill such remedial or other requirements as the attorney general may prescribe.

(d) Certification as a batterer intervention program shall expire on the second anniversary of the date of certification.

(e) Certification as a batterer intervention program may be renewed every two years upon submission of a completed renewal application to the attorney general on or before the expiration date of such certification, payment of the renewal fee and verification of continuing compliance with the requirements of the batterer intervention program certification act and the rules and regulations adopted thereunder by the attorney general.

(f) Any batterer intervention program that fails to secure a renewal certification within the time specified in subsection (f) may request reinstatement of such lapsed certification by submitting to the attorney general a completed application on a form approved by the attorney general, furnishing proof that the applicant is qualified to act as a certified batterer intervention program and satisfying all of the requirements for reinstatement including payment of a reinstatement fee to the attorney general.

(g) The attorney general may issue a temporary permit to act as a certified batterer intervention program for a period not to exceed 180 days to an applicant requesting initial certification if the attorney general determines the applicant qualifies under subsections (b) and (c), except for program requirements regarding agency structure, personnel qualifications, education requirements or training requirements established in rules and regulations, and such deficiencies can be remedied within such time period. The temporary permit shall expire upon the applicant meeting all of the program requirements and the applicant's program being certified as required by this section, or upon the expiration date of the temporary permit, whichever occurs first.

(h) No certification as a batterer intervention program or temporary permit to act as a certified batterer intervention program shall be assignable or transferable.

(i) A batterer intervention program may be exempted from the initial application for certification as a certified batterer intervention program if such program had been previously certified or certified by the attorney general as a batterer intervention program on the day preceding the effective date of the batterer intervention program certification act.

(j) (1) Except as provided further, the program director, program supervisor or program coordinator of any batterer intervention program shall be licensed to practice in Kansas as a licensed psychologist, licensed baccalaureate social worker, licensed master social worker, licensed specialist clinical social worker, licensed marriage and family therapist, licensed clinical marriage and family therapist, licensed addiction counselor, licensed clinical addiction counselor, licensed professional counselor, licensed clinical professional counselor, licensed masters level psychologist or licensed clinical psychotherapist.

(2) Any person not licensed as required in subsection (j)(1) who is a program director, program supervisor or program coordinator immediately prior to January 1, 2013, may continue to be a program director, program supervisor or program coordinator on and after January 1, 2013, if such person remains employed or contracted by the same program, and such program remains a certified batterer intervention program. When such person is no longer employed or contracted by the program in which they were a program director, program supervisor or program coordinator immediately prior to January 1, 2013, such person shall not be a program director, program supervisor or program coordinator for any certified batterer intervention program without meeting the license requirements prescribed in subsection (j)(1).

New Sec. 3. Each applicant, certified batterer intervention program or holder of a temporary permit shall notify the attorney general in writing of:

- (a) A change in name or address, both residential and business, within 30 days of the change; or
- (b) a conviction of or entering into a diversion agreement in lieu of further criminal proceedings alleging a violation of:
  - (1) A felony offense in the Kansas Statutes Annotated, and amendments thereto, or similar conviction in another jurisdiction:
    - (A) Involving dishonesty or false statement;
    - (B) involving alcohol or a controlled substance; or
    - (C) designated as a person offense in article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto; or
  - (2) a misdemeanor offense in the Kansas Statutes Annotated, and amendments thereto, or similar conviction in another jurisdiction or an ordinance of any city of this state, or resolution of any county of this state:
    - (A) Involving dishonesty or false statement;
    - (B) involving alcohol or a controlled substance; or
    - (C) designated as a person offense in article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 4. The fee for an initial application, renewal application or reinstatement application for a batterer intervention program certification shall be \$100. The fee for an initial application, renewal application or reinstatement fee for temporary permit shall be \$50. The attorney general may increase the amount of fee for an initial application, renewal application or reinstatement application for a batterer intervention program certification by rules and regulations, except that the fee for a batterer intervention program certification shall not exceed \$250. The attorney general may increase the amount of fee for an initial application renewal, application or reinstatement application for temporary permit by rules and regulations, except that the fee for a temporary permit shall not exceed \$250.

New Sec. 5. (a) The attorney general shall establish by rules and regulations the requirements for a batterer intervention certification program. These requirements may include, but not be limited to:

- (1) Standards;
  - (2) program elements and goals;
  - (3) the role of the certified batterer intervention program in the community;
  - (4) technical considerations which may include, but not be limited to, consideration of any combination of:
    - (A) Expectations of batterers;
    - (B) group composition;
    - (C) facilitation;
    - (D) curriculum;
    - (E) prohibited and restricted practices;
    - (F) batterer confidentiality, victim confidentiality and safety checks;
    - (G) program length;
    - (H) victim notification;
    - (I) victim involvement;
    - (J) public relations;
    - (K) research;
    - (L) agency structure; and
    - (M) personnel policies and procedures;
  - (5) the assessment of batterer participants and the utilization of the Kansas domestic violence offender assessment;
  - (6) orientation training and continuing education requirements for program facilitators, program supervisors and program coordinators, and any agent or employee of a certified batterer intervention program who directly provides intervention services to clients of such program; and
  - (7) any other requirements or conditions as may be required by the attorney general.
- (b) Such rules and regulations shall require the following:
- (1) The Kansas domestic violence offender assessment shall be completed by: (A) An individual who is licensed to practice in Kansas as a licensed psychologist, licensed baccalaureate social worker, licensed master social worker, licensed specialist clinical social worker, licensed mar-

riage and family therapist, licensed addiction counselor, licensed clinical marriage and family therapist, licensed professional counselor, licensed clinical professional counselor, licensed masters level psychologist or licensed clinical psychotherapist; or (B) an individual who meets the requirements of subsection (b)(2).

(2) Any person who is not licensed as required in subsection (b)(1)(A) who is completing domestic violence offender assessments as an employee of or volunteer for a batterer intervention program immediately prior to January 1, 2013, may continue to complete such assessments on and after January 1, 2013, if such person remains an employee of or volunteer for the same program, and such program remains a certified batterer intervention program. When such person is no longer an employee of or volunteer for the program in which they were employed or volunteering immediately prior to January 1, 2013, such person shall not be allowed to complete the Kansas domestic violence offender assessment for any certified batterer intervention program without meeting the license requirements prescribed in subsection (b)(1)(A).

New Sec. 6. (a) The attorney general may suspend, limit, condition, deny, revoke or refuse renewal or reinstatement of any certification or permit issued under the batterer intervention program certification act if the attorney general determines that an applicant, a person operating or providing services as a certified batterer intervention program or holder of a temporary permit has:

(1) Made any false statement or given any false information in connection with an application for an initial, renewal or reinstatement of a certification or temporary permit issued under the batterer intervention program certification act;

(2) failed to meet or maintain compliance with program requirements;

(3) been found guilty or convicted of fraud or deceit in connection with services rendered;

(4) been found guilty of negligence or wrongful actions in the performance of services rendered;

(5) allowed the use of the attorney general's domestic violence offender assessment by any person who is not an employee or agent of either a current certified batterer intervention program or a holder of a temporary permit issued under the batterer intervention program certification act;

(6) committed an act of unprofessional conduct as defined by rules and regulations adopted by the attorney general;

(7) been convicted of any offense as defined in section 3, and amendments thereto; or

(8) failed or refused to allow inspection of records pursuant to section 8, and amendments thereto.

(b) (1) For purposes of this section, "conviction" means:

(A) The entry of a plea or verdict of guilty or a conviction following a plea of *nolo contendere* and without regard to whether the sentence was suspended or probation granted after such conviction;

(B) a forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated; or

(C) entering into a diversion agreement in lieu of further criminal proceedings alleging a violation of any offense specified in subsection (b) of section 3, and amendments thereto.

(2) The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(c) Proceedings under this section shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under the batterer intervention program certification act shall be in accordance with the Kansas judicial review act.

New Sec. 7. (a) Any applicant, person who operates or provides services as a batterer intervention program or holder of a temporary permit who violates any provision of the batterer intervention program certification act or any rules and regulations adopted thereunder, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in an amount not less than \$100 nor more than

\$5,000 for each violation and, in the case of a continuing violation, every day such violation continues may be deemed a separate violation.

(b) No civil penalty shall be imposed pursuant to this section except upon the written order of the attorney general to the applicant, person who operates or provides services as a certified batterer intervention program or holder of a temporary permit who committed the violation. Such order shall state the violation, the penalty to be imposed and the right of the applicant, person who operates or provides services as a certified batterer intervention program or holder of a temporary permit to appeal to the attorney general. Any such applicant, person who operates or provides services as a certified batterer intervention program or holder of a temporary permit, within 20 days after notification, may make written request to the attorney general for a hearing in accordance with the provisions of the Kansas administrative procedure act. The attorney general shall affirm, reverse or modify the order and shall specify the reasons therefor.

(c) Any applicant, person who operates or provides services as a certified batterer intervention program or holder of a temporary permit aggrieved by a final order of the attorney general made under this section may appeal such order to the district court in the manner provided by the Kansas judicial review act.

(d) Any civil penalty imposed pursuant to the provisions of this section shall be recovered by the attorney general, remitted to the state treasurer, deposited in the state treasury and credited to the state general fund.

(e) Any action taken pursuant to this section shall be in addition to and not in lieu of any other penalty prescribed by law.

New Sec. 8. (a) Each certified batterer intervention program and each holder of a temporary permit issued pursuant to the batterer intervention program certification act shall keep and maintain for a period of two years, each book, document, paper, record or other information pertaining to services rendered as a certified batterer intervention program.

(b) Regardless of the form or media in which such books, documents, paper, record or other source of information is kept, each book, document, paper, record and other source of information concerning the compliance with the requirements established in the batterer intervention program certification act and the rules and regulations adopted thereunder by each certified batterer intervention program or holder of a temporary permit shall be inspected at least once every certification period by the attorney general. The attorney general may order other or additional inspections as deemed necessary by the attorney general. The attorney general shall at all times be given free access to all such books, documents, papers, records or other sources of information concerning the compliance with the requirements established in the batterer intervention program certification act and the rules and regulations adopted thereunder.

(c) (1) Any information or copy thereof obtained by the attorney general pursuant to this section or pursuant to an investigation pursuant to the batterer intervention program certification act shall not be public and shall not be subject to disclosure pursuant to the Kansas open records act, and amendments thereto.

(2) The provisions of subsection (c)(1) shall expire on July 1, 2017, unless the legislature acts to reenact such provision. The provisions of subsection (c)(1) shall be reviewed by the legislature prior to July 1, 2017.

New Sec. 9. (a) The attorney general may bring an action to restrain or enjoin any violation of the batterer intervention program certification act or any rule and regulation promulgated thereunder. The district courts of this state shall have jurisdiction to restrain violations of the batterer intervention program certification act or the rules and regulations promulgated thereunder. The court may issue such orders, including temporary restraining orders, as the facts may warrant without first requiring proof that an adequate remedy at law does not exist. Any orders issued pursuant to this section shall be issued without bond. Proceedings may be instituted under this section without any criminal proceedings, administrative proceedings or civil penalty proceedings being first initiated.

(b) In any civil action brought by the attorney general pursuant to this section in which a temporary restraining order, preliminary injunction

or permanent injunction is sought, it shall be sufficient to show that a violation of the provisions of the batterer intervention program certification act, or the rules and regulations adopted thereunder, has occurred or is imminent. It shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the temporary restraining order, preliminary injunction or permanent injunction not be issued or that the remedy at law is inadequate.

New Sec. 10. Except for a certified batterer intervention program or a holder of a temporary permit authorized under the batterer intervention program certification act, no person shall use any of the tools, methodologies, and forms for the domestic violence offender assessment required by subsection (p) of K.S.A. 2011 Supp. 21-6604, and amendments thereto, developed by the attorney general pursuant to section 1, and amendments thereto.

New Sec. 11. In accordance with the provisions of the rules and regulations filing act, K.S.A. 77-415 *et seq.*, and amendments thereto, the attorney general shall adopt, amend and revoke rules and regulations governing the administration and enforcement of the batterer intervention program certification act, including but not limited to:

- (a) Criteria for the evaluation, certification and monitoring of any certified batterer intervention program;
- (b) any form required to implement the batterer intervention program certification act;
- (c) any orientation training and continuing education requirements for staff who will be directly providing intervention services to clients of any certified batterer intervention program;
- (d) any fee required under the batterer intervention program certification act;
- (e) any report, record or other information which may be required to be kept, and maintained pursuant to the batterer intervention program certification act; and
- (f) such other rules and regulations as the attorney general may deem necessary to carry out the provisions of the batterer intervention program certification act.

Rules and regulations required for the administration of the batterer intervention program certification act shall be adopted on or before the first anniversary of the effective date of the batterer intervention program certification act.

New Sec. 12. (a) There is hereby created in the state treasury the Kansas attorney general batterer intervention program certification fund. The attorney general shall remit all amounts received under the batterer intervention program certification act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the attorney general shall remit the entire amount to the state treasurer pursuant to the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas attorney general batterer intervention program certification fund.

(b) Moneys in the Kansas attorney general batterer intervention program certification fund shall be expended only for the purposes of administering the batterer intervention program certification act.

(c) All expenditures from the Kansas attorney general batterer intervention program certification fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person designated by the attorney general.

New Sec. 13. (a) As used in the batterer intervention program certification act, unless the context otherwise requires, the following words and phrases shall have the meanings ascribed to them in this section:

(1) “Agent or employee thereof,” in the context of either a certified batterer intervention program or the holder of a temporary permit, means any individual who acts or aids in any manner in directly providing intervention related service to a client of a certified batterer intervention program. The term “agent or employee thereof” shall not include an individual working as an officer for a certified batterer intervention program, or in a clerical, administrative or service capacity for a certified batterer

intervention program, provided that such individual does not provide intervention services to clients under such program.

(2) “Attorney general” means the attorney general of the state of Kansas and any authorized agent or designee thereof.

(3) “Certified batterer intervention program” includes any agent or employee thereof.

(4) “Holder of a temporary permit” includes any agent or employee thereof.

(5) “Person” means an individual, partnership, corporation, limited liability company, association, business entity, legal representative, trustee, trustee in bankruptcy or receiver, partnership, joint venture, company, firm, corporation, institution, governmental subdivision, state or federal department or agency or other legal entity.

(b) Sections 1 through 13, and amendments thereto, shall be cited as the batterer intervention program certification act.

Sec. 14. K.S.A. 2011 Supp. 12-4509 is hereby amended to read as follows: 12-4509. (a) Whenever a person is found guilty of the violation of an ordinance, the municipal judge may:

(1) Release the person without imposition of sentence;

(2) release the person on probation after the imposition of sentence, without imprisonment or the payment of a fine or a portion thereof, subject to conditions imposed by the court as provided in subsection (e);

(3) impose such sentence of fine or imprisonment, or both, as authorized for the ordinance violation; or

(4) impose a sentence of house arrest as provided in K.S.A. 2011 Supp. 21-6609, and amendments thereto.

(b) In addition to or in lieu of any other sentence authorized by law, whenever a person is found guilty of the violation of an ordinance and there is evidence that the act constituting the violation of the ordinance was substantially related to the possession, use or ingestion of cereal malt beverage or alcoholic liquor by such person, the judge may order such person to attend and satisfactorily complete an alcohol or drug education or training program certified by the chief judge of the judicial district or licensed by the secretary of social and rehabilitation services.

(c) Except as provided in subsection (d), in addition to or in lieu of any other sentence authorized by law, whenever a person is convicted of having violated, while under 21 years of age, an ordinance prohibiting an act prohibited by K.S.A. 2011 Supp. 21-5701 through 21-5717, and amendments thereto, or K.S.A. 8-1599, 41-719 or 41-727, and amendments thereto, the municipal judge shall order such person to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. If the judge finds that the person is indigent, the fee may be waived.

(d) If the person is 18 or more years of age but less than 21 years of age and is convicted of a violation of K.S.A. 41-727, and amendments thereto, involving cereal malt beverage, the provisions of subsection (c) are permissive and not mandatory.

(e) *In addition to any other sentence authorized by law, whenever a person is convicted of any criminal offense, the municipal judge shall determine whether the defendant committed a domestic violence offense as defined in K.S.A. 2011 Supp. 21-3110 and 21-5111, and amendments thereto, and shall sentence the defendant pursuant to K.S.A. 2011 Supp. 22-4616, and amendments thereto.*

(f) The court may impose any conditions of probation or suspension of sentence that the court deems proper, including, but not limited to, requiring that the defendant:

(1) Avoid such injurious or vicious habits, as directed by the court or the probation officer;

(2) avoid such persons or places of disreputable or harmful character, as directed by the court or the probation officer;

(3) report to the probation officer as directed;

(4) permit the probation officer to visit the defendant at home or elsewhere;

(5) work faithfully at suitable employment insofar as possible;

(6) remain within the state unless the court grants permission to leave;

(7) pay a fine or costs, applicable to the ordinance violation, in one or several sums and in the manner as directed by the court;

(8) support the defendant's dependents;

(9) reside in a residential facility located in the community and participate in educational counseling, work and other correctional or rehabilitative programs;

(10) perform community or public service work for local governmental agencies, private corporations organized not for profit, or charitable or social service organizations performing services for the community;

(11) perform services under a system of day fines whereby the defendant is required to satisfy fines, costs or reparation or restitution obligations by performing services for a period of days determined by the court on the basis of ability to pay, standard of living, support obligations and other factors;

(12) make reparation or restitution to the aggrieved party for the damage or loss caused by the defendant's crime, in an amount and manner determined by the court and to the person specified by the court; or

(13) reimburse the city, in accordance with any order made under subsection ~~(f)~~ (g), for all or a part of the reasonable expenditures by the city to provide counsel and other defense services to the defendant.

~~(f)~~(g) In addition to or in lieu of any other sentence authorized by law, whenever a person is found guilty of the violation of an ordinance the judge may order such person to reimburse the city for all or a part of the reasonable expenditures by the city to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

Sec. 15. K.S.A. 2011 Supp. 21-5414 is hereby amended to read as follows: 21-5414. (a) Domestic battery is:

(1) Knowingly or recklessly causing bodily harm by a family or household member against a family or household member; or

(2) knowingly causing physical contact with a family or household member by a family or household member when done in a rude, insulting or angry manner.

(b) Domestic battery is ~~a~~:

(1) *Except as provided in subsection (b)(2) or (b)(3), a Class B person misdemeanor and the offender shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment and fined not less than \$200, nor more than \$500 or in the court's discretion the court may enter an order which requires the offender ~~enroll in and successfully complete a domestic violence prevention program, except as provided in subsection (b)(2) or (b)(3) to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program;~~*

(2) *except as provided in subsection (b)(3), a class A person misdemeanor, if, within five years immediately preceding commission of the crime, an offender is convicted of domestic battery a second time and the offender shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$500 nor more than \$1,000, ~~except as provided in subsection (b)(3).~~ The five days imprisonment mandated by this paragraph may be served in a work release program only after such offender has served 48 consecutive hours imprisonment, provided such work release program requires such offender to return to confinement at the end of each day in the work release program. The offender shall serve at least five consecutive days imprisonment before the offender is granted probation, suspension or reduction of sen-*

tence or parole or is otherwise released. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the offender shall be required to ~~enter into and complete a treatment program for domestic violence prevention~~ *undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, unless otherwise ordered by the court or department of corrections; and*

(3) a person felony, if, within five years immediately preceding commission of the crime, an offender is convicted of domestic battery a third or subsequent time, and the offender shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,000 nor more than \$7,500. The offender convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the offender has served at least 90 days imprisonment. ~~The court shall require as a condition of parole that such offender enter into and complete a treatment program for domestic violence~~ *As a condition of any grant of probation, suspension of sentence or parole or of any other release, the offender shall be required to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, unless otherwise ordered by the court or department of corrections.* If the offender does not ~~enter into and complete a treatment program for domestic violence~~ *undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program,* the offender shall serve not less than 180 days nor more than one year's imprisonment. The 90 days imprisonment mandated by this paragraph may be served in a work release program only after such offender has served 48 consecutive hours imprisonment, provided such work release program requires such offender to return to confinement at the end of each day in the work release program.

(c) As used in this section:

(1) "Family or household member" means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or who have lived together at any time. "Family or household member" also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and

(2) for the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section:

(A) "Conviction" includes being convicted of a violation of K.S.A. 21-3412a, prior to its repeal, this section or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;

(B) "conviction" includes being convicted of a violation of a law of another state, or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;

(C) only convictions occurring in the immediately preceding five years including prior to July 1, 2001 shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offender, whichever is applicable; and

(D) it is irrelevant whether an offense occurred before or after conviction for a previous offense.

(d) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section or an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits only twice during any five-year period.

Sec. 16. K.S.A. 2011 Supp. 21-6604, as amended by section 1 of 2012 House Bill No. 2465 is hereby amended to read as follows: 21-6604. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of correc-

tions if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense and may impose the provisions of subsection (q);

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567, and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence and up to 60 days in a county jail upon each revocation of the probation sentence, or community corrections placement;

(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6) assign the defendant to a house arrest program pursuant to K.S.A. 2011 Supp. 21-6609, and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by subsection (c) of K.S.A. 2011 Supp. 21-6602, and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape from custody or aggravated escape from custody, as defined in K.S.A. 2011 Supp. 21-5911, and amendments thereto; repay expenses incurred by a fire district, fire department or fire company responding to a fire which has been determined to be arson or aggravated arson as defined in K.S.A. 2011 Supp. 21-5812, and amendments thereto, if the defendant is convicted of such crime; repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation which leads to the defendant's conviction; or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county. Such repayment of the amount of any such costs and expenses incurred by a county, law enforcement agency, fire district, fire department or fire company or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company;

(9) order the defendant to pay the administrative fee authorized by K.S.A. 22-4529, and amendments thereto, unless waived by the court;

(10) order the defendant to pay a domestic violence special program fee authorized by K.S.A. 20-369, and amendments thereto;

(11) if the defendant is convicted of a misdemeanor or convicted of a felony specified in subsection (i) of K.S.A. 2011 Supp. 21-6804, and amendments thereto, assign the defendant to work release program, other than a program at a correctional institution under the control of the secretary of corrections as defined in K.S.A. 75-5202, and amendments thereto, provided such work release program requires such defendant to return to confinement at the end of each day in the work release program. On a second conviction of K.S.A. 8-1567, and amendments thereto, an offender placed into a work release program must serve a total of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. On a third or subsequent conviction of K.S.A. 8-1567, and

amendments thereto, an offender placed into a work release program must serve a total of 240 hours of confinement. Such 240 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day;

(12) order the defendant to pay the full amount of unpaid costs associated with the conditions of release of the appearance bond under K.S.A. 22-2802, and amendments thereto;

(13) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12); or

(14) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime, unless the court finds compelling circumstances which would render a plan of restitution unworkable. In regard to a violation of K.S.A. 2011 Supp. 21-6107, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation of such section. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the defendant which may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of restitution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 60-4301 *et seq.*, and amendments thereto, the court shall assign an agent procured by the attorney general pursuant to K.S.A. 75-719, and amendments thereto, to collect the restitution on behalf of the victim. The chief judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by subsection (d) of K.S.A. 2011 Supp. 21-6602, and amendments thereto.

(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(e) In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.

(f) (1) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony, or while the offender is on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony, a new sentence shall be imposed pursuant to the consecutive sentencing requirements of K.S.A. 2011 Supp. 21-6606, and amendments thereto,

and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(2) When a new felony is committed while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671, prior to its repeal, or K.S.A. 2011 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony, upon conviction, the court shall sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. The conviction shall operate as a full and complete discharge from any obligations, except for an order of restitution, imposed on the offender arising from the offense for which the offender was committed to a juvenile correctional facility.

(3) When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, or similar provisions of the laws of another jurisdiction, a new sentence may be imposed pursuant to the consecutive sentencing requirements of K.S.A. 2011 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 2011 Supp. 21-6824, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 2011 Supp. 21-6824, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and ~~amendment~~ *amendments* thereto, or a community intermediate sanction center. Pursuant to this paragraph the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or a community intermediate sanction center and the defendant meets all of the conservation camp's or a community intermediate sanction center's placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or a community intermediate sanction center.

(h) The court in committing a defendant to the custody of the secretary of corrections shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or a part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof

may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

(j) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office or impose any other civil penalty as a result of conviction of crime.

(k) An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(l) The secretary of corrections is authorized to make direct placement to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate:

(1) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I, or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, or for an offense which is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes and such offense does not meet the requirements of K.S.A. 2011 Supp. 21-6824, and amendments thereto; and

(2) otherwise meets admission criteria of the camp.

If the inmate successfully completes a conservation camp program, the secretary of corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 2011 Supp. 21-6608, and amendments thereto.

(m) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of this section shall not apply.

(n) Except as provided by subsection (f) of K.S.A. 2011 Supp. 21-6805, and amendments thereto, in addition to any of the above, for felony violations of K.S.A. 2011 Supp. 21-5706, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A. 2011 Supp. 21-6824, and amendments thereto, to participate in a certified drug abuse treatment program, as provided in K.S.A. 2011 Supp. 75-52,144, and amendments thereto, including, but not limited to, an approved after-care plan. If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the offender's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to revocation of probation and the defendant shall serve the underlying prison sentence as established in K.S.A. 2011 Supp. 21-6805, and amendments thereto. For those offenders who are convicted on or after July 1, 2003, upon completion of the underlying prison sentence, the defendant shall not be subject to a period of postrelease supervision. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

(o) (1) Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance or controlled substance analog in violation of K.S.A. 2011 Supp. 21-5706, and amendments thereto, in

which the trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

(2) Upon suspension of a license pursuant to this subsection, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.

(3) (A) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person as provided in paragraph (1), the judge of the court in which such person was convicted may enter an order which places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year.

(B) Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator, of such person's state of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this paragraph a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this paragraph.

(C) Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this paragraph, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

(4) As used in this subsection, "highway" and "street" means the same as in K.S.A. 8-1424 and 8-1473, and amendments thereto.

(p) In addition to any of the above, for any criminal offense that includes the domestic violence designation pursuant to K.S.A. 2011 Supp. 22-4616, and amendments thereto, the court shall require the defendant to: (1) Undergo a domestic violence offender assessment ~~and conducted by a certified batterer intervention program~~; and (2) follow all recommendations ~~made by such program~~, unless otherwise ordered by the court or the department of corrections. The court may order a domestic violence offender assessment and any other evaluation prior to sentencing if the assessment or evaluation would assist the court in determining an appropriate sentence. The entity completing the assessment or evaluation shall provide the assessment or evaluation and recommendations to the court and the court shall provide the domestic violence *offender* assess-

ment ~~and any other evaluation~~ to any entity responsible for supervising such defendant. A defendant ordered to undergo a domestic violence offender assessment shall be required to pay for the assessment and, unless otherwise ordered by the court or the department of corrections, for completion of all recommendations.

(q) In imposing a fine, the court may authorize the payment thereof in installments. In lieu of payment of any fine imposed, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed by the later of one year after the fine is imposed or one year after release from imprisonment or jail, or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance shall become due on that date. If conditional reduction of any fine is rescinded by the court for any reason, then pursuant to the court's order the person may be ordered to perform community service by one year after the date of such rescission or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date. All credits for community service shall be subject to review and approval by the court.

(r) In addition to any other penalty or disposition imposed by law, for any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2011 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, the court shall order that the defendant be electronically monitored upon release from imprisonment for the duration of the defendant's natural life and that the defendant shall reimburse the state for all or part of the cost of such monitoring as determined by the prisoner review board.

Sec. 17. K.S.A. 22-4616 is hereby amended to read as follows: 22-4616. (a) On and after July 1, 2011, in all criminal cases *filed in the district court*, if there is evidence that the defendant committed a domestic violence offense, the trier of fact shall determine whether the defendant committed a domestic violence offense. *On and after July 1, 2013, in all criminal cases filed in the municipal court, if there is evidence that the defendant committed a domestic violence offense, the trier of fact shall determine whether the defendant committed a domestic violence offense.*

(1) Except as provided further, if the trier of fact determines that the defendant committed a domestic violence offense, the court shall place a domestic violence designation on the criminal case and the defendant shall be subject to the provisions of subsection (p) of K.S.A. 2011 Supp. 21-6604, and amendments thereto.

(2) The court shall not place a domestic violence designation on the criminal case and the defendant shall not be subject to the provisions of subsection (p) of K.S.A. 2011 Supp. 21-6604, and amendments thereto, only if the court finds on the record that:

(A) The defendant has not previously committed a domestic violence offense or participated in a diversion upon a complaint alleging a domestic violence offense; and

(B) the domestic violence offense was not used to coerce, control, punish, intimidate or take revenge against a person with whom the offender is involved or has been involved in a dating relationship or against a family or household member.

(b) The term "domestic violence offense" shall have the meaning provided in K.S.A. 2011 Supp. 21-5111, and amendments thereto.

(c) This section shall be a part of and supplemental to the Kansas code for criminal procedure.

Sec. 18. On July 1, 2012, K.S.A. 2011 Supp. 23-3508 is hereby amended to read as follows: 23-3508. (a) The court may order case management, when appropriate, of any contested issue of child custody or parenting time at any time, upon the motion of a party or on the court's own motion. A hearing officer in a proceeding pursuant to K.S.A. 2011 Supp. 23-3401, and amendments thereto, may order case management,

if appropriate, of a contested issue of child visitation or parenting time in such a proceeding.

(b) Cases in which case management is appropriate shall include one or more of the following circumstances:

(1) Private or public neutral dispute resolution services have been tried and failed to resolve the disputes;

(2) other neutral services have been determined to be inappropriate for the family;

(3) repetitive conflict occurs within the family, as evidenced by the filing of at least two motions in a six-month period for enforcement, modification or change of residency, visitation, parenting time or custody which are denied by the court; or

(4) a parent exhibits diminished capacity to parent.

(c) If the court or hearing officer orders case management under subsection (a), the court or hearing officer shall appoint a case manager, taking into consideration the following:

(1) An agreement by the parties to have a specific case manager appointed by the court or hearing officer;

(2) the financial circumstances of the parties and the costs assessed by the case manager;

(3) the case manager's knowledge of (A) the Kansas judicial system and the procedure used in domestic relations cases, (B) other resources in the community to which parties can be referred for assistance, (C) child development, (D) clinical issues relating to children, (E) the effects of divorce on children and (F) the psychology of families; and

(4) the case manager's training and experience in the process and techniques of alternative dispute resolution and case management.

(d) To qualify as an appointed case manager, an individual shall:

(1) (A) *Be currently licensed in Kansas as a licensed psychologist, licensed masters level psychologist, licensed clinical psychotherapist, licensed professional counselor, licensed clinical professional counselor, licensed marriage and family therapist, licensed clinical marriage and family therapist, licensed master social worker or licensed specialist social worker;*

(B) *be currently licensed to practice law in Kansas and have at least five years of experience in the field of domestic relations law or family law; or*

(C) *be a court services officer and have training in domestic relations cases as prescribed by the district court in which the case is filed;*

~~(1)~~(2) *be qualified to conduct mediation;*

~~(2)~~(3) *have experience as a mediator;*

~~(3)~~(4) *attend a workshop, one or more workshops, approved and as ordered by the district court in which the case is filed, on case management; and*

~~(4)~~(5) *participate in continuing education complete a minimum number of continuing education hours regarding case management issues or abuse and control dynamics issues as established and approved by the supreme court.*

(e) *On and after September 1, 2012, any case manager appointed by the court prior to, on or after July 1, 2012, shall meet the requirements of subsection (d).*

New Sec. 19. The provisions of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, shall be known as the Kansas family law code.

New Sec. 20. The provisions of the Kansas family law code shall be construed to secure the just, speedy, inexpensive and equitable determination of issues in all domestic relations matters.

New Sec. 21. Procedure under the Kansas family law code shall be governed by the Kansas code of civil procedure, and amendments thereto, except as this code otherwise specifically provides.

New Sec. 22. Evidence under the Kansas family law code shall be governed by the Kansas code of evidence, and amendments thereto, except as this code otherwise specifically provides.

New Sec. 23. The provisions of sections 19 through 22, and amendments thereto, shall be construed and applied retroactively.

New Sec. 24. (a) A decree in an action under article 27 of chapter 23

of the Kansas Statutes Annotated, and amendments thereto, may include orders on the following matters:

- (1) An order changing or terminating the parties' marital status by divorce, annulment or separate maintenance;
  - (2) an order making an equitable division of the parties' property as authorized by article 28 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto;
  - (3) an order regarding spousal support as authorized by article 29 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto;
  - (4) an order for child support as authorized by article 30 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto;
  - (5) an order allocating parental decision-making and entering a parenting plan as authorized by article 32 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto;
  - (6) an order changing one or both parties' names as authorized by K.S.A. 2011 Supp. 23-2716, and amendments thereto; and
  - (7) an order awarding costs and attorneys fees to either party under K.S.A. 2011 Supp. 23-2715, and amendments thereto.
- (b) The provisions of this section shall be construed and applied retroactively.

New Sec. 25. The 2012 amendments to K.S.A. 2011 Supp. 23-2217, 23-2706, 23-2709, 23-2710, 23-2715, 23-2717, 23-2802, 23-2902, 23-2905, 23-3001, 23-3004, 23-3005, 23-3207, 23-3208, 23-3215, 23-3219, 23-3221, 23-3222, 23-3301, 23-3302, 23-3304 and 23-3403 shall be construed and applied retroactively.

Sec. 26. K.S.A. 2011 Supp. 12-5005 is hereby amended to read as follows: 12-5005. (a) Every retired member of a local police or fire pension plan and every active member of the plan who is entitled to make an election to become a member of the Kansas police and firemen's retirement system pursuant to K.S.A. 12-5003 or 74-4955, and amendments thereto, and who does not so elect shall become a special member of the Kansas police and firemen's retirement system on the entry date of the city which is affiliating with the Kansas police and firemen's retirement system with regard to all active members and retired members of the local police or fire pension plan under K.S.A. 74-4954, and amendments thereto.

(b) Beginning with the first payroll for services as a policeman or fireman after an active member of a local police or fire pension plan becomes a special member of the Kansas police and firemen's retirement system under this section, the city shall deduct from the compensation of each special member the greater of 7% or the percentage rate of contribution which the active member was required to contribute to the local police or fire pension plan preceding the entry date of the city, as employee contributions. The deductions shall be remitted quarterly, or as the board of trustees otherwise provides, to the executive secretary of the Kansas public employees retirement system for credit to the Kansas public employees retirement fund. All deductions shall be credited to the special members' individual accounts beginning on July 1 of the year following the entry date of the city for purposes of all active and retired members of the local police and fire pension plan.

(c) Except as otherwise provided in this act, each active member of a local police or fire pension plan who becomes a special member of the Kansas police and firemen's retirement system under this section shall be subject to the provisions of and entitled to pensions and other benefits, rights and privileges to the extent provided under the local police and fire pension plan on the day immediately preceding the entry date of the city which is affiliating with the Kansas police and firemen's retirement system with regard to all active members and retired members of the plan.

(d) Each retired member of a local police or fire pension plan who becomes a special member of the Kansas police and firemen's retirement system under this section shall be entitled to receive from the Kansas police and firemen's retirement system a pension or any other benefit to the same extent and subject to the same conditions as existed under the local police or fire pension plan on the day immediately preceding the entry date of the city which is affiliating with the system with regard to all active members and retired members of the plan under K.S.A. 74-4954, and amendments thereto, except no retired special member shall

be appointed in or to a position or office for which compensation is paid for service to the same state agency, or the same police or fire department of a city, township, special district or county or the same sheriff's office of a county. This subsection shall not apply to service rendered by a retiree as a juror, as a witness in any legal proceeding or action, as an election board judge or clerk or in any other office or position of a similar nature. However, all such benefits paid shall be paid in accordance with the applicable requirements under section 401 (a)(9) of the federal internal revenue code of 1986 as applicable to governmental plans, as in effect on July 1, 2008, and the regulations thereto, as in effect on July 1, 2008, and in accordance with the provisions of K.S.A. 74-49,123, and amendments thereto. Any retiree employed by a participating employer in the Kansas police and firemen's retirement system shall not make contributions or receive additional credit under the system for that service. This subsection, except as it relates to contributions and additional credit, shall not apply to the employment of any retiree by the state of Kansas, or any county, city, township, special district, political subdivision or instrumentality of any one or several of the aforementioned for a period of not exceeding 30 days in any one calendar year.

(e) (1) Every pension or other benefit received by any special member pursuant to subsection (c) or (d) is hereby made and declared exempt from any tax of the state of Kansas or any political subdivision or taxing body of this state; shall not be subject to execution, garnishment, attachment or any other process or claim whatsoever, except such pension or benefit or any accumulated contributions due and owing from the system to such special member are subject to decrees for child support or maintenance, or both, as provided in ~~K.S.A. 2011 Supp. 23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2905, 23-3001 through 23-3006, 23-3201 through 23-3207, 23-3216 and 23-3218~~ articles 29, 30 and 31 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto; and shall be unassignable, except that within 30 days after the death of a retirant the lump-sum death benefit payable to a retirant pursuant to the provisions of K.S.A. 74-4989, and amendments thereto, may be assignable to a funeral establishment providing funeral services to such retirant by the beneficiary of such retirant. The Kansas public employees retirement system shall not be a party to any action under ~~K.S.A. 2011 Supp. 23-2701 through 23-2718, 23-2802, 23-2901 through 23-2905, 23-3001 through 23-3006, 23-3110, 23-3120, 23-3201 through 23-3222, 23-3301, 23-3402, 23-3403, 23-3510 and 28-179, and amendments thereto~~ the *Kansas family law code, chapter 23 of the Kansas Statutes Annotated, and amendments thereto*, and is subject to orders from such actions issued by the district court of the county where such action was filed. Such orders from such actions shall specify either a specific amount or specific percentage of the amount of the pension or benefit or any accumulated contributions due and owing from the system to be distributed by the system pursuant to this act.

(2) Every pension or other benefit received by any special member pursuant to subsection (c) or (d) is hereby made and declared exempt from any tax of the state of Kansas or any political subdivision or taxing body of this state; shall not be subject to execution, garnishment, attachment or any other process or claim whatsoever, except such pension or benefit or any accumulated contributions due and owing from the system to such special members are subject to claims of an alternate payee under a qualified domestic relations order. As used in this subsection, the terms "alternate payee" and "qualified domestic relations order" shall have the meaning ascribed to them in section 414(p) of the federal internal revenue code of 1986, as in effect on July 1, 2008. The provisions of this subsection shall apply to any qualified domestic relations order which is in effect on or after July 1, 1994.

(f) (1) Subject to the provisions of K.S.A. 74-49,123, and amendments thereto, each participating employer, pursuant to the provisions of section 414(h)(2) of the federal internal revenue code of 1986, as in effect on July 1, 2008, shall pick up and pay the contributions which would otherwise be payable by members as prescribed in subsection (b) commencing with the third quarter of 1984. The contributions so picked up shall be treated as employer contributions for purposes of determining the amounts of federal income taxes to withhold from the member's compensation.

(2) Member contributions picked up by the employer shall be paid from the same source of funds used for the payment of compensation to a member. A deduction shall be made from each member's compensation equal to the amount of the member's contributions picked up by the employer, provided that such deduction shall not reduce the member's compensation for purposes of computing benefits under K.S.A. 12-5001 to 12-5007, inclusive, and amendments thereto.

(3) Member contributions picked up by the employer shall be remitted quarterly, or as the board may otherwise provide, to the executive secretary for credit to the Kansas public employees retirement fund. Such contributions shall be credited to a separate account within the member's individual account so that amounts contributed by the member commencing with the third quarter of 1984 may be distinguished from the member contributions picked up by the employer. Interest shall be added annually to members' individual accounts.

Sec. 27. K.S.A. 13-1246a is hereby amended to read as follows: 13-1246a. (a) (1) Any board of public utilities in any municipality of the state of Kansas having a population of more than 120,000 shall be empowered to enter into an agreement with its employees for the purpose of reorganizing and establishing a board to be known as a board of pension trustees composed of six members, and for the purpose of continuing, revising, maintaining and adopting an equitable and adequate pension program for all of its employees, including retired employees, and their dependents. Three members of the board of pension trustees shall be appointed by the board of public utilities from its regular employees to serve at its discretion. Three members of the board of pension trustees shall be elected annually by all of the nonsupervisory employees of the board of public utilities from its nonsupervisory employees and shall serve for fixed periods of one year, commencing on July 1, of each year.

(2) Present employees of such board of public utilities, in order to pay the cost of implementing, continuing and operating such retirement pension plan for such present employees, shall contribute in the aggregate from their earnings not more than  $\frac{1}{2}$  of the costs of future-service pensions, and such board of public utilities shall pay or contribute the remaining portion thereof to any revised, continued or adopted retirement pension plan, as provided for herein.

(3) Any costs of paying increased pensions or benefits to retired employees and their dependents of such board of public utilities, and the costs of any back-service obligations under terms of such revised pension plan as may be found and determined to be proper and equitable, under rules and provisions to be adopted by such board of pension trustees, shall be borne in their entirety by such board of public utilities; and such contributions to such continued and revised retirement pension plan for the use and benefit of retired employees and their dependents which shall be made by such board of public utilities shall be computed and based on sound actuarial standards.

(4) Such board of pension trustees shall be empowered to make and enter into an agreement with such board of public utilities, authorizing such board of pension trustees to take control and custody of all assets, property and funds presently held, controlled and in the possession of the now constituted retirement advisory council of such board of public utilities, and its present trustee, as the same was theretofore created and is now functioning as provided by K.S.A. 13-1247, and amendments thereto. The board shall provide for such additional funds as may be necessary to fulfill the purposes of this act.

(5) Such board of pension trustees shall be empowered to control and take immediately into and under its custody and control, title to and possession of all records, funds, property and assets of the such existing retirement advisory council of such board of public utilities, and its present trustees, as the same is now constituted by the provisions of K.S.A. 13-1247, and amendments thereto, which such retirement council of such board of public utilities, its powers, authority and duties shall be abolished, cease and terminate upon the effective date of this act.

(b) (1) The board of pension trustees shall establish a formal, adequate written pension plan with specific rules of eligibility for pension coverage for all present employees, including retired employees, and their dependents, of such board of public utilities. The plan and rules apper-

taining thereto may be amended at any time by the vote of four members of such board of pension trustees and may be the subject of negotiations between such board of public utilities and its employees, but subject to the revision, adoption and ratification of the same by such board of pension trustees, as the same is created and governed by the provisions of this act. The plan and rules shall be printed and distributed to all employees.

(2) Pensions and retirement benefits, received and paid under the such continued and revised retirement pension plan and rules promulgated by such board of pension trustees, to retired employees, their dependents, and present employees, shall at all times bear a reasonable relationship to the wages or earnings paid to any employee of such board of public utilities. Such benefits shall be compatible with any changes in cost of living indexes except, such plan and benefits payable shall at all times be in strict conformity with current, sound actuarial standards and principles.

(3) No employee shall be exempt from having contributions made on such employee's behalf or be precluded from receiving benefits for any reason other than lack of age, or an insufficient period or time of employment.

(4) No plan shall be adopted or modified at any future time which is not properly funded and in conformity with recognized, sound actuarial principles and standards.

(5) All funds and the earnings therefrom held in trust for the use and benefit of the employees and members, including retired employees and their dependents, of such board of public utilities, of any retirement pension plan continued, revised and adopted under the provisions of this act, shall be exempt from civil process, taxation or assessment, and shall not be subject to seizure or execution or liens of any kind. All benefits due to the members or to their beneficiaries of any retirement pension plan continued and revised under the provisions of this act, shall be exempt from any tax of the state of Kansas or any political subdivision or taxing body of the state and civil liability for debts of the members and employees, or their beneficiaries, receiving the same, and, except as otherwise provided, shall not be subject to seizure, execution or process of any nature. Any annuity or benefit or accumulated contributions due and owing to any person under the provisions of any retirement pension plan continued and revised under the provisions of this act are subject to claims of an alternate payee under a qualified domestic relations order. As used in this subsection, the terms "alternate payee" and "qualified domestic relations order" shall have the meaning ascribed to them in section 414(p) of the United States internal revenue code of 1954, as amended. The provisions of this act shall apply to any qualified domestic relations order which is in effect on or after July 1, 1994. Such retirement pension plan continued and revised under the provisions of this act, such board of pension trustees, or such board of public utilities shall not be a party to any action under ~~article 16 of chapter 60 of the Kansas Statutes Annotated~~ *the Kansas family law code, chapter 23 of the Kansas Statutes Annotated, and amendments thereto*, but is subject to orders from such actions issued by the district court of the county where such action was filed and may accept orders which it deems to be qualified under this subsection if such orders are issued by courts having jurisdiction of such actions outside the state of Kansas. Such orders from such actions shall specify either a specific amount or specific percentage of the amount of the pension or benefit or any accumulated contributions due and owing from such retirement pension plan pursuant to this act.

(6) The members and employees of any retirement pension plan continued, revised and adopted under the provisions of this act, may name one or more beneficiaries to receive any benefits that may be due or become due to such member and employee in the event of such member or employee's death.

Sec. 28. K.S.A. 2011 Supp. 20-164 is hereby amended to read as follows: 20-164. (a) The supreme court shall establish by rule an expedited judicial process which shall be used in the establishment, modification and enforcement of orders of support pursuant to the Kansas parentage act, K.S.A. 23-451 et seq., or 39-718a, prior to their repeal, K.S.A. 23-4-125 through 23-4-137, 39-718b or 39-755, and amendments thereto or K.S.A. 2011 Supp. 23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through

~~23-2905, 23-3001 through 23-3006, 23-3101 through 23-3113, 23-3201 through 23-3207, 23-3216, 23-3218, 38-2243, 38-2244, 38-2255 or 39-7,135 and amendments thereto.~~

(b) The supreme court shall establish by rule an expedited judicial process for the enforcement of court orders granting visitation rights or parenting time.

Sec. 29. K.S.A. 2011 Supp. 20-165 is hereby amended to read as follows: 20-165. The supreme court shall adopt rules establishing guidelines for the amount of child support to be ordered in any action in this state including, but not limited to, K.S.A. ~~38-1121~~ and 39-755 and K.S.A. 2011 Supp. ~~23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2905, 23-3001 through 23-3006, 23-3201 through 23-3207, 23-3216 and 23-3218~~ 23-2215, and amendments thereto, article 30 of chapter 23 of the *Kansas Statutes Annotated*, and amendments thereto, and section 24, and amendments thereto. In adopting such rules, the court shall consider the criteria in K.S.A. ~~38-1121~~ 2011 Supp. 23-2215, and amendments thereto.

Sec. 30. K.S.A. 2011 Supp. 20-302b is hereby amended to read as follows: 20-302b. (a) A district magistrate judge shall have the jurisdiction and power, in any case in which a violation of the laws of the state is charged, to conduct the trial of traffic infractions, cigarette or tobacco infractions or misdemeanor charges, to conduct the preliminary examination of felony charges and to hear felony arraignments subject to assignment pursuant to K.S.A. 20-329, and amendments thereto. Except as otherwise provided, in civil cases, a district magistrate judge shall have jurisdiction over actions filed under the code of civil procedure for limited actions, K.S.A. 61-2801 *et seq.*, and amendments thereto, and concurrent jurisdiction, powers and duties with a district judge. Except as otherwise specifically provided in subsection (b), a district magistrate judge shall not have jurisdiction or cognizance over the following actions:

(1) Any action, other than an action seeking judgment for an unsecured debt not sounding in tort and arising out of a contract for the provision of goods, services or money, in which the amount in controversy, exclusive of interests and costs, exceeds \$10,000. The provisions of this subsection shall not apply to actions filed under the code of civil procedure for limited actions, K.S.A. 61-2801 *et seq.*, and amendments thereto. In actions of replevin, the affidavit in replevin or the verified petition fixing the value of the property shall govern the jurisdiction. Nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to hear any action pursuant to the Kansas probate code or to issue support orders as provided by paragraph (6) of this subsection;

(2) actions against any officers of the state, or any subdivisions thereof, for misconduct in office;

(3) actions for specific performance of contracts for real estate;

(4) actions in which title to real estate is sought to be recovered or in which an interest in real estate, either legal or equitable, is sought to be established. Nothing in this paragraph shall be construed as limiting the right to bring an action for forcible detainer as provided in the acts contained in K.S.A. 61-3801 through 61-3808, and amendments thereto. Nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to hear any action pursuant to the Kansas probate code;

(5) actions to foreclose real estate mortgages or to establish and foreclose liens on real estate as provided in the acts contained in article 11 of chapter 60 of the *Kansas Statutes Annotated*, and amendments thereto;

(6) actions for divorce, separate maintenance or custody of minor children. Nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to: (A) Except as provided in subsection (e), hear any action pursuant to the Kansas code for care of children or the revised Kansas juvenile justice code; (B) establish, modify or enforce orders of support, including, but not limited to, orders of support pursuant to the Kansas parentage act, K.S.A. 2011 Supp. 23-2201 *et seq.*, and amendments thereto, the uniform interstate family support act, K.S.A. 2011 Supp. 23-36,101 *et seq.*, and amendments thereto, articles 29 or 30 of chapter 23 of the *Kansas Statutes Annotated*, and amendments thereto, K.S.A. ~~23-4,125 through 23-4,137, 23-9,101 et seq., 39-718b or 39-755 or K.S.A. 2011 Supp. 23-2712, 23-2715, 23-2716, 23-2802, 23-2902~~

~~through 23-2905, 23-3001 through 23-3006, 23-3101 through 23-3113, 23-3201 through 23-3207, 23-3216, 23-3218, 38-2338, 38-2339; or 38-2350 or 39-7,135,~~ and amendments thereto; or (C) enforce orders granting visitation rights or parenting time;

- (7) *habeas corpus*;
- (8) receiverships;
- (9) change of name;
- (10) declaratory judgments;
- (11) *mandamus* and *quo warranto*;
- (12) injunctions;
- (13) class actions;
- (14) rights of majority; and
- (15) actions pursuant to K.S.A. 59-29a01 *et seq.*, and amendments thereto.

(b) Notwithstanding the provisions of subsection (a), in the absence, disability or disqualification of a district judge, a district magistrate judge may:

- (1) Grant a restraining order, as provided in K.S.A. 60-902, and amendments thereto;
- (2) appoint a receiver, as provided in K.S.A. 60-1301, and amendments thereto; and
- (3) make any order authorized by K.S.A. 23-2707, and amendments thereto.

(c) In accordance with the limitations and procedures prescribed by law, and subject to any rules of the supreme court relating thereto, any appeal permitted to be taken from an order or final decision of a district magistrate judge shall be tried and determined *de novo* by a district judge, except that in civil cases where a record was made of the action or proceeding before the district magistrate judge, the appeal shall be tried and determined on the record by a district judge.

(d) Except as provided in subsection (e), upon motion of a party, the chief judge may reassign an action from a district magistrate judge to a district judge.

(e) Upon motion of a party for a petition or motion filed under the Kansas code for care of children requesting termination of parental rights pursuant to K.S.A. 2011 Supp. 38-2361 through 38-2367, and amendments thereto, the chief judge shall reassign such action from a district magistrate judge to a district judge.

Sec. 31. K.S.A. 20-1204a is hereby amended to read as follows: 20-1204a. (a) When an order in a civil action has been entered, the court that rendered the same may order a person alleged to be guilty of indirect contempt of such order to appear and show cause why such person should not be held in contempt if there is filed a motion requesting an order to appear and show cause which is accompanied by an affidavit specifically setting forth the facts constituting the alleged violation.

(b) Except as provided in subsection (e), the order to appear and show cause shall be served upon the party allegedly in contempt by the sheriff or some other person appointed by the court for such purpose. Such order shall state the time and place where the person is to appear and shall be accompanied by a copy of the affidavit provided for in subsection (a). The court shall hear the matter at the time specified in the order, and upon proper showing, may extend the time so as to give the accused a reasonable opportunity to purge oneself of the contempt. If the court determines that a person is guilty of contempt such person shall be punished as the court shall direct.

(c) If, after proper service of the order to appear and show cause, the person served shall not appear in court as ordered, or if the court finds at a hearing held on motion of a party to the civil action that the person allegedly in contempt is secreting oneself to avoid the process of the court, the court may issue a bench warrant commanding that the person be brought before the court to answer for contempt. When such person is brought before the court, the court shall proceed as provided in subsection (b). The court may make such orders concerning the release of the person pending the hearing as the court deems proper.

(d) The provisions of this section shall apply to both criminal and civil contempts, but in the case of a criminal contempt the court on its own

motion may cause the motion and affidavit provided for in subsection (a) to be filed.

(e) In cases involving an alleged violation of a restraining order issued pursuant to ~~paragraph (2) of subsection (a) of K.S.A. 60-1607~~ *subsection (a)(2) of K.S.A. 2011 Supp. 23-2707*, and amendments thereto, if the affidavit filed pursuant to subsection (a) alleges physical abuse in violation of the court's order, the court immediately may issue a bench warrant and proceed as provided in subsection (c).

(f) If a person is found guilty of contempt in a child support enforcement proceeding, including an assignment of child support rights to the commissioner of juvenile justice and the evidence shows that the person is or may be authorized to practice a profession by a licensing body as defined in K.S.A. 74-146, and amendments thereto, the court, in addition to any other remedies, may order that a notice pursuant to subsection (a) of K.S.A. 74-147, and amendments thereto be served on the licensing body. If the person found guilty of contempt as provided in this subsection is a licensed attorney, the court may file a complaint with the disciplinary administrator if the licensing agency is the Kansas supreme court, or the appropriate bar counsel's office if the licensee practices in another state.

(g) If a person is found guilty of contempt in a child support enforcement proceeding, including an assignment of child support rights to the commissioner of juvenile justice, in an amount equal to or greater than the amount of support payable for six months or the obligor has been ordered by the court to pay a sum certain each month toward the liquidation of the arrearages and the obligor has substantially failed to abide by that order, the court may restrict the obligor's driver's license. Such restriction may include, but not be limited to, driving to, from and during the course of such person's employment. The court may order the public office, as defined in ~~K.S.A. 23-4-106~~ *K.S.A. 2011 Supp. 23-3102*, and amendments thereto, to contact the division of vehicles of the department of revenue to restrict the obligor's driver's license as indicated in the court order until further order of the court.

(h) The court shall not recognize a motion to issue nor order in a civil or criminal action a contempt citation against any person who reports or publishes the information that a gag order has been issued by the court.

Sec. 32. K.S.A. 20-2618 is hereby amended to read as follows: 20-2618. Every annuity or other benefit received by any judge or other person pursuant to the retirement system for judges under the acts contained in article 26 of chapter 20 of the Kansas Statutes Annotated, and amendments thereto, is exempt from any tax of the state of Kansas or any political subdivision or taxing body thereof; shall not be subject to execution, garnishment, attachment or except as otherwise provided, any other process or claim whatsoever; and shall be unassignable, except that within 30 days after the death of a retirant the lump-sum death benefit payable to a retirant pursuant to the provisions of K.S.A. 74-4989, and amendments thereto, may be assignable to a funeral establishment providing funeral services to such retirant by the beneficiary of such retirant. Any annuity or benefit or accumulated contributions due and owing to any judge or any person under the provisions of the retirement system for judges are subject to claims of an alternate payee under a qualified domestic relations order. As used in this subsection, the terms "alternate payee" and "qualified domestic relations order" shall have the meaning ascribed to them in section 414(p) of the federal internal revenue code. The provisions of this act shall apply to any qualified domestic relations order which was filed or amended either before or after July 1, 1994. The Kansas public employees retirement system shall not be a party to any action under ~~article 16 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto~~ *the Kansas family law code, chapter 23 of the Kansas Statutes Annotated, and amendments thereto*, but is subject to orders from such actions issued by the district court of the county where such action was filed and may also accept orders which it deems to be qualified under this subsection from courts having jurisdiction of such actions outside the state of Kansas. Such orders from such actions shall specify either a specific amount or specific percentage of the amount of the pension or benefit or any accumulated contributions due and owing from the system to be distributed by the system pursuant to this act.

Sec. 33. K.S.A. 2011 Supp. 21-5808 is hereby amended to read as

follows: 21-5808. (a) Criminal trespass is entering or remaining upon or in any:

(1) Land, nonnavigable body of water, structure, vehicle, aircraft or watercraft by a person who knows such person is not authorized or privileged to do so, and:

(A) Such person enters or remains therein in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person;

(B) such premises or property are posted in a manner reasonably likely to come to the attention of intruders, or are locked or fenced or otherwise enclosed, or shut or secured against passage or entry; or

(C) such person enters or remains therein in defiance of a restraining order issued pursuant to K.S.A. ~~60-1607~~, 60-3105, 60-3106, 60-3107, 60-31a05 or 60-31a06 or K.S.A. 2011 Supp. 23-2707, 38-2243, 38-2244 or 38-2255, and amendments thereto, and the restraining order has been personally served upon the person so restrained; or

(2) public or private land or structure in a manner that interferes with access to or from any health care facility by a person who knows such person is not authorized or privileged to do so and such person enters or remains thereon or therein in defiance of an order not to enter or to leave such land or structure personally communicated to such person by the owner of the health care facility or other authorized person.

(b) Criminal trespass is a class B nonperson misdemeanor. Upon a conviction of a violation of subsection (a)(1)(C), a person shall be sentenced to not less than 48 consecutive hours of imprisonment which shall be served either before or as a condition of any grant of probation or suspension, reduction of sentence or parole.

(c) As used in this section:

(1) “Health care facility” means any licensed medical care facility, certificated health maintenance organization, licensed mental health center or mental health clinic, licensed psychiatric hospital or other facility or office where services of a health care provider are provided directly to patients; and

(2) “health care provider” means any person:

(A) Licensed to practice a branch of the healing arts;

(B) licensed to practice psychology;

(C) licensed to practice professional or practical nursing;

(D) licensed to practice dentistry;

(E) licensed to practice optometry;

(F) licensed to practice pharmacy;

(G) registered to practice podiatry;

(H) licensed as a social worker; or

(I) registered to practice physical therapy.

(d) This section shall not apply to:

(1) A land surveyor, licensed pursuant to article 70 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, and such surveyor’s authorized agents and employees who enter upon lands, waters and other premises in the making of a survey; or

(2) railroad property as defined in K.S.A. 2011 Supp. 21-5809, and amendments thereto, or nuclear generating facility as defined in K.S.A. 2011 Supp. 66-2302, and amendments thereto.

Sec. 34. K.S.A. 2011 Supp. 21-5924 is hereby amended to read as follows: 21-5924. (a) Violation of a protective order is knowingly violating:

(1) A protection from abuse order issued pursuant to K.S.A. 60-3105, 60-3106 ~~and~~ or 60-3107, and amendments thereto;

(2) a protective order issued by a court or tribunal of any state or Indian tribe that is consistent with the provisions of 18 U.S.C. § 2265, and amendments thereto;

(3) a restraining order issued pursuant to K.S.A. 2011 Supp. 23-2707, 38-2243, 38-2244 ~~and~~ or 38-2255 ~~and~~ K.S.A. ~~60-1607~~, and amendments thereto;

(4) an order issued in this or any other state as a condition of pretrial release, diversion, probation, suspended sentence, postrelease supervision or at any other time during the criminal case that orders the person to refrain from having any direct or indirect contact with another person;

(5) an order issued in this or any other state as a condition of release after conviction or as a condition of a supersedeas bond pending dispo-

sition of an appeal, that orders the person to refrain from having any direct or indirect contact with another person; or

(6) a protection from stalking order issued pursuant to K.S.A. 60-31a05 or 60-31a06, and amendments thereto.

(b) Violation of a protective order is a class A person misdemeanor.

(c) No protective order, as set forth in this section, shall be construed to prohibit an attorney, or any person acting on such attorney's behalf, who is representing the defendant in any civil or criminal proceeding, from contacting the protected party for a legitimate purpose within the scope of the civil or criminal proceeding. The attorney, or person acting on such attorney's behalf, shall be identified in any such contact.

(d) As used in this section, "order" includes any order issued by a municipal or district court.

Sec. 35. K.S.A. 2011 Supp. 23-2217 is hereby amended to read as follows: 23-2217. (a) If existence of the father and child relationship has been determined and payment of support is ordered under prior law, the court may order support and any related expenses to be paid through the central unit for collection and disbursement of support payments designated pursuant to K.S.A. 2011 Supp. 39-7,135, and amendments thereto. If payment of support is ordered under this act, the court shall require such support and any related expense to be paid through the central unit for collection and disbursement of support payments designated pursuant to ~~K.S.A. 23-4,118~~ K.S.A. 2011 Supp. 39-7,135, and amendments thereto.

(b) The provisions of the Kansas income withholding act, K.S.A. 2011 Supp. 23-3101 through ~~23-3118~~, and ~~39-7,135~~ *et seq.*, and amendments thereto, shall apply to orders of support issued under this act or under the predecessor to this act.

(c) Willful failure to obey the judgment or order of the court is a civil contempt of the court. All remedies for the enforcement of judgments apply.

Sec. 36. K.S.A. 2011 Supp. 23-2704 is hereby amended to read as follows: 23-2704. (a) *Verification of petition.* The truth of the allegations of any petition under this article must be verified by the petitioner in person or by the guardian of an incapacitated person.

(b) *Captions.* All pleadings shall be captioned, "In the matter of the marriage of \_\_\_\_\_ and \_\_\_\_\_." In the caption, the name of the petitioner shall appear first and the name of the respondent shall appear second, but the respective parties shall not be designated as such.

(c) *Contents of petition.* The grounds for divorce, annulment or separate maintenance shall be alleged as nearly as possible in the general language of the statute, without detailed statement of facts. If there are minor children of the marriage, the petition shall state their names and dates of birth and shall contain, or be accompanied by an affidavit which contains, the information required by K.S.A. 2011 Supp. 23-37,209, and amendments thereto.

(d) *Bill of particulars.* The opposing party may demand a statement of the facts which shall be furnished in the form of a bill of particulars. The facts stated in the bill of particulars shall be the specific facts upon which the action shall be tried. If interrogatories have been served on or a deposition taken of the party from whom the bill of particulars is demanded, the court in its discretion may refuse to grant the demand for a bill of particulars. A copy of the bill of particulars shall be delivered to the judge. The bill of particulars shall not be filed with the clerk of the court or become a part of the record except on appeal, and then only when the issue to be reviewed relates to the facts stated in the bill of particulars. The bill of particulars shall be destroyed by the district judge unless an appeal is taken, in which case the bill of particulars shall be destroyed upon receipt of the final order from the appellate court.

(e) *Service of process.* Service of process shall be made in the manner provided in article ~~3 of this~~ 27 of chapter 23 of the *Kansas Statutes Annotated, and amendments thereto.*

Sec. 37. K.S.A. 2011 Supp. 23-2706 is hereby amended to read as follows: 23-2706. The court shall grant a requested decree of divorce, separate maintenance or annulment unless the granting of the decree is discretionary under this act or unless the court finds that there are no grounds for the requested alteration of marital status. If a decree of divorce, separate maintenance or annulment is denied for lack of grounds,

the court shall nevertheless, if application is made by one of the parties, make the orders authorized by ~~K.S.A. 2011 Supp. 23-2501 and 23-2502~~ articles 28, 29, 30 and 32 of chapter 23 of the *Kansas Statutes Annotated*, and amendments thereto.

Sec. 38. K.S.A. 2011 Supp. 23-2709 is hereby amended to read as follows: 23-2709. ~~In an action for divorce,~~ The court shall conduct a pre-trial conference or conferences in accordance with K.S.A. 60-216, and amendments thereto, upon request of either party or on the court's own motion. Any pretrial conference shall be set on a date other than the date of trial and the parties shall be present or available within the courthouse.

Sec. 39. K.S.A. 2011 Supp. 23-2710 is hereby amended to read as follows: 23-2710. (a) ~~In an action for divorce,~~ After the filing of the answer or other responsive pleading by the respondent, the court, on its own motion or upon motion of either of the parties, may require both parties to the action to seek marriage counseling if marriage counseling services are available within the judicial district of venue of the action. Neither party shall be required to submit to marriage counseling provided by any religious organization of any particular denomination.

(b) The cost of any counseling authorized by this section may be assessed as costs in the case.

Sec. 40. K.S.A. 2011 Supp. 23-2715 is hereby amended to read as follows: 23-2715. ~~In an action for divorce,~~ Costs and attorney fees may be awarded to either party as justice and equity require. The court may order that the amount be paid directly to the attorney, who may enforce the order in the attorney's name in the same case.

Sec. 41. K.S.A. 2011 Supp. 23-2717 is hereby amended to read as follows: 23-2717. If a party fails to comply with a provision of a decree, temporary order or injunction issued under ~~K.S.A. 2011 Supp. 23-2701 through 23-2718, 23-2802, 23-2901 through 23-2905, 23-3001 through 23-3006, 23-3110, 23-3120, 23-3201 through 23-3222, 23-3301, 23-3402, 23-3403, 23-3510 and 28-170~~ articles 27 through 38 of chapter 23 of the *Kansas Statutes Annotated*, and amendments thereto, the obligation of the other party to make payments for support or maintenance or to permit visitation or parenting time is not suspended, but the other party may request by motion that the court grant an appropriate order.

Sec. 42. K.S.A. 2011 Supp. 23-2802 is hereby amended to read as follows: 23-2802. (a) ~~The decree~~ A decree under section 24, and amendments thereto, shall divide the real and personal property of the parties, including any retirement and pension plans, whether owned by either spouse prior to marriage, acquired by either spouse in the spouse's own right after marriage or acquired by the spouses' joint efforts, by: (1) A division of the property in kind; (2) awarding the property or part of the property to one of the spouses and requiring the other to pay a just and proper sum; or (3) ordering a sale of the property, under conditions prescribed by the court, and dividing the proceeds of the sale.

(b) Upon request, the trial court shall set a valuation date to be used for all assets at trial, which may be the date of separation, filing or trial as the facts and circumstances of the case may dictate. The trial court may consider evidence regarding changes in value of various assets before and after the valuation date in making the division of property. In dividing defined-contribution types of retirement and pension plans, the court shall allocate profits and losses on the nonparticipant's portion until date of distribution to that nonparticipant.

(c) In making the division of property the court shall consider: (1) The age of the parties; (2) the duration of the marriage; (3) the property owned by the parties; (4) their present and future earning capacities; (5) the time, source and manner of acquisition of property; (6) family ties and obligations; (7) the allowance of maintenance or lack thereof; (8) dissipation of assets; (9) the tax consequences of the property division upon the respective economic circumstances of the parties; and (10) such other factors as the court considers necessary to make a just and reasonable division of property.

(d) The decree shall provide for any changes in beneficiary designation on: (1) Any insurance or annuity policy that is owned by the parties, or in the case of group life insurance policies, under which either of the parties is a covered person; (2) any trust instrument under which one party is the grantor or holds a power of appointment over part or all of

the trust assets, that may be exercised in favor of either party; or (3) any transfer on death or payable on death account under which one or both of the parties are owners or beneficiaries.

Nothing in this section shall relieve the parties of the obligation to effectuate any change in beneficiary designation by the filing of such change with the insurer or issuer in accordance with the terms of such policy.

Sec. 43. K.S.A. 2011 Supp. 23-2902 is hereby amended to read as follows: 23-2902. (a) ~~Any decree of divorce or separate maintenance A decree under section 24, and amendments thereto,~~ may award to either party an allowance for future support denominated as maintenance, in an amount the court finds to be fair, just and equitable under all of the circumstances.

(b) Maintenance may be in a lump sum, in periodic payments, on a percentage of earnings or on any other basis.

(c) ~~The decree—~~A decree under section 24, and amendments thereto, may make the future payments modifiable or terminable under circumstances prescribed in the decree.

Sec. 44. K.S.A. 2011 Supp. 23-2905 is hereby amended to read as follows: 23-2905. (a) Except for good cause shown, every order requiring payment of maintenance under this ~~section~~ article shall require that the maintenance be paid through the central unit for collection and disbursement of support payments designated pursuant to K.S.A. 2011 Supp. 39-7,135, and amendments thereto. A written agreement between the parties to make direct maintenance payments to the obligee and not pay through the central unit shall constitute good cause.

(b) If child support and maintenance payments are both made to an obligee by the same obligor, and if the court has made a determination concerning the manner of payment of child support, then maintenance payments shall be paid in the same manner.

Sec. 45. K.S.A. 2011 Supp. 23-3001 is hereby amended to read as follows: 23-3001. (a) In any action ~~for divorce or separate maintenance under article 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto,~~ the court shall make provisions for the support and education of the minor children.

(b) Regardless of the type of custodial arrangement ordered by the court, the court may order the child support and education expenses to be paid by either or both parents for any child less than 18 years of age, at which age the support shall terminate unless:

(1) The parent or parents agree, by written agreement approved by the court, to pay support beyond the time the child reaches 18 years of age;

(2) the child reaches 18 years of age before completing the child's high school education in which case the support shall not terminate automatically, unless otherwise ordered by the court, until June 30 of the school year during which the child became 18 years of age if the child is still attending high school; or

(3) the child is still a *bona fide* high school student after June 30 of the school year during which the child became 18 years of age, in which case the court, on motion, may order support to continue through the school year during which the child becomes 19 years of age so long as the child is a *bona fide* high school student and the parents jointly participated or knowingly acquiesced in the decision which delayed the child's completion of high school. The court, in extending support pursuant to subsection (b)(3), may impose such conditions as are appropriate and shall set the child support utilizing the guideline table category for 12-year through 18-year old children. For purposes of this section, "*bona fide* high school student" means a student who is enrolled in full accordance with the policy of the accredited high school in which the student is pursuing a high school diploma or a graduate equivalency diploma (GED).

(c) Provision for payment of support and educational expenses of a child after reaching 18 years of age if still attending high school shall apply to any child subject to the jurisdiction of the court, including those whose support was ordered prior to July 1, 1992. If an agreement approved by the court prior to July 1, 1992, provides for termination of support before the date provided by subsection (b)(3), the court may

review and modify such agreement, and any order based on such agreement, to extend the date for termination of support to the date provided by subsection (b)(3).

Sec. 46. K.S.A. 2011 Supp. 23-3004 is hereby amended to read as follows: 23-3004. Except for good cause shown, every order requiring payment of child support under this ~~section~~ *article* shall require that the support be paid through the central unit for collection and disbursement of support payments designated pursuant to K.S.A. 2011 Supp. 39-7,135, and amendments thereto. A written agreement between the parties to make direct child support payments to the obligee and not pay through the central unit shall constitute good cause, unless the court finds the agreement is not in the best interest of the child or children. The obligor shall file such written agreement with the court. The obligor shall maintain written evidence of the payment of the support obligation and, at least annually, shall provide such evidence to the court and the obligee.

Sec. 47. K.S.A. 2011 Supp. 23-3005 is hereby amended to read as follows: 23-3005. (a) *Subject to the provisions of K.S.A. 23-36,207, and amendments thereto*, the court may modify or change any prior *child support* order, including any order issued in a title IV-D case, within three years of the date of the original order or a modification order, when a material change in circumstances is shown, irrespective of the present domicile of the child or the parents. If more than three years has passed since the date of the original order or modification order, a material change in circumstance need not be shown.

(b) The court may make a modification of child support retroactive to a date at least one month after the date that the motion to modify was filed with the court. Any increase in support ordered effective prior to the date the court's judgment is filed shall not become a lien on real property pursuant to K.S.A. 60-2202, and amendments thereto.

Sec. 48. K.S.A. 2011 Supp. 23-3207 is hereby amended to read as follows: 23-3207. After making a determination of the legal custodial arrangements, the court shall determine the residency of the child from the following options, which arrangement the court must find to be in the best interest of the child. The parties shall submit to the court either an agreed parenting plan or, in the case of dispute, proposed parenting plans for the court's consideration. Such options are:

(a) *Residency*. The court may order a residential arrangement in which the child resides with one or both parents on a basis consistent with the best interests of the child.

(b) *Divided residency*. In an exceptional case, the court may order a residential arrangement in which one or more children reside with each parent and have parenting time with the other.

(c) *Nonparental residency*. If during the proceedings the court determines that there is probable cause to believe that the child is a child in need of care as defined by subsections (d)(1), (d)(2), (d)(3) or (d)(11) of K.S.A. 2011 Supp. 38-2202, and amendments thereto, or that neither parent is fit to have residency, the court may award temporary residency of the child to a grandparent, aunt, uncle or adult sibling, or, another person or agency if the court finds by written order that:

(1) (A) The child is likely to sustain harm if not immediately removed from the home;

(B) allowing the child to remain in the home is contrary to the welfare of the child; or

(C) immediate placement of the child is in the best interest of the child; and

(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety of the child. In making such a residency order, the court shall give preference, to the extent that the court finds it is in the best interests of the child, first to awarding such residency to a relative of the child by blood, marriage or adoption and second to awarding such residency to another person with whom the child has close emotional ties. The court may make temporary orders for care, support, education and visitation that it considers appropriate. Temporary residency orders are to be entered in lieu of temporary orders provided for in K.S.A. 2011 Supp. 38-2243 and 38-2244, and amendments thereto, and shall remain in effect until there is a final de-

termination under the revised Kansas code for care of children. An award of temporary residency under this paragraph shall not terminate parental rights nor give the court the authority to consent to the adoption of the child. When the court enters orders awarding temporary residency of the child to an agency or a person other than the parent, the court shall refer a transcript of the proceedings to the county or district attorney. The county or district attorney shall file a petition as provided in K.S.A. 2011 Supp. 38-2234, and amendments thereto, and may request termination of parental rights pursuant to K.S.A. 2011 Supp. 38-2266, and amendments thereto. The costs of the proceedings shall be paid from the general fund of the county. When a final determination is made that the child is not a child in need of care, the county or district attorney shall notify the court in writing and the court, after a hearing, shall enter appropriate custody orders pursuant to this ~~section~~ *article*. If the same judge presides over both proceedings, the notice is not required. Any ~~disposition order~~ pursuant to the revised Kansas code for care of children shall be binding and shall supersede ~~take precedence over~~ any order under this ~~section~~ *article*.

Sec. 49. K.S.A. 2011 Supp. 23-3208 is hereby amended to read as follows: 23-3208. (a) *Parents*. A parent is entitled to reasonable parenting time unless the court finds, after a hearing, that the exercise of parenting time would seriously endanger the child's physical, mental, moral or emotional health.

(b) *Enforcement of rights*. An order granting ~~visitation rights or~~ parenting time ~~pursuant to this section~~ *under this article* may be enforced in accordance with the uniform child custody jurisdiction and enforcement act, or K.S.A. 2011 Supp. 23-3401, and amendments thereto.

(c) *Court-ordered exchange or parenting time at a child exchange and visitation center*. The court may order exchange or ~~visitation~~ *parenting time* to take place at a child exchange and visitation center, as established in K.S.A. 75-720, and amendments thereto.

Sec. 50. K.S.A. 2011 Supp. 23-3215 is hereby amended to read as follows: 23-3215. (a) A parent entitled to legal custody of, or residency of, or parenting time with a child pursuant to K.S.A. 2011 Supp. ~~23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2605, 23-3001 through 23-3006, 23-3201 through 23-3207, 23-3216~~ and 23-3218, and amendments thereto, shall give written notice to the other parent of one or more of the following events when such parent: (1) Is subject to the registration requirements of the Kansas offender registration act, K.S.A. 22-4901 *et seq.*, and amendments thereto, or any similar act in any other state, or under military or federal law; (2) has been convicted of abuse of a child, K.S.A. 21-3609, prior to its repeal, or K.S.A. 2011 Supp. 21-5602, and amendments thereto; (3) is residing with an individual who is known by the parent to be subject to the registration requirements of the Kansas offender registration act, K.S.A. 22-4901 *et seq.*, and amendments thereto, or any similar act in any other state, or under military or federal law; or (4) is residing with an individual who is known by the parent to have been convicted of abuse of a child, K.S.A. 21-3609, prior to its repeal, or K.S.A. 2011 Supp. 21-5602, and amendments thereto. Such notice shall be sent by restricted mail, return receipt requested, to the last known address of the other parent within 14 days following such event.

(b) Failure to give notice as required by subsection (a) is an indirect civil contempt punishable as provided by law. In addition, the court may assess, against the parent required to give notice, reasonable attorney fees and any other expenses incurred by the other parent by reason of the failure to give notice.

(c) An event described in subsection (a) may be considered a material change of circumstances which justifies modification of a prior order of legal custody, residency, child support or parenting time.

Sec. 51. K.S.A. 2011 Supp. 23-3219 is hereby amended to read as follows: 23-3219. (a) A party filing a motion to modify a final order pertaining to child custody or residential placement pursuant to ~~K.S.A. 2011 Supp. 23-2201 and 23-2205 through 23-2225 or K.S.A. 2011 Supp. 23-2701 through 23-2718, 23-2802, 23-2901 through 23-2905, 23-3001 through 23-3006, 23-3119, 23-3120, 23-3201 through 23-3222, 23-3301, 23-3402, 23-2403, 23-3510 and 28-179~~ *article 22, 27 or 32 of chapter 23 of the Kansas Statutes Annotated*, and amendments thereto, shall include

with specificity in the verified motion, or in an accompanying affidavit, all known factual allegations which constitute the basis for the change of custody or residential placement. If the court finds that the allegations set forth in the motion or the accompanying affidavit fail to establish a *prima facie* case, the court shall deny the motion. If the court finds that the motion establishes a *prima facie* case, the matter may be tried on factual issues.

(b) In the event the court is asked to issue an *ex parte* order modifying a final child custody or residential placement order based on alleged emergency circumstances, the court shall:

(1) Attempt to have the nonmoving party's counsel, if any, present before taking up the matter.

(2) Set the matter for review hearing at the earliest possible court setting after issuance of the *ex parte* order, but in no case later than 15 days after issuance.

(3) Require personal service of the order and notice of review hearing on the nonmoving party.

No *ex parte* order modifying a final custody or residential placement order shall be entered without sworn testimony to support a showing of the alleged emergency.

Sec. 52. K.S.A. 2011 Supp. 23-3221 is hereby amended to read as follows: 23-3221. (a) The court may modify an order granting or denying parenting time ~~or visitation rights~~ whenever modification would serve the best interests of the child.

(b) Repeated unreasonable denial of or interference with ~~visitation rights or parenting time granted pursuant to this section~~ *under this article* may be considered a material change of circumstances which justifies modification of a prior order of legal custody, residency, ~~visitation~~ or parenting time.

(c) Any party may petition the court to modify an order granting ~~visitation rights or parenting time~~ to require that the exchange or transfer of children for ~~visitation or parenting time~~ take place at a child exchange and visitation center, as established in K.S.A. 75-720, and amendments thereto. ~~The court may modify an order granting visitation whenever modification would serve the best interests of the child.~~

Sec. 53. K.S.A. 2011 Supp. 23-3222 is hereby amended to read as follows: 23-3222. (a) Except as provided in subsection (d), a parent entitled to legal custody or residency of or parenting time with a child ~~pursuant to K.S.A. 2011 Supp. 23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2605, 23-3001 through 23-3006, 23-3201 through 23-3207, 23-3216 and 23-3218, and amendments thereto,~~ *under this article* shall give written notice to the other parent not less than 30 days prior to: (1) Changing the residence of the child; or (2) removing the child from this state for a period of time exceeding 90 days. Such notice shall be sent by restricted mail, return receipt requested, to the last known address of the other parent.

(b) Failure to give notice as required by subsection (a) is an indirect civil contempt punishable as provided by law. In addition, the court may assess, against the parent required to give notice, reasonable attorney fees and any other expenses incurred by the other parent by reason of the failure to give notice.

(c) A change of the residence or the removal of a child as described in subsection (a) may be considered a material change of circumstances which justifies modification of a prior order of legal custody, residency, child support or parenting time. In determining any motion seeking a modification of a prior order based on change of residence or removal as described in (a), the court shall consider all factors the court deems appropriate including, but not limited to: (1) The effect of the move on the best interests of the child; (2) the effect of the move on any party having rights granted ~~pursuant to K.S.A. 2011 Supp. 23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2605, 23-3001 through 23-3006, 23-3201 through 23-3207, 23-3216 and 23-3218, and amendments thereto~~ *under this article*; and (3) the increased cost the move will impose on any party seeking to exercise rights granted ~~under K.S.A. 2011 Supp. 23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2605, 23-3001 through 23-3006, 23-3201 through 23-3207, 23-3216 and 23-3218, and amendments thereto~~ *this article*.

(d) A parent entitled to the legal custody or residency of a child pursuant to ~~K.S.A. 2011 Supp. 23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2605, 23-3001 through 23-3006, 23-3201 through 23-3207, 23-3216 and 23-3218, and amendments thereto,~~ *under this article* shall not be required to give the notice required by this section to the other parent when the other parent has been convicted of any crime specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or K.S.A. 2011 Supp. 21-5401 through 21-5609, 21-6104, 21-6325, 21-6326, 21-6419, 21-6420 or 21-6421, and amendments thereto, in which the child is the victim of such crime.

Sec. 54. K.S.A. 2011 Supp. 23-3301 is hereby amended to read as follows: 23-3301. (a) *In an action under article 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto,* grandparents and stepparents may be granted visitation rights.

~~(b) The court may modify an order granting or denying parenting time or visitation rights whenever modification would serve the best interests of the child.~~

~~(c) Repeated unreasonable denial of or interference with visitation rights or parenting time granted pursuant to this section may be considered a material change of circumstances which justifies modification of a prior order of legal custody, residency, visitation or parenting time.~~

~~(d) (1) The court may order exchange or visitation to take place at a child exchange and visitation center, as established in K.S.A. 75-720, and amendments thereto.~~

~~(2) Any party may petition the court to modify an order granting visitation rights or parenting time to require that the exchange or transfer of children for visitation or parenting time take place at a child exchange and visitation center, as established in K.S.A. 75-720, and amendments thereto. The court may modify an order granting visitation whenever modification would serve the best interests of the child.~~

*(b) The district court may grant the grandparents of an unmarried minor child reasonable visitation rights to the child during the child's minority upon a finding that the visitation rights would be in the child's best interests and when a substantial relationship between the child and the grandparent has been established.*

*(c) The district court may grant the parents of a deceased person visitation rights, or may enforce visitation rights previously granted, pursuant to this section, even if the surviving parent has remarried and the surviving parent's spouse has adopted the child. Visitation rights may be granted pursuant to this subsection without regard to whether the adoption of the child occurred before or after the effective date of this act.*

Sec. 55. K.S.A. 2011 Supp. 23-3302 is hereby amended to read as follows: 23-3302. ~~(a) The district court may grant the grandparents of an unmarried minor child reasonable visitation rights to the child during the child's minority upon a finding that the visitation rights would be in the child's best interests and when a substantial relationship between the child and the grandparent has been established.~~

~~(b) The district court may grant the parents of a deceased person visitation rights, or may enforce visitation rights previously granted, pursuant to this section, even if the surviving parent has remarried and the surviving parent's spouse has adopted the child. Visitation rights may be granted pursuant to this subsection without regard to whether the adoption of the child occurred before or after the effective date of this act.~~

~~(a) The court may modify an order granting or denying parenting time or visitation rights whenever modification would serve the best interests of the child.~~

~~(b) Repeated unreasonable denial of or interference with visitation rights or parenting time granted under section 24, and amendments thereto, may be considered a material change of circumstances which justifies modification of a prior order of legal custody, residency or visitation rights.~~

~~(c) (1) The court may order exchange or visitation to take place at a child exchange and visitation center, as established in K.S.A. 75-720, and amendments thereto.~~

~~(2) Any party may petition the court to modify an order granting visitation rights to require that the exchange or transfer of children for visitation take place at a child exchange and visitation center, as estab-~~

lished in K.S.A. 75-720, and amendments thereto. The court may modify an order granting visitation whenever modification would serve the best interests of the child.

Sec. 56. K.S.A. 2011 Supp. 23-3304 is hereby amended to read as follows: 23-3304. Costs and reasonable attorney fees shall be awarded to the respondent in an action filed pursuant to ~~K.S.A. 38-129 et seq.~~ K.S.A. 2011 Supp. 22-3302 *et seq.*, and amendments thereto, unless the court determines that justice and equity otherwise require.

Sec. 57. K.S.A. 2011 Supp. 23-3403 is hereby amended to read as follows: 23-3403. (a) Any ~~order~~ *order custody or parenting time order, or order relating to the best interests of a child*, issued pursuant to the revised Kansas code for care of children or the revised Kansas juvenile justice code, ~~shall be binding and~~ shall take precedence over any order under this act or K.S.A. 2011 Supp. 23-2701 through 23-2718, 23-2802, 23-2901 through 23-2905, 23-3001 through 23-3006, 23-3110, 23-3120, 23-3201 through 23-3222, 23-3301, 23-3402, 23-3403, 23-3510 and 28-179 *article 32 or 33 of chapter 23 of the Kansas Statutes Annotated*, and amendments thereto ~~(divorce)~~, or K.S.A. 60-1610, prior to its repeal, until jurisdiction under the revised Kansas code for care of children or the revised Kansas juvenile justice code is terminated.

(b) An order granting visitation rights *under article 33 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto*, or parenting time ~~pursuant to this section under article 32 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto~~, may be enforced in accordance with the uniform child custody jurisdiction and enforcement act, or ~~K.S.A. 2011 Supp. 23-3401, and amendments thereto this article.~~

Sec. 58. K.S.A. 2011 Supp. 38-1518 is hereby amended to read as follows: 38-1518. (a) Fingerprints or photographs shall not be taken of any person under 18 years of age who is taken into custody for any purpose, except:

(1) As authorized by K.S.A. 2011 Supp. 38-2313, and amendments thereto; or

(2) if authorized by a judge of the district court having jurisdiction.

(b) Fingerprints and photographs taken under subsection (a)(2) shall be kept readily distinguishable from those of persons of the age of majority.

(c) Fingerprints and photographs taken under subsection (a)(2) may be sent to a state or federal repository only if authorized by a judge of the district court having jurisdiction.

(d) Nothing in this section shall preclude the custodian of the child from authorizing photographs or fingerprints of the child to be used in any action under the Kansas parentage act, *K.S.A. 2011 Supp. 23-2201 et seq.*, and amendments thereto.

(e) This section shall be part of and supplemental to the Kansas code for care of children.

Sec. 59. K.S.A. 2011 Supp. 38-2201 is hereby amended to read as follows: 38-2201. K.S.A. 2011 Supp. 38-2201 through 38-2283, and amendments thereto, shall be known as and may be cited as the revised Kansas code for care of children.

(a) Proceedings pursuant to this code shall be civil in nature and all proceedings, orders, judgments and decrees shall be deemed to be pursuant to the parental power of the state. Any orders pursuant to this code shall take precedence over any similar order under *chapter 23 of the Kansas Statutes Annotated, and amendments thereto*, the *Kansas family law code*, article 11 of chapter 38 of the Kansas Statutes Annotated, and amendments thereto ~~(, determination of parentage)~~, article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto ~~(, adoption and relinquishment act)~~, article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto ~~(, guardians and conservators)~~, ~~article 16 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto (divorce)~~, or article 31 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto ~~(, protection from abuse act)~~, until jurisdiction under this code is terminated.

(b) The code shall be liberally construed to carry out the policies of the state which are to:

(1) Consider the safety and welfare of a child to be paramount in all proceedings under the code;

(2) provide that each child who comes within the provisions of the code shall receive the care, custody, guidance control and discipline that will best serve the child's welfare and the interests of the state, preferably in the child's home and recognizing that the child's relationship with such child's family is important to the child's well being;

(3) make the ongoing physical, mental and emotional needs of the child decisive considerations in proceedings under this code;

(4) acknowledge that the time perception of a child differs from that of an adult and to dispose of all proceedings under this code without unnecessary delay;

(5) encourage the reporting of suspected child abuse and neglect;

(6) investigate reports of suspected child abuse and neglect thoroughly and promptly;

(7) provide for the protection of children who have been subject to physical, mental or emotional abuse or neglect or sexual abuse;

(8) provide preventative and rehabilitative services, when appropriate, to abused and neglected children and their families so, if possible, the families can remain together without further threat to the children;

(9) provide stability in the life of a child who must be removed from the home of a parent; and

(10) place children in permanent family settings, in absence of compelling reasons to the contrary.

(c) Nothing in this code shall be construed to permit discrimination on the basis of disability.

(1) The disability of a parent shall not constitute a basis for a determination that a child is a child in need of care, for the removal of custody of a child from the parent, or for the termination of parental rights without a specific showing that there is a causal relation between the disability and harm to the child.

(2) In cases involving a parent with a disability, determinations made under this code shall consider the availability and use of accommodations for the disability, including adaptive equipment and support services.

Sec. 60. K.S.A. 2011 Supp. 38-2202 is hereby amended to read as follows: 38-2202. As used in the revised Kansas code for care of children, unless the context otherwise indicates:

(a) "Abandon" or "abandonment" means to forsake, desert or, without making appropriate provision for substitute care, cease providing care for the child.

(b) "Adult correction facility" means any public or private facility, secure or nonsecure, which is used for the lawful custody of accused or convicted adult criminal offenders.

(c) "Aggravated circumstances" means the abandonment, torture, chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

(d) "Child in need of care" means a person less than 18 years of age at the time of filing of the petition or issuance of an *ex parte* protective custody order pursuant to K.S.A. 2011 Supp. 38-2242, and amendments thereto, who:

(1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child's parents or other custodian;

(2) is without the care or control necessary for the child's physical, mental or emotional health;

(3) has been physically, mentally or emotionally abused or neglected or sexually abused;

(4) has been placed for care or adoption in violation of law;

(5) has been abandoned or does not have a known living parent;

(6) is not attending school as required by K.S.A. 72-977 or 72-1111, and amendments thereto;

(7) except in the case of a violation of K.S.A. 41-727, subsection (j) of K.S.A. 74-8810, subsection (m) or (n) of K.S.A. 79-3321, or subsection (a)(14) of K.S.A. 2011 Supp. 21-6301, and amendments thereto, or, except as provided in paragraph (12), does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act which if done by

an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 2011 Supp. 21-5102, and amendments thereto;

(9) is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian;

(10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee;

(11) has been residing in the same residence with a sibling or another person under 18 years of age, who has been physically, mentally or emotionally abused or neglected, or sexually abused;

(12) while less than 10 years of age commits the offense defined in ~~or~~ subsection (a)(14) of K.S.A. 2011 Supp. 21-6301, and amendments thereto; or

(13) has had a permanent custodian appointed and the permanent custodian is no longer able or willing to serve.

(e) "Citizen review board" is a group of community volunteers appointed by the court and whose duties are prescribed by K.S.A. 2011 Supp. 38-2207 and 38-2208, and amendments thereto.

(f) "Civil custody case" includes any case filed under *chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the Kansas family law code*, article 11, of chapter 38 of the Kansas Statutes Annotated, and amendments thereto ~~(, determination of parentage), article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto (, adoption and relinquishment act), or article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto (, guardians and conservators), or article 16 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto (divorce).~~

(g) "Court-appointed special advocate" means a responsible adult other than an attorney guardian *ad litem* who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 2011 Supp. 38-2206, and amendments thereto, in a proceeding pursuant to this code.

(h) "Custody" whether temporary, protective or legal, means the status created by court order or statute which vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

(i) "Extended out of home placement" means a child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date at which a child in the custody of the secretary was removed from the home.

(j) "Educational institution" means all schools at the elementary and secondary levels.

(k) "Educator" means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in subsection (a) of K.S.A. 72-89b03, and amendments thereto.

(l) "Harm" means physical or psychological injury or damage.

(m) "Interested party" means the grandparent of the child, a person with whom the child has been living for a significant period of time when the child in need of care petition is filed, and any person made an interested party by the court pursuant to K.S.A. 2011 Supp. 38-2241, and amendments thereto, or Indian tribe seeking to intervene that is not a party.

(n) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building or on the same grounds as an adult jail or lockup, unless the facility meets all applicable standards and licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(o) "Juvenile detention facility" means any secure public or private

facility used for the lawful custody of accused or adjudicated juvenile offenders which must not be a jail.

(p) “Juvenile intake and assessment worker” means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

(q) “Kinship care” means the placement of a child in the home of the child’s relative or in the home of another adult with whom the child or the child’s parent already has a close emotional attachment.

(r) “Law enforcement officer” means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(s) “Multidisciplinary team” means a group of persons, appointed by the court under K.S.A. 2011 Supp. 38-2228, and amendments thereto, which has knowledge of the circumstances of a child in need of care.

(t) “Neglect” means acts or omissions by a parent, guardian or person responsible for the care of a child resulting in harm to a child, or presenting a likelihood of harm, and the acts or omissions are not due solely to the lack of financial means of the child’s parents or other custodian. Neglect may include, but shall not be limited to:

(1) Failure to provide the child with food, clothing or shelter necessary to sustain the life or health of the child;

(2) failure to provide adequate supervision of a child or to remove a child from a situation which requires judgment or actions beyond the child’s level of maturity, physical condition or mental abilities and that results in bodily injury or a likelihood of harm to the child; or

(3) failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, or correct or substantially diminish a crippling condition from worsening. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall not for that reason be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to subsection (a)(2) of K.S.A. 2011 Supp. 38-2217, and amendments thereto.

(u) “Parent” when used in relation to a child or children, includes a guardian and every person who is by law liable to maintain, care for or support the child.

(v) “Party” means the state, the petitioner, the child, any parent of the child and an Indian child’s tribe intervening pursuant to the Indian child welfare act.

(w) “Permanency goal” means the outcome of the permanency planning process which may be reintegration, adoption, appointment of a permanent custodian or another planned permanent living arrangement.

(x) “Permanent custodian” means a judicially approved permanent guardian of a child pursuant to K.S.A. 2011 Supp. 38-2272, and amendments thereto.

(y) “Physical, mental or emotional abuse” means the infliction of physical, mental or emotional harm or the causing of a deterioration of a child and may include, but shall not be limited to, maltreatment or exploiting a child to the extent that the child’s health or emotional well-being is endangered.

(z) “Placement” means the designation by the individual or agency having custody of where and with whom the child will live.

(aa) “Relative” means a person related by blood, marriage or adoption but, when referring to a relative of a child’s parent, does not include the child’s other parent.

(bb) “Secretary” means the secretary of social and rehabilitation services or the secretary’s designee.

(cc) “Secure facility” means a facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail.

(dd) “Sexual abuse” means any contact or interaction with a child in

which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual abuse shall include allowing, permitting or encouraging a child to engage in prostitution or to be photographed, filmed or depicted in pornographic material.

(ee) “Shelter facility” means any public or private facility or home other than a juvenile detention facility that may be used in accordance with this code for the purpose of providing either temporary placement for children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.

(ff) “Transition plan” means, when used in relation to a youth in the custody of the secretary, an individualized strategy for the provision of medical, mental health, education, employment and housing supports as needed for the adult and, if applicable, for any minor child of the adult, to live independently and specifically provides for the supports and any services for which an adult with a disability is eligible including, but not limited to, funding for home and community based services waivers.

(gg) “Youth residential facility” means any home, foster home or structure which provides 24-hour-a-day care for children and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 61. K.S.A. 2011 Supp. 38-2203 is hereby amended to read as follows: 38-2203. (a) Proceedings concerning any child who may be a child in need of care shall be governed by this code, except in those instances when the court knows or has reason to know that an Indian child is involved in the proceeding, in which case, the Indian child welfare act of 1978-~~25 U.S.C. § 1901 et seq.~~, applies. The Indian child welfare act may apply to: The filing to initiate a child in need of care proceeding-~~;~~ K.S.A. 2011 Supp. 38-2234, and amendments thereto-~~;~~ *ex parte* custody orders-~~;~~ K.S.A. 2011 Supp. 38-2242, and amendments thereto-~~;~~ temporary custody hearing-~~;~~ K.S.A. 2011 Supp. 38-2243, and amendments thereto-~~;~~ adjudication-~~;~~ K.S.A. 2011 Supp. 38-2247, and amendments thereto-~~;~~ burden of proof-~~;~~ K.S.A. 2011 Supp. 38-2250, and amendments thereto-~~;~~ disposition-~~;~~ K.S.A. 2011 Supp. 38-2255, and amendments thereto-~~;~~ permanency hearings-~~;~~ K.S.A. 2011 Supp. 38-2264, and amendments thereto-~~;~~ termination of parental rights-~~;~~ K.S.A. 2011 Supp. 38-2267, 38-2268 and 38-2269, and amendments thereto-~~;~~ establishment of permanent custodianship-~~;~~ K.S.A. 2011 Supp. 38-2268 and 38-2272, and amendments thereto-~~;~~ the placement of a child in any foster, pre-adoptive and adoptive home and the placement of a child in a guardianship arrangement under article 30 of chapter 59-~~article 30~~ of the Kansas Statutes Annotated, and amendments thereto.

(b) Subject to the uniform child custody jurisdiction and enforcement act, ~~K.S.A. 38-1336 through 38-1377~~ K.S.A. 2011 Supp. 23-37,101 through 23-37,405, and amendments thereto, the district court shall have original jurisdiction of proceedings pursuant to this code.

(c) The court acquires jurisdiction over a child by the filing of a petition pursuant to this code or upon issuance of an *ex parte* order pursuant to K.S.A. 2011 Supp. 38-2242, and amendments thereto. When the court acquires jurisdiction over a child in need of care, jurisdiction may continue until the child has: (1) Become 18 years of age, or until June 1 of the school year during which the child became 18 years of age if the child is still attending high school unless there is no court approved transition plan, in which event jurisdiction may continue until a transition plan is approved by the court or until the child reaches the age of 21; (2) been adopted; or (3) been discharged by the court. Any child 18 years of age or over may request, in writing to the court, that the jurisdiction of the court cease. The court shall give notice of the request to all parties and interested parties and 30 days after receipt of the request, jurisdiction will cease.

(d) When it is no longer appropriate for the court to exercise jurisdiction over a child, the court, upon its own motion or the motion of a party or interested party at a hearing or upon agreement of all parties or interested parties, shall enter an order discharging the child. Except upon request of the child pursuant to subsection (c), the court shall not enter an order discharging a child until June 1 of the school year during which the child becomes 18 years of age if the child is in an out-of-home place-

ment, is still attending high school and has not completed the child's high school education.

(e) When a petition is filed under this code, a person who is alleged to be under 18 years of age shall be presumed to be under that age for the purposes of this code, unless the contrary is proved.

(f) A court's order issued in a proceeding pursuant to this code, shall take precedence over such orders in a civil custody case, a proceeding under article 31 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto~~, protection from abuse act~~, or a comparable case in another jurisdiction, except as provided by ~~K.S.A. 38-1336 et seq.~~ *K.S.A. 2011 Supp. 23-37,101 through 23-37,405*, and amendments thereto~~, uniform child custody jurisdiction and enforcement act~~.

Sec. 62. K.S.A. 2011 Supp. 38-2220 is hereby amended to read as follows: 38-2220. (a) If the court determines that the information contained in the petition concerning parentage of the child may be incomplete or incorrect, the court shall determine whether the question has been previously adjudicated and whether service of process should be made on some additional person.

(b) If it appears that the issue of parentage needs to be adjudicated, the court shall stay child support proceedings, if any are pending in the case, with respect to that alleged parent and child relationship, until the dispute is resolved by agreement, by a separate action under the Kansas parentage act, ~~K.S.A. 38-1110 et seq.~~ *K.S.A. 2011 Supp. 23-2201 et seq.*, and amendments thereto, or otherwise. Nothing in this subsection shall be construed to limit the power of the court to carry out the purposes of the code.

Sec. 63. K.S.A. 2011 Supp. 38-2221 is hereby amended to read as follows: 38-2221. (a) Fingerprints or photographs of a person alleged or adjudicated to be a child in need of care may be taken:

(1) By a person authorized to investigate an allegation or suspicion of child abuse or neglect to obtain and preserve evidence or to determine the identity of a child;

(2) as authorized by K.S.A. 38-1611, and amendments thereto; or

(3) if authorized by a judge of the district court having jurisdiction.

(b) Fingerprints and photographs taken under subsection (a)(3): (1) Shall be kept separate from those of persons of the age of majority; and

(2) may be sent to a state or federal repository only if authorized by a judge of the district court having jurisdiction.

(c) Nothing in this section shall preclude the custodian of the child from authorizing photographs or fingerprints of the child to:

(1) Be used in any action under the Kansas parentage act, *K.S.A. 2011 Supp. 23-2201 et seq., and amendments thereto*;

(2) assist in the apprehension of a runaway child;

(3) assist in the adoption or other permanent placement of a child;

or

(4) provide the child or the child's parents with a history of the child's life and development.

(d) For purposes of this section, the term photograph means an image or likeness of a child made or reproduced by any medium or means.

Sec. 64. K.S.A. 2011 Supp. 38-2223 is hereby amended to read as follows: 38-2223. (a) *Persons making reports.* (1) When any of the following persons has reason to suspect that a child has been harmed as a result of physical, mental or emotional abuse or neglect or sexual abuse, the person shall report the matter promptly as provided in subsections (b) and (c);

(A) The following persons providing medical care or treatment: Persons licensed to practice the healing arts, dentistry and optometry; persons engaged in postgraduate training programs approved by the state board of healing arts; licensed professional or practical nurses; and chief administrative officers of medical care facilities;

(B) the following persons licensed by the state to provide mental health services: Licensed psychologists, licensed masters level psychologists, licensed clinical psychotherapists, licensed social workers, licensed marriage and family therapists, licensed clinical marriage and family therapists, licensed professional counselors, licensed clinical professional counselors and registered alcohol and drug abuse counselors;

(C) teachers, school administrators or other employees of an educa-

tional institution which the child is attending and persons licensed by the secretary of health and environment to provide child care services or the employees of persons so licensed at the place where the child care services are being provided to the child; ~~and~~

(D) firefighters, emergency medical services personnel, law enforcement officers, juvenile intake and assessment workers, court services officers ~~and~~, community corrections officers, case managers appointed under ~~K.S.A. 23-1001 et seq.~~ K.S.A. 2011 Supp. 23-3508, and amendments thereto, and mediators appointed under ~~K.S.A. 23-602~~ K.S.A. 2011 Supp. 23-3502, and amendments thereto; and

(E) any person employed by or who works as a volunteer for any organization, whether for profit or not-for-profit, that provides social services to pregnant teenagers, including, but not limited to, counseling, adoption services and pregnancy education and maintenance.

(2) In addition to the reports required under subsection (a)(1), any person who has reason to suspect that a child may be a child in need of care may report the matter as provided in subsection (b) and (c).

(b) *Form of report.* (1) The report may be made orally and shall be followed by a written report if requested. Every report shall contain, if known: The names and addresses of the child and the child's parents or other persons responsible for the child's care; the location of the child if not at the child's residence; the child's gender, race and age; the reasons why the reporter suspects the child may be a child in need of care; if abuse or neglect or sexual abuse is suspected, the nature and extent of the harm to the child, including any evidence of previous harm; and any other information that the reporter believes might be helpful in establishing the cause of the harm and the identity of the persons responsible for the harm.

(2) When reporting a suspicion that a child may be in need of care, the reporter shall disclose protected health information freely and cooperate fully with the secretary and law enforcement throughout the investigation and any subsequent legal process.

(c) *To whom made.* Reports made pursuant to this section shall be made to the secretary, except as follows:

(1) When the department of social and rehabilitation services is not open for business, reports shall be made to the appropriate law enforcement agency. On the next day that the department is open for business, the law enforcement agency shall report to the department any report received and any investigation initiated pursuant to K.S.A. 2011 Supp. 38-2226, and amendments thereto. The reports may be made orally or, on request of the secretary, in writing.

(2) Reports of child abuse or neglect occurring in an institution operated by the secretary of social and rehabilitation services or the commissioner of juvenile justice shall be made to the attorney general. All other reports of child abuse or neglect by persons employed by or of children of persons employed by the department of social and rehabilitation services shall be made to the appropriate law enforcement agency.

(d) *Death of child.* Any person who is required by this section to report a suspicion that a child is in need of care and who knows of information relating to the death of a child shall immediately notify the coroner as provided by K.S.A. 22a-242, and amendments thereto.

(e) *Violations.* (1) Willful and knowing failure to make a report required by this section is a class B misdemeanor. It is not a defense that another mandatory reporter made a report.

(2) Intentionally preventing or interfering with the making of a report required by this section is a class B misdemeanor.

(3) Any person who willfully and knowingly makes a false report pursuant to this section or makes a report that such person knows lacks factual foundation is guilty of a class B misdemeanor.

(f) *Immunity from liability.* Anyone who, without malice, participates in the making of a report to the secretary or a law enforcement agency relating to a suspicion a child may be a child in need of care or who participates in any activity or investigation relating to the report or who participates in any judicial proceeding resulting from the report shall have immunity from any civil liability that might otherwise be incurred or imposed.

Sec. 65. K.S.A. 2011 Supp. 38-2255 is hereby amended to read as

follows: 38-2255. (a) *Considerations*. Prior to entering an order of disposition, the court shall give consideration to:

- (1) The child's physical, mental and emotional condition;
- (2) the child's need for assistance;
- (3) the manner in which the parent participated in the abuse, neglect or abandonment of the child;
- (4) any relevant information from the intake and assessment process; and
- (5) the evidence received at the dispositional hearing.

(b) *Custody with a parent*. The court may place the child in the custody of either of the child's parents subject to terms and conditions which the court prescribes to assure the proper care and protection of the child, including, but not limited to:

- (1) Supervision of the child and the parent by a court services officer;
- (2) participation by the child and the parent in available programs operated by an appropriate individual or agency; and
- (3) any special treatment or care which the child needs for the child's physical, mental or emotional health and safety.

(c) *Removal of a child from custody of a parent*. The court shall not enter the initial order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that:

- (1) (A) The child is likely to sustain harm if not immediately removed from the home;
- (B) allowing the child to remain in home is contrary to the welfare of the child; or
- (C) immediate placement of the child is in the best interest of the child; and

(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

The court shall not enter an order removing a child from the custody of a parent pursuant to this section based solely on the finding that the parent is homeless.

(d) *Custody of a child removed from the custody of a parent*. If the court has made the findings required by subsection (c), the court shall enter an order awarding custody to a relative of the child or to a person with whom the child has close emotional ties who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, to any other suitable person, to a shelter facility, to a youth residential facility or, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to the secretary. Custody awarded under this subsection shall continue until further order of the court.

(1) When custody is awarded to the secretary, the secretary shall consider any placement recommendation by the court and notify the court of the placement or proposed placement of the child within 10 days of the order awarding custody. After providing the parties or interested parties notice and opportunity to be heard, the court may determine whether the secretary's placement or proposed placement is contrary to the welfare or in the best interests of the child. In making that determination the court shall consider the health and safety needs of the child and the resources available to meet the needs of children in the custody of the secretary. If the court determines that the placement or proposed placement is contrary to the welfare or not in the best interests of the child, the court shall notify the secretary, who shall then make an alternative placement.

(2) The custodian designated under this subsection shall notify the court in writing at least 10 days prior to any planned placement with a parent. The written notice shall state the basis for the custodian's belief that placement with a parent is no longer contrary to the welfare or best interest of the child. Upon reviewing the notice, the court may allow the custodian to proceed with the planned placement or may set the date for a hearing to determine if the child shall be allowed to return home. If the court sets a hearing on the matter, the custodian shall not return the child home without written consent of the court.

(3) The court may grant any person reasonable rights to visit the child

upon motion of the person and a finding that the visitation rights would be in the best interests of the child.

(4) The court may enter an order restraining any alleged perpetrator of physical, mental or emotional abuse or sexual abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child, other family member or witness; or attempting to visit, contact, harass or intimidate the child, other family member or witness. Such restraining order shall be served by personal service pursuant to subsection (a) of K.S.A. 2011 Supp. 38-2237, and amendments thereto, on any alleged perpetrator to whom the order is directed.

(5) The court shall provide a copy of any orders entered within 10 days of entering the order to the custodian designated under this subsection.

(e) *Further determinations regarding a child removed from the home.* If custody has been awarded under subsection (d) to a person other than a parent, a permanency plan shall be provided or prepared pursuant to K.S.A. 2011 Supp. 38-2264, and amendments thereto. If a permanency plan is provided at the dispositional hearing, the court may determine whether reintegration is a viable alternative or, if reintegration is not a viable alternative, whether the child should be placed for adoption or a permanent custodian appointed. In determining whether reintegration is a viable alternative, the court shall consider:

(1) Whether a parent has been found by a court to have committed one of the following crimes or to have violated the law of another state prohibiting such crimes or to have aided and abetted, attempted, conspired or solicited the commission of one of these crimes: (A) Murder in the first degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2011 Supp. 21-5402, and amendments thereto; (B) murder in the second degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 2011 Supp. 21-5403, and amendments thereto; (C) capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A. 2011 Supp. 21-5401, and amendments thereto; (D) voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 2011 Supp. 21-5404, and amendments thereto; or (E) a felony battery that resulted in bodily injury;

(2) whether a parent has subjected the child or another child to aggravated circumstances;

(3) whether a parent has previously been found to be an unfit parent in proceedings under this code or in comparable proceedings under the laws of another state or the federal government;

(4) whether the child has been in extended out of home placement;

(5) whether the parents have failed to work diligently toward reintegration;

(6) whether the secretary has provided the family with services necessary for the safe return of the child to the home; and

(7) whether it is reasonable to expect reintegration to occur within a time frame consistent with the child's developmental needs.

(f) *Proceedings if reintegration is not a viable alternative.* If the court determines that reintegration is not a viable alternative, proceedings to terminate parental rights and permit placement of the child for adoption or appointment of a permanent custodian shall be initiated unless the court finds that compelling reasons have been documented in the case plan why adoption or appointment of a permanent custodian would not be in the best interests of the child. If compelling reasons have not been documented, the county or district attorney shall file a motion within 30 days to terminate parental rights or a motion to appoint a permanent custodian within 30 days and the court shall hold a hearing on the motion within 90 days of its filing. No hearing is required when the parents voluntarily relinquish parental rights or consent to the appointment of a permanent custodian.

(g) *Additional Orders.* In addition to or in lieu of any other order authorized by this section:

(1) The court may order the child and the parents of any child who has been adjudicated a child in need of care to attend counseling sessions as the court directs. The expense of the counseling may be assessed as an expense in the case. No mental health provider shall charge a greater fee for court-ordered counseling than the provider would have charged to the person receiving counseling if the person had requested counseling on the person's own initiative.

(2) If the court has reason to believe that a child is before the court due, in whole or in part, to the use or misuse of alcohol or a violation of K.S.A. 2011 Supp. 21-5701 through 21-5717, and amendments thereto, by the child, a parent of the child, or another person responsible for the care of the child, the court may order the child, parent of the child or other person responsible for the care of the child to submit to and complete an alcohol and drug evaluation by a qualified person or agency and comply with any recommendations. If the evaluation is performed by a community-based alcohol and drug safety program certified pursuant to K.S.A. 8-1008, and amendments thereto, the child, parent of the child or other person responsible for the care of the child shall pay a fee not to exceed the fee established by that statute. If the court finds that the child and those legally liable for the child's support are indigent, the fee may be waived. In no event shall the fee be assessed against the secretary.

(3) If child support has been requested and the parent or parents have a duty to support the child, the court may order one or both parents to pay child support and, when custody is awarded to the secretary, the court shall order one or both parents to pay child support. The court shall determine, for each parent separately, whether the parent is already subject to an order to pay support for the child. If the parent is not presently ordered to pay support for any child who is subject to the jurisdiction of the court and the court has personal jurisdiction over the parent, the court shall order the parent to pay child support in an amount determined under K.S.A. 2011 Supp. 38-2277, and amendments thereto. Except for good cause shown, the court shall issue an immediate income withholding order pursuant to ~~K.S.A. 23-4,105 et seq.~~ K.S.A. 2011 Supp. 23-3101 *et seq.*, and amendments thereto, for each parent ordered to pay support under this subsection, regardless of whether a payor has been identified for the parent. A parent ordered to pay child support under this subsection shall be notified, at the hearing or otherwise, that the child support order may be registered pursuant to K.S.A. 2011 Supp. 38-2279, and amendments thereto. The parent shall also be informed that, after registration, the income withholding order may be served on the parent's employer without further notice to the parent and the child support order may be enforced by any method allowed by law. Failure to provide this notice shall not affect the validity of the child support order.

Sec. 66. K.S.A. 2011 Supp. 38-2264 is hereby amended to read as follows: 38-2264. (a) A permanency hearing is a proceeding conducted by the court or by a citizen review board for the purpose of determining progress toward accomplishment of a permanency plan as established by K.S.A. 2011 Supp. 38-2263, and amendments thereto.

(b) The court or a citizen review board shall hear and the court shall determine whether and, if applicable, when the child will be:

- (1) Reintegrated with the child's parents;
- (2) placed for adoption;
- (3) placed with a permanent custodian; or
- (4) if the secretary has documented compelling reasons why it would not be in the child's best interests for a placement in one of the placements pursuant to paragraphs (1), (2) or (3) placed in another planned permanent arrangement.

(c) The court shall enter a finding as to whether reasonable efforts have been made by appropriate public or private agencies to rehabilitate the family and achieve the permanency goal in place at the time of the hearing.

(d) A permanency hearing shall be held within 12 months of the date the court authorized the child's removal from the home and not less frequently than every 12 months thereafter.

(e) If the court determines at any time other than during a permanency hearing that reintegration may not be a viable alternative for the child, a permanency hearing shall be held no later than 30 days following that determination.

(f) When the court finds that reintegration continues to be a viable alternative, the court shall determine whether and, if applicable, when the child will be returned to the parent. The court may rescind any of its prior dispositional orders and enter any dispositional order authorized by this code or may order that a new plan for the reintegration be prepared and submitted to the court. If reintegration cannot be accomplished as

approved by the court, the court shall be informed and shall schedule a hearing pursuant to this section. No such hearing is required when the parents voluntarily relinquish parental rights or consent to appointment of a permanent custodian.

(g) If the court finds reintegration is no longer a viable alternative, the court shall consider whether: (1) The child is in a stable placement with a relative; (2) services set out in the case plan necessary for the safe return of the child have been made available to the parent with whom reintegration is planned; or (3) compelling reasons are documented in the case plan to support a finding that neither adoption nor appointment of a permanent custodian are in the child's best interest. If reintegration is not a viable alternative and either adoption or appointment of a permanent custodian might be in the best interests of the child, the county or district attorney or the county or district attorney's designee shall file a motion to terminate parental rights or a motion to appoint a permanent custodian within 30 days and the court shall set a hearing on such motion within 90 days of the filing of such motion.

(h) If the court enters an order terminating parental rights to a child, or an agency has accepted a relinquishment pursuant to K.S.A. 59-2124, and amendments thereto, the requirements for permanency hearings shall continue until an adoption or appointment of a permanent custodian has been accomplished. If the court determines that reasonable efforts or progress have not been made toward finding an adoptive placement or appointment of a permanent custodian or placement with a fit and willing relative, the court may rescind its prior orders and make others regarding custody and adoption that are appropriate under the circumstances. Reports of a proposed adoptive placement need not contain the identity of the proposed adoptive parents.

(i) If permanency with one parent has been achieved without the termination of the other parent's rights, the court may, prior to dismissing the case, enter child custody orders, including residency and parenting time that the court determines to be in the best interests of the child. The court shall complete a parenting plan pursuant to ~~K.S.A. 60-1625~~ *K.S.A. 2011 Supp. 23-3213*, and amendments thereto.

(1) Before entering a custody order under this subsection, the court shall inquire whether a custody order has been entered or is pending in a civil custody case by a court of competent jurisdiction within the state of Kansas.

(2) If a civil custody case has been filed or is pending, a certified copy of the custody, residency and parenting time orders shall be filed in the civil custody case. The court in the civil custody case may, after consultation with the court in the child in need of care case, enter an order declaring that the custody order in the child in need of care case shall become the custody order in the civil custody case.

(3) A district court, on its own motion or upon the motion of any party, may order the consolidation of the child in need of care case with any open civil custody case involving the child and both of the child's parents. Custody, residency and parenting time orders entered in consolidated child in need of care and civil custody cases take precedence over any previous orders affecting both parents and the child that were entered in the civil custody case regarding the same or related issues. Following entry of a custody order in a consolidated case, the court shall dismiss the child in need of care case and, if necessary, return the civil custody case to the original court having jurisdiction over it.

(4) If no civil custody case has been filed, the court may direct the parties to file a civil custody case and to file the custody orders from the child in need of care case in that case. Costs of the civil custody case may be assessed to the parties.

(5) Nothing in this subsection shall operate to expand access to information that is confidential under K.S.A. 38-2209, and amendments thereto, and the confidentiality of such information shall be preserved in all filings in a civil custody case.

(j) When permanency has been achieved to the satisfaction of the court, the court shall enter an order closing the case.

Sec. 67. K.S.A. 2011 Supp. 38-2304 is hereby amended to read as follows: 38-2304. (a) Except as provided in K.S.A. 2011 Supp. 38-2347,

and amendments thereto, proceedings concerning a juvenile shall be governed by the provisions of this code.

(b) The district court shall have original jurisdiction to receive and determine proceedings under this code.

(c) When a complaint is filed under this code, the juvenile shall be presumed to be subject to this code, unless the contrary is proved.

(d) Once jurisdiction is acquired by the district court over an alleged juvenile offender, except as otherwise provided in subsection (e), jurisdiction shall continue until one of the following occurs:

- (1) The complaint is dismissed;
- (2) the juvenile is adjudicated not guilty at trial;
- (3) the juvenile, after being adjudicated guilty and sentenced:
  - (i) Successfully completes the term of probation or order of assignment to community corrections;
  - (ii) is discharged by the commissioner pursuant to K.S.A. 2011 Supp. 38-2376, and amendments thereto;
  - (iii) reaches the juvenile's 21st birthday and no exceptions apply that extend jurisdiction beyond age 21;
- (4) the court terminates jurisdiction; or
- (5) the offender is convicted of a new felony while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671, prior to its repeal, or K.S.A. 2011 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony.

(e) Once jurisdiction is acquired by the district court over an alleged juvenile offender, it shall continue beyond the juvenile offender's 21st birthday but no later than the juvenile offender's 23rd birthday if either or both of the following conditions apply:

- (1) The juvenile offender is sentenced pursuant to K.S.A. 2011 Supp. 38-2369, and amendments thereto, and the term of the sentence including successful completion of aftercare extends beyond the juvenile offender's 21st birthday; or
- (2) the juvenile offender is sentenced pursuant to an extended jurisdiction juvenile prosecution and continues to successfully serve the sentence imposed pursuant to the revised Kansas juvenile justice code.

(f) Termination of jurisdiction pursuant to this section shall have no effect on the juvenile offender's continuing responsibility to pay restitution ordered.

(g) (1) If a juvenile offender, at the time of sentencing, is in an out of home placement in the custody of the secretary of social and rehabilitation services under the Kansas code for care of children, the sentencing court may order the continued placement of the juvenile offender as a child in need of care unless the offender was adjudicated for a felony or a second or subsequent misdemeanor. If the adjudication was for a felony or a second or subsequent misdemeanor, the continued placement cannot be ordered unless the court finds there are compelling circumstances which, in the best interest of the juvenile offender, require that the placement should be continued. In considering whether compelling circumstances exist, the court shall consider the reports and recommendations of the foster placement, the contract provider, the secretary of social and rehabilitation services, the presentence investigation and all other relevant factors. If the foster placement refuses to continue the juvenile in the foster placement the court shall not order continued placement as a child in need of care.

(2) If a placement with the secretary of social and rehabilitation services is continued after sentencing, the secretary shall not be responsible for any costs of sanctions imposed under this code.

(3) If the juvenile offender is placed in the custody of the juvenile justice authority, the secretary of social and rehabilitation services shall not be responsible for furnishing services ordered in the child in need of care proceeding during the time of the placement pursuant to the revised Kansas juvenile justice code. Nothing in this subsection shall preclude the juvenile offender from accessing other services provided by the department of social and rehabilitation services or any other state agency if the juvenile offender is otherwise eligible for the services.

(h) A court's order issued in a proceeding pursuant to this code, shall take precedence over such orders in a proceeding under ~~article 11 of chapter 38 of the Kansas Statutes Annotated, and amendments thereto~~

~~(parentage act), a proceeding under article 16 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto (divorce); chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the Kansas family law code, a proceeding under article 31 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto (protection from abuse act), a proceeding under article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto (adoption and relinquishment act), a proceeding under article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto (guardians and conservators), or a comparable case in another jurisdiction, except as provided by ~~K.S.A. 38-1336~~ K.S.A. 2011 Supp. 23-37,101 et seq., and amendments thereto (uniform child custody jurisdiction and enforcement act).~~

Sec. 68. K.S.A. 2011 Supp. 38-2313 is hereby amended to read as follows: 38-2313. (a) Fingerprints or photographs shall not be taken of any juvenile who is taken into custody for any purpose, except that:

(1) Fingerprints or photographs of a juvenile may be taken if authorized by a judge of the district court having jurisdiction;

(2) a juvenile's fingerprints shall be taken, and photographs of a juvenile may be taken, immediately upon taking the juvenile into custody or upon first appearance or in any event before final sentencing, before the court for an offense which, if committed by an adult, would constitute the commission of a felony, a class A or B misdemeanor or assault, as defined in subsection (a) of K.S.A. 2011 Supp. 21-5412, and amendments thereto;

(3) fingerprints or photographs of a juvenile may be taken under K.S.A. 21-2501, and amendments thereto, if the juvenile has been: (A) Prosecuted as an adult pursuant to K.S.A. 2011 Supp. 38-2347, and amendments thereto; or (B) taken into custody for an offense described in subsection (n)(1) or (n)(2) of K.S.A. 2011 Supp. 38-2302, and amendments thereto;

(4) fingerprints or photographs shall be taken of any juvenile admitted to a juvenile correctional facility; and

(5) photographs may be taken of any juvenile placed in a juvenile detention facility. Photographs taken under this paragraph shall be used solely by the juvenile detention facility for the purposes of identification, security and protection and shall not be disseminated to any other person or agency except after an escape and necessary to assist in apprehension.

(b) Fingerprints and photographs taken under subsection (a)(1) or (a)(2) shall be kept readily distinguishable from those of persons of the age of majority. Fingerprints and photographs taken under subsections (a)(3) and (a)(4) may be kept in the same manner as those of persons of the age of majority.

(c) Fingerprints and photographs of a juvenile shall not be sent to a state or federal repository, except that:

(1) Fingerprints and photographs may be sent to the state and federal repository if authorized by a judge of the district court having jurisdiction;

(2) a juvenile's fingerprints shall, and photographs of a juvenile may, be sent to the state and federal repository if taken under subsection (a)(2) or (a)(4); and

(3) fingerprints or photographs taken under subsection (a)(3) shall be processed and disseminated in the same manner as those of persons of the age of majority.

(d) Fingerprints or photographs of a juvenile may be furnished to another juvenile justice agency, as defined by K.S.A. 2011 Supp. 38-2325, and amendments thereto, if the other agency has a legitimate need for the fingerprints or photographs.

(e) Any fingerprints or photographs of an alleged juvenile offender taken under the provisions of subsection (a)(2) of K.S.A. 38-1611, prior to its repeal, may be sent to a state or federal repository on or before December 31, 2006.

(f) Any law enforcement agency that willfully fails to submit any fingerprints or photographs required by this section shall be liable to the state for the payment of a civil penalty, recoverable in an action brought by the attorney general, in an amount not exceeding \$500 for each report not made. Any civil penalty recovered under this subsection shall be paid into the state general fund.

(g) The director of the Kansas bureau of investigation shall adopt any

rules and regulations necessary to implement, administer and enforce the provisions of this section, including time limits within which fingerprints shall be sent to a state or federal repository when required by this section.

(h) Nothing in this section shall preclude the custodian of a juvenile from authorizing photographs or fingerprints of the juvenile to be used in any action under the Kansas parentage act, *K.S.A. 2011 Supp. 23-2201 et seq., and amendments thereto.*

Sec. 69. K.S.A. 2011 Supp. 38-2318 is hereby amended to read as follows: 38-2318. When there is a dispute with respect to parentage, the court may stay child support proceedings, if any are pending in the case, until the dispute is resolved by a separate action under the Kansas parentage act, *K.S.A. 2011 Supp. 23-2201 et seq., and amendments thereto.* Nothing in this section shall be construed to limit the power of the court to carry out the purposes of the revised Kansas juvenile justice code.

Sec. 70. K.S.A. 2011 Supp. 38-2362 is hereby amended to read as follows: 38-2362. (a) When sentencing a juvenile offender, the court may order a juvenile offender's parent to participate in counseling, mediation sessions or an alcohol and drug evaluation and treatment program ordered as part of the juvenile offender's sentence under K.S.A. 2011 Supp. 38-2361, and amendments thereto, or to participate in parenting classes.

(1) Upon entering an order requiring a juvenile offender's parent to attend counseling sessions or mediation, the court shall give the parent notice of the order. The notice shall inform the parent of the parent's right to request a hearing within 14 days after entry of the order and the parent's right to employ an attorney to represent the parent at the hearing or, if the parent is financially unable to employ an attorney, the parent's right to request the court to appoint an attorney to represent the parent.

(2) If the parent does not request a hearing within 14 days after entry of the order, the order shall take effect at that time.

(3) If the parent requests a hearing, the court shall set the matter for hearing and, if requested, shall appoint an attorney to represent the parent. The expense and fees of the appointed attorney may be allowed and assessed as provided by K.S.A. 2011 Supp. 38-2306, and amendments thereto.

(b) In addition to any other orders provided for by this section, the parent of a juvenile offender may be held responsible for the costs of sanctions or the support of the juvenile offender as follows:

(1) The board of county commissioners of a county may provide by resolution that the parent of any juvenile offender placed under a house arrest program pursuant to subsection (a)(9) of K.S.A. 2011 Supp. 38-2361, and amendments thereto, shall be required to pay to the county the cost of such house arrest program. The board of county commissioners shall prepare a sliding financial scale based on the ability of the parent to pay for such a program.

(2) If child support has been requested and a parent has a duty to support the juvenile offender, the court may order, and when custody is placed with the commissioner shall order, one or both parents to pay child support. The court shall determine, for each parent separately, whether the parent already is subject to an order to pay support for the juvenile. If the parent currently is not ordered to pay support for the juvenile and the court has personal jurisdiction over the parent, the court shall order the parent to pay child support in an amount determined under K.S.A. 2011 Supp. 38-2319, and amendments thereto. Except for good cause shown, the court shall issue an immediate income withholding order pursuant to ~~K.S.A. 23-4,105~~ *K.S.A. 2011 Supp. 23-3101 et seq.*, and amendments thereto, for each parent ordered to pay support under this subsection, regardless of whether a payor has been identified for the parent. A parent ordered to pay child support under this subsection shall be notified, at the hearing or otherwise, that the child support order may be registered pursuant to K.S.A. 2011 Supp. 38-2321, and amendments thereto. The parent also shall be informed that, after registration, the income withholding order may be served on the parent's employer without further notice to the parent and the child support order may be enforced by any method allowed by law. Failure to provide this notice shall not affect the validity of the child support order.

Sec. 71. K.S.A. 2011 Supp. 39-7,135 is hereby amended to read as follows: 39-7,135. (a) The department of social and rehabilitation services,

the title IV-D agency for the state, shall maintain a central unit for collection and disbursement of support payments to meet the requirements of title IV-D and this section. Such central unit shall be known as the Kansas payment center. The name “Kansas payment center” shall be reserved for use by the state of Kansas for the functions of the central unit and shall not be used by any entity without the consent of the secretary of social and rehabilitation services.

The department may contract with another entity for development, enhancement or operation, in whole or in part, of such central unit. The Kansas payment center shall be subject to the following conditions and limitations:

(1) The Kansas payment center shall be subject to the Kansas supreme court rule concerning official child support and maintenance records established pursuant to subsection (c).

(2) No contract shall include provisions allowing the contractor to be paid, in whole or in part, on the basis of an amount per phone call received by the center nor allowing the contractor to be paid an amount per check issued for checks that were issued in error by the center. Nothing in this paragraph shall be construed to prevent the secretary of social and rehabilitation services from compensating on the basis of an amount per phone call any contractor that does not process receipts or disbursements under this section.

(3) Any contract for processing receipts or disbursements under this section shall include penalty provisions for noncompliance with federal regulations relating to the timeliness of collections and disbursements and shall include a monetary penalty of \$100 for each erroneous transaction, whether related to collection or disbursement. Penalties shall be collected as and when assessed. Of the penalty, \$25 shall be allocated to the obligee and \$75 shall be allocated to the department of social and rehabilitation services.

(4) Designees of the secretary of social and rehabilitation services and designees of the office of judicial administration shall have full access to all data, subject to the provisions of title IV-D of the federal social security act, 42 U.S.C. § 651 *et seq.* Designees of the secretary of social and rehabilitation services, all district court clerks and court trustees shall have access to records of the Kansas payment center sufficient to allow them to assist in the process of matching support payments to the correct accounts.

(5) The Kansas payment center shall provide sufficient customer service staff during regular business hours. Obligors and obligees shall be provided 24-hour access to information about the status of receipts and disbursements, including, but not limited to, date of receipt by the center, date of processing by the center and date of disbursement to the obligee.

(b) The Kansas payment center shall have, by operation of law, a limited power of attorney to perform the specific act of endorsing and negotiating all drafts, checks, money orders or other negotiable instruments representing support payments received by the center. Nothing in this subsection shall be construed as affecting the property rights or interests of any person in such negotiable instruments. The provisions of this subsection shall apply to any negotiable instrument received by the center on or after October 1, 2000.

(c) The Kansas supreme court, by court rule, shall establish the procedure for the creation, maintenance and correction of official child support and maintenance records for use as official court records.

(d) The department shall collaborate with the Kansas supreme court to maintain the Kansas payment center, which shall include all support payments subject to the requirements of title IV-D of the federal social security act, 42 U.S.C. § 651 *et seq.*, and, except as specifically directed otherwise by the court pursuant to K.S.A. 2011 Supp. 23-2712, ~~23-2715, 23-2716, and 23-2802, 23-2902 through 23-2605, 23-3001 through 23-3006, 23-3201 through 23-3207, 23-3216 and 23-3218~~ and articles 29, 30 and 31 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, all other support payments due under a court order entered in this state.

(e) Any provision in any support order or income withholding order entered in this state which requires remittance of support payments to the clerk of the district court or district court trustee shall be deemed to require remittance of support payments to the Kansas payment center,

regardless of the date the support or income withholding order was entered.

(f) (1) Except as otherwise provided in this subsection, payments received by the Kansas payment center which cannot be matched to any account nor returned to the payor shall be transferred to the state treasurer in accordance with the unclaimed property act.

(2) Except as otherwise provided in this subsection, disbursements which cannot be delivered to the payee after a good faith effort to locate the payee shall be transferred to the state treasurer in accordance with the unclaimed property act.

(3) To the extent that the secretary of social and rehabilitation services would be required to treat as federal program income any amount transferable to the state treasurer pursuant to this subsection or the unclaimed property act, such amount shall not be presumed abandoned but shall be held by the secretary until the amount may be delivered to the true owner. The secretary and the state treasurer shall collaborate on procedures for locating the true owner and confirming claims to amounts so held.

Sec. 72. K.S.A. 39-7,138 is hereby amended to read as follows: 39-7,138. The following definitions shall apply in any IV-D administrative proceeding related to K.S.A. 39-7,137 through 39-7,152, and amendments thereto, except where the context requires otherwise.

(a) “Account” means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account or money-market mutual fund account.

(b) “Arrearages” means past due support under any support order of any tribunal of this or any other state, including but not limited to the unpaid balance of any costs awarded, public assistance debt or accrued interest.

(c) “Business day” means a day on which state offices in Kansas are open for regular business.

(d) “Cash asset” means any intangible property that consistently maintains a fair market value of one dollar per unit. It shall be presumed that any account held by a financial institution and from which the obligor may make cash withdrawals, with or without penalty, consists entirely of cash assets.

(e) “Current support” includes but is not limited to the duty to provide for a child’s ongoing medical needs through cash, insurance coverage or other means. “Current support” does not include any periodic amount specified to defray arrearages.

(f) “Custodial parent” means the parent or other person receiving IV-D services on the child’s behalf and may include an agency acting *in loco parentis*, a guardian, or a blood or adoptive relative with whom the child resides.

(g) “Duty of support” means any duty to support another person that is imposed or imposed by law or by any order, decree or judgment of any tribunal, whether interlocutory or final or whether incidental to a proceeding for divorce, judicial separation, separate maintenance or otherwise, including but not limited to the duty to provide current support, the duty to provide medical support, the duty to pay birth expenses, the duty to pay a public assistance debt and the duty to pay arrearages.

(h) “Financial institution” means any financial institution as defined in 469A of the federal social security act ~~(, 42 U.S.C. § 469A)~~, and amendments thereto.

(i) “Holder” means any person who is or may be in possession or control of any cash asset of the responsible parent.

(j) “IV-D” or “title IV-D” means part D of title IV of the federal social security act ~~(, 42 U.S.C. § 651 et seq.)~~, and amendments thereto, as in effect on May 1, 1997. “IV-D services” means those services the secretary provides pursuant to title IV-D.

(k) “Party” means the secretary, the responsible parent, the custodial parent or the child or any assignee or other successor in interest to any of them.

(l) “Public assistance debt” means the obligation to reimburse public assistance as described in K.S.A. 39-718b or 39-719, and amendments thereto or in any similar law of this or any other state.

(m) “Responsible parent” means, if a child is receiving or has re-

ceived IV-D services from the secretary, the mother, father or alleged father of the child.

(n) “Secretary” means the secretary of social and rehabilitation services or a designee of the secretary.

(o) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States. The term “state” includes an Indian tribe and includes any jurisdiction declared a foreign reciprocating country by the United States secretary of state and any foreign jurisdiction that has established procedures for issuance and enforcement of child support orders which are substantially similar to the procedures of this state. It shall be presumed that a foreign jurisdiction which is the subject of an unrevoked declaration by the attorney general pursuant to ~~K.S.A. 23-4,101~~ *K.S.A. 2011 Supp. 23-3601*, and amendments thereto, is a state as defined in this subsection.

(p) “Support order” means any order by which a person’s duty of support is established, including but not limited to any order modifying a prior support order.

(q) “Tribunal” means any court, administrative agency or quasi-judicial entity authorized to establish, modify or enforce support orders or to determine parentage. With respect to support orders entered in this state, the courts are the tribunals in Kansas.

Sec. 73. *K.S.A. 2011 Supp. 39-7,145* is hereby amended to read as follows: 39-7,145. (a) This section shall not apply if an action to establish the father’s duty of support on behalf of the child is pending before any tribunal. As used in this section, “mother” means the natural mother of the child whose parentage is in issue.

(b) Except as otherwise provided in subsection (d), genetic tests may be ordered by the secretary if the alleged father consents and the necessary persons are available for testing. Except as otherwise provided in subsection (e), the secretary shall pay the costs of genetic tests, subject to recoupment from the father if paternity is established. For purposes of this section, a person receiving title IV-D services is not available for testing if a claim for good cause not to cooperate under title IV-D is pending or has been determined in the person’s favor or if the person ceases to receive title IV-D services for any reason.

(c) A copy of the order for genetic tests shall be served upon persons required to comply with the order only by personal service or registered mail, return receipt requested. The order shall specify the time and place the person is required to appear for testing, which shall be at least ten days after the date the order is entered.

(d) If a presumption of paternity arises pursuant to subsection (a) of ~~K.S.A. 38-1114~~ *K.S.A. 2011 Supp. 23-2208*, and amendments thereto, because the mother married or attempted to marry any man, the secretary shall not order genetic testing unless a court of this state or an appropriate tribunal in another state has found that determining the child’s biological father is in the child’s best interests. If a tribunal subsequently determines that the prohibition of this subsection applied at the time genetic tests were ordered by the secretary, any support order based in whole or in part upon the genetic tests may be set aside only as provided in *K.S.A. 60-260*, and amendments thereto.

(e) Upon receiving the results of genetic testing, the secretary shall promptly send a copy of the results to the parties, together with notice of the time limits for requesting any additional genetic tests or for challenging the results pursuant to ~~K.S.A. 38-1118~~ *K.S.A. 2011 Supp. 23-2212*, and amendments thereto, how to make such request or challenge, and any associated costs. The notice shall state the consequences pursuant to ~~K.S.A. 38-1118~~ *K.S.A. 2011 Supp. 23-2212*, and amendments thereto, of failing to act within the time allowed by the statute. Any additional genetic tests shall be at the expense of the person making the request for additional genetic tests. Failure of the person requesting additional tests to make advance payment as required by the secretary shall be deemed withdrawal of the request.

(f) Any person required to comply with an order issued pursuant to this section may request: (1) An administrative hearing pursuant to *K.S.A. 75-3306*, and amendments thereto, by complying with procedures established by the secretary within ten days after entry of the order; or (2) a

*de novo* court review pursuant to K.S.A. 39-7,139, and amendments thereto. If the order is served on the person by mail, the time for requesting review shall be extended by three days. An order issued pursuant to this section shall be subject to defenses that would apply if the order had been issued by a court of this state. If the request for review is made within the time allowed, the effect of the order shall be stayed with respect to the person requesting review pending resolution of the review.

(g) An order issued pursuant to this section whose effect has not been stayed may be enforced pursuant to the civil enforcement provisions of the Kansas judicial review act, K.S.A. 77-601, *et seq.*, and amendments thereto, after the time for compliance with the order has expired.

Sec. 74. K.S.A. 39-7,147 is hereby amended to read as follows: 39-7,147. (a) Except as otherwise provided in ~~K.S.A. 23-4,107 or~~ K.S.A. 39-7,149 *or* K.S.A. 2011 *Supp.* 23-3103, and amendments thereto, if no income withholding order is in effect to enforce a support order in a title IV-D case, an income withholding order may be entered by the secretary. A notice of intent to initiate income withholding, as described in ~~K.S.A. 23-4,107~~ K.S.A. 2011 *Supp.* 23-3103, and amendments thereto, shall be served on the responsible parent at least seven days before the secretary issues the income withholding order. If the amount of arrearages is less than the amount of current support due for one month, the requirements of subsection (d) must be met. The income withholding order shall conform to the requirements of the income withholding act and amendments thereto and shall have the same force and effect as an income withholding order issued by a district court of this state.

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

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

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

- (1) Any arrearages are owed;
- (2) a medical child support order exists;
- (3) the secretary determines that immediate issuance of the income withholding order was required by ~~K.S.A. 23-4,107~~ K.S.A. 2011 *Supp.* 23-3103, and amendments thereto, or by a similar law of another state, but no income withholding order was entered;
- (4) the responsible parent consents;
- (5) required payments have been received after the due date at least twice within the preceding 12 months, regardless of whether any arrearages are owed; or
- (6) the support order was entered by a tribunal of another state.

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

Sec. 75. K.S.A. 44-514 is hereby amended to read as follows: 44-514. (a) Except as provided in subsection (b), ~~K.S.A. 23-4,146 or~~ and the income withholding act, K.S.A. 2011 *Supp.* 23-3101 *et seq.*, and amendments thereto, no claim for compensation, or compensation agreed upon, awarded, adjudged, or paid, shall be assignable or subject to levy, execution, attachment, garnishment, or any other remedy or procedure for the recovery or collection of a debt, and this exemption cannot be waived.

(b) Claims for compensation, or compensation agreed upon, adjudged or paid, which are paid to a worker on a weekly basis or by lump sum shall be subject to enforcement of an order for support by means of voluntary or involuntary assignment of a portion of the compensation.

(1) Any involuntary assignment shall be obtained by motion filed within the case which is the basis of the existing order of support.

(A) Any motion seeking an involuntary assignment of compensation shall be served on the claimant and the claimant's counsel to the workers compensation claim, if known, the motion shall set forth:

- (i) The amount of the current support order to be enforced;
- (ii) the amount of any arrearage alleged to be owed under the support order;
- (iii) the identity of the payer of the compensation to the claimant, if known; and
- (iv) whether the assignment requested seeks to attach compensation for current support or arrearages or both.

(B) Motions for involuntary assignments of compensation shall be granted. The relief granted for:

(i) Current support shall be collectible from benefits paid on a weekly basis but shall not exceed 25% of the workers gross weekly compensation excluding any medical compensation and rehabilitation costs paid directly to providers.

(ii) Past due support shall be collectible from lump-sum settlements, judgments or awards but shall not exceed 40% of a lump sum, excluding any medical compensation and rehabilitation costs paid directly to providers.

(2) In any proceeding under this subsection, the court may also consider the modification of the existing support order upon proper notice to the other interested parties.

(3) Any order of involuntary assignment of compensation shall be served upon the payer of compensation and shall set forth the:

- (A) Amount of the current support order;
- (B) amount of the arrearage owed, if any;
- (C) applicable percentage limitations;
- (D) name and address of the payee to whom assigned sums shall be disbursed by the payer; and
- (E) date the assignment is to take effect and the conditions for termination of the assignment.

(4) For the purposes of this section, "order for support" means any order of any Kansas court, authorized by law to issue such an order, which provides for the payment of funds for the support of a child or for maintenance of a spouse or ex-spouse, and includes such an order which provides for payment of an arrearage accrued under a previously existing order and reimbursement orders, including but not limited to, an order established pursuant to ~~K.S.A. 39-718a and amendments thereto, prior to its repeal;~~ K.S.A. 39-718b, and amendments thereto; or an order established pursuant to the uniform interstate family support act, *K.S.A. 2011 Supp. 23-36,101 et seq.*, and amendments thereto.

(5) For all purposes under this section, each obligation to pay child support or order for child support shall be satisfied prior to satisfaction of any obligation to pay or order for maintenance of a spouse or ex-spouse.

Sec. 76. K.S.A. 2011 Supp. 59-2136 is hereby amended to read as follows: 59-2136. (a) The provisions of this section shall apply where a relinquishment or consent to an adoption has not been obtained from a parent and K.S.A. 59-2124 and 59-2129, and amendments thereto, state that the necessity of a parent's relinquishment or consent can be determined under this section.

(b) Insofar as practicable, the provisions of this section applicable to the father also shall apply to the mother and those applicable to the mother also shall apply to the father.

(c) In stepparent adoptions under subsection (d), the court may appoint an attorney to represent any father who is unknown or whose whereabouts are unknown. In all other cases, the court shall appoint an attorney to represent any father who is unknown or whose whereabouts are unknown. If no person is identified as the father or a possible father, the court shall order publication notice of the hearing in such manner as the court deems appropriate.

(d) In a stepparent adoption, if a mother consents to the adoption of a child who has a presumed father under subsection (a)(1), (2) or (3) of ~~K.S.A. 38-1114~~ *K.S.A. 2011 Supp. 23-2208*, and amendments thereto, or who has a father as to whom the child is a legitimate child under prior

law of this state or under the law of another jurisdiction, the consent of such father must be given to the adoption unless such father has failed or refused to assume the duties of a parent for two consecutive years next preceding the filing of the petition for adoption or is incapable of giving such consent. In determining whether a father's consent is required under this subsection, the court may disregard incidental visitations, contacts, communications or contributions. In determining whether the father has failed or refused to assume the duties of a parent for two consecutive years next preceding the filing of the petition for adoption, there shall be a rebuttable presumption that if the father, after having knowledge of the child's birth, has knowingly failed to provide a substantial portion of the child support as required by judicial decree, when financially able to do so, for a period of two years next preceding the filing of the petition for adoption, then such father has failed or refused to assume the duties of a parent. The court may consider the best interests of the child and the fitness of the nonconsenting parent in determining whether a stepparent adoption should be granted.

(e) Except as provided in subsection (d), if a mother desires to relinquish or consents to the adoption of such mother's child, a petition shall be filed in the district court to terminate the parental rights of the father, unless the father's relationship to the child has been previously terminated or determined not to exist by a court. The petition may be filed by the mother, the petitioner for adoption, the person or agency having custody of the child or the agency to which the child has been or is to be relinquished. Where appropriate, the request to terminate parental rights may be contained in a petition for adoption. If the request to terminate parental rights is not filed in connection with an adoption proceeding, venue shall be in the county in which the child, the mother or the presumed or alleged father resides or is found. In an effort to identify the father, the court shall determine by deposition, affidavit or hearing, the following:

(1) Whether there is a presumed father under ~~K.S.A. 38-1114~~ K.S.A. 2011 Supp. 23-2208, and amendments thereto;

(2) whether there is a father whose relationship to the child has been determined by a court;

(3) whether there is a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction;

(4) whether the mother was cohabitating with a man at the time of conception or birth of the child;

(5) whether the mother has received support payments or promises of support with respect to the child or in connection with such mother's pregnancy; and

(6) whether any man has formally or informally acknowledged or declared such man's possible paternity of the child.

If the father is identified to the satisfaction of the court, or if more than one man is identified as a possible father, each shall be given notice of the proceeding in accordance with subsection (f).

(f) Notice of the proceeding shall be given to every person identified as the father or a possible father by personal service, certified mail return receipt requested or in any other manner the court may direct. Proof of notice shall be filed with the court before the petition or request is heard.

(g) If, after the inquiry, the court is unable to identify the father or any possible father and no person has appeared claiming to be the father and claiming custodial rights, the court shall enter an order terminating the unknown father's parental rights with reference to the child without regard to subsection (h). If any person identified as the father or possible father of the child fails to appear or, if appearing, fails to claim custodial rights, such person's parental rights with reference to the child shall be terminated without regard to subsection (h).

(h) (1) When a father or alleged father appears and asserts parental rights, the court shall determine parentage, if necessary pursuant to the Kansas parentage act, K.S.A. 2011 Supp. 23-2201 *et seq.*, and amendments thereto. If a father desires but is financially unable to employ an attorney, the court shall appoint an attorney for the father. Thereafter, the court may order that parental rights be terminated, upon a finding by clear and convincing evidence, of any of the following:

(A) The father abandoned or neglected the child after having knowledge of the child's birth;

- (B) the father is unfit as a parent or incapable of giving consent;
- (C) the father has made no reasonable efforts to support or communicate with the child after having knowledge of the child's birth;
- (D) the father, after having knowledge of the pregnancy, failed without reasonable cause to provide support for the mother during the six months prior to the child's birth;
- (E) the father abandoned the mother after having knowledge of the pregnancy;
- (F) the birth of the child was the result of rape of the mother; or
- (G) the father has failed or refused to assume the duties of a parent for two consecutive years next preceding the filing of the petition.

(2) In making a finding whether parental rights shall be terminated under this subsection, the court may:

- (A) Consider and weigh the best interest of the child; and
- (B) disregard incidental visitations, contacts, communications or contributions.

(3) In determining whether the father has failed or refused to assume the duties of a parent for two consecutive years next preceding the filing of the petition for adoption, there shall be a rebuttable presumption that if the father, after having knowledge of the child's birth, has knowingly failed to provide a substantial portion of the child support as required by judicial decree, when financially able to do so, for a period of two years next preceding the filing of the petition for adoption, then such father has failed or refused to assume the duties of a parent.

(i) A termination of parental rights under this section shall not terminate the right of the child to inherit from or through the parent. Upon such termination, all the rights of birth parents to such child, including their right to inherit from or through such child, shall cease.

Sec. 77. K.S.A. 2011 Supp. 60-308 is hereby amended to read as follows: 60-308. (a) *Proof and effect.* (1) Service of process may be made on any party outside this state. If on a party domiciled in this state or on a party that has submitted to the jurisdiction of the courts of this state, such service provides personal jurisdiction over that party; otherwise it provides *in rem* jurisdiction over specifically identified property that party has in this state.

(2) The service of process must be made: (A) In the same manner as service within this state, by an officer authorized to serve process in this state or in the state where the party is served; or (B) by a party or the party's attorney pursuant to subsection (c) of K.S.A. 60-303, and amendments thereto. No order of a court is required. The server must file an affidavit or a declaration pursuant to K.S.A. 53-601, and amendments thereto, or any other competent proof, stating the time, manner and place of service. The court may consider the affidavit, declaration or any other competent proof in determining whether service has been properly made.

(3) No default may be entered until the expiration of at least 30 days after service. A default judgment rendered on service outside this state may be set aside only on a showing that is timely and sufficient under subsection (b) of K.S.A. 60-260, and amendments thereto, to set aside a default judgment.

(b) *Submitting to jurisdiction.* (1) Any person, whether or not a citizen or resident of this state, who in person or through an agent or instrumentality does any of the following acts, thereby submits the person and, if an individual, the individual's representative, to the jurisdiction of the courts of this state for any claim for relief arising from the act:

- (A) Transacting any business in this state;
- (B) committing a tortious act in this state;
- (C) owning, using or possessing real estate located in this state;
- (D) contracting to insure any person, property or risk located in this state at the time of contracting;
- (E) entering into an express or implied contract, by mail or otherwise, with a resident of this state to be performed in whole or in part by either party in this state;
- (F) acting in this state as director, manager, trustee or other officer of any corporation organized under the laws of or having a place of business in this state or as executor or administrator of any estate in this state;
- (G) causing to persons or property in this state an injury arising out

of an act or omission outside this state by the defendant if, at the time of the injury, either:

(i) The defendant was engaged in solicitation or service activities in this state; or

(ii) products, materials or things processed, serviced or manufactured by the defendant anywhere were used or consumed in this state in the ordinary course of trade or use;

(H) living in a marital relationship in this state notwithstanding subsequent departure from this state, for all obligations arising for maintenance, child support or property settlement under ~~article 16 of this chapter~~ *the Kansas family law code, chapter 23 of the Kansas Statutes Annotated, and amendments thereto*, if the other party to the marital relationship continues to reside in this state;

(I) serving as insurer of a person at the time of an act by the person which is the subject of an action in a court of competent jurisdiction in this state which results in judgment being taken against the person;

(J) having sexual intercourse in this state, in an action seeking to adjudge the person to be a parent of a child and in an action to require the person to provide support for a child as provided by law, if: (i) The conception of the child results from the act; and (ii) the other party to the act or the child continues to reside in this state;

(K) entering into an express or implied arrangement, whether by contract, tariff or otherwise, with a corporation or partnership residing or doing business in this state under which the corporation or partnership has supplied transportation services or communication service or equipment, including telephonic communication services, for a business or commercial user when the services supplied to the user are managed, operated or monitored in this state, provided that the person is given reasonable notice that arranging or continuing the transportation services or communication services may result in jurisdiction under this section; or

(L) having contact with this state which would support jurisdiction consistent with the constitutions of the United States and of this state.

(2) A person submits to the jurisdiction of the courts of this state for a claim for relief which did not arise in this state if substantial, continuous and systematic contact with this state is established which would support jurisdiction consistent with the constitutions of the United States and of this state.

(c) *Section not exclusive.* Nothing in this section affects the right to serve process in any other manner provided by law.

Sec. 78. K.S.A. 2011 Supp. 60-703 is hereby amended to read as follows: 60-703. The order of attachment shall be issued by a judge of the district court upon the filing of a petition stating the claim and the filing of an affidavit, or an affidavit and bond as required in this article, except that no order of attachment shall be issued before judgment on plaintiff's claim where the property of the defendant to be attached is in the possession of a third party and is in the form of earnings due and owing to the defendant. The filing of an affidavit stating one or more grounds of attachment is required in every case. A bond is required in every case except in actions instituted on behalf of the state of Kansas or a county of the state. The order of attachment may be issued and executed on Sunday, a legal holiday, or a day on which the office of the clerk of the court is not accessible if the affidavit states that the party seeking the attachment will lose the benefit thereof unless the writ be issued or served on such day. The provisions of this section shall not be applicable to garnishments authorized pursuant to K.S.A. ~~60-1607~~ *2011 Supp. 23-2707*, and amendments thereto.

Sec. 79. K.S.A. 60-2308 is hereby amended to read as follows: 60-2308. (a) Money received by any debtor as pensioner of the United States within three months next preceding the issuing of an execution, or attachment, or garnishment process, cannot be applied to the payment of the debts of such pensioner when it appears by the affidavit of the debtor or otherwise that such pension money is necessary for the maintenance of the debtor's support or a family support wholly or in part by the pension money. The filing of the affidavit by the debtor, or making proof as provided in this section, shall be *prima facie* evidence of the necessity of such pension money for such support. It shall be the duty of the court in which

such proceeding is pending to release all moneys held by such attachment or garnishment process, immediately upon the filing of such affidavit, or the making of such proof.

(b) Except as provided in subsection (c), any money or other assets payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified under sections 401(a), 403(a), 403(b), 408, 408A or 409 of the federal internal revenue code of 1986, and amendments thereto, shall be exempt from any and all claims of creditors of the beneficiary or participant. Any such plan shall be conclusively presumed to be a spendthrift trust under these statutes and the common law of the state.

(c) Any plan or arrangement described in subsection (b) shall not be exempt from the claims of an alternate payee under a qualified domestic relations order. However, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the state department of social and rehabilitation services, of the alternate payee. As used in this subsection, the terms “alternate payee” and “qualified domestic relations order” have the meaning ascribed to them in section 414(p) of the federal internal revenue code of 1986, and amendments thereto.

(d) The provisions of subsections (b) and (c) shall apply to any proceeding which: (1) Is filed on or after July 1, 1986; or (2) was filed on or after January 1, 1986, and is pending or on appeal July 1, 1986.

(e) Money held by the central unit for collection and disbursement of support payments designated pursuant to ~~K.S.A. 23-4,118~~ K.S.A. 2011 Supp. 39-7,135, and amendments thereto, the state department of social and rehabilitation services, any clerk of a district court or any district court trustee in connection with a court order for the support of any person, whether the money is identified as child support, spousal support, alimony or maintenance, shall be exempt from execution, attachment or garnishment process.

(f) (1) The provisions of this subsection shall apply to any proceeding which:

(A) Is filed on or after January 1, 2002; or

(B) was filed prior to January 1, 2002, and is pending on or on appeal after January 1, 2002.

(2) Except as provided by paragraphs (3) and (4) of this subsection, if the designated beneficiary of a family postsecondary education savings account established pursuant to K.S.A. ~~2005-2011~~ Supp. 75-640 *et seq.*, and amendments thereto, is a lineal descendant of the account owner, all moneys in the account shall be exempt from any claims of creditors of the account owner or designated beneficiary.

(3) The provisions of paragraph (2) of this subsection shall not apply to:

(A) Claims of any creditor of an account owner, as to amounts contributed within a one-year period preceding the date of the filing of a bankruptcy petition under 11 U.S.C. ~~section~~ § 101 *et seq.*; or

(B) claims of any creditor of an account owner, as to amounts contributed within a one-year period preceding an execution on judgment for such claims against the account owner.

(4) The provisions of paragraph (2) of this subsection shall not apply to:

(A) Claims of any creditor of an account owner, as to amounts exceeding \$5,000 contributed within a period of time which is more than one year but less than two years preceding the date of the filing of a bankruptcy petition under 11 U.S.C. ~~section~~ § 101 *et seq.*; or

(B) claims of any creditor of an account owner, as to amounts exceeding \$5,000 contributed within a period of time which is more than one year but less than two years preceding an execution on judgment for such claims against the account owner.

Sec. 80. K.S.A. 2011 Supp. 60-2403 is hereby amended to read as follows: 60-2403. (a) (1) Except as provided in subsection (b) or (d), if a renewal affidavit is not filed or if execution, including any garnishment proceeding, support enforcement proceeding or proceeding in aid of execution, is not issued, within five years from the date of the entry of any judgment in any court of record in this state, including judgments in favor of the state or any municipality in the state, or within five years from the

date of any order reviving the judgment or, if five years have intervened between the date of the last renewal affidavit filed or execution proceedings undertaken on the judgment and the time of filing another renewal affidavit or undertaking execution proceedings on it, the judgment, including court costs and fees therein shall become dormant, and shall cease to operate as a lien on the real estate of the judgment debtor. When a judgment becomes and remains dormant for a period of two years, it shall be the duty of the judge to release the judgment of record when requested to do so.

(2) A “renewal affidavit” is a statement under oath, signed by the judgment creditor or the judgment creditor’s attorney, filed in the proceedings in which the judgment was entered and stating the remaining balance due and unpaid on the judgment.

(3) A “support enforcement proceeding” means any civil proceeding to enforce any judgment for payment of child support or maintenance and includes, but is not limited to, any income withholding proceeding under the income withholding act, ~~K.S.A. 23-4,105 through 23-4,118~~ *K.S.A. 2011 Supp. 23-3101 et seq.*, and amendments thereto, ~~or the interstate income withholding act, K.S.A. 23-4,125 through 23-4,137 and amendments thereto;~~ any contempt proceeding and any civil proceeding under the uniform interstate family support act, ~~K.S.A. 23-9,101~~ *K.S.A. 2011 Supp. 23-36,101 et seq.*, and amendments thereto.

(b) Except for those judgments which have become void as of July 1, 2007, no judgment for the support of a child shall be or become dormant for any purpose except as provided in this subsection. If a judgment would have become dormant under the conditions set forth in subsection (a), the judgment shall cease to operate as a lien on the real estate of the judgment debtor as of the date the judgment would have become dormant, but the judgment shall not be released of record pursuant to subsection (a).

(c) The time within which action must be taken to prevent a judgment from becoming dormant does not run during any period in which the enforcement of the judgment by legal process is stayed or prohibited.

(d) If a renewal affidavit is not filed or if execution is not issued, within 10 years from the date of the entry of any judgment of restitution in any court of record in this state, the judgment, including court costs and fees therein shall become dormant, and shall cease to operate as a lien on the real estate of the judgment debtor. Except as provided in subsection (b), when a judgment becomes and remains dormant for a period of two years, it shall be the duty of the judge to release the judgment of record when requested to do so.

Sec. 81. K.S.A. 2011 Supp. 60-2803 is hereby amended to read as follows: 60-2803. (a) When a money judgment rendered in a civil action in a court of this state is satisfied, the judgment creditor or the assignee of the judgment creditor shall file satisfaction and release of the judgment within 21 days after receipt of written demand therefor, sent by restricted mail as defined by K.S.A. 60-103, and amendments thereto. Such satisfaction and release shall be filed with the clerk of the court in which the judgment was entered and with the clerk of any other court in which the judgment was filed.

(b) If a judgment creditor or the assignee of a judgment creditor refuses or neglects to enter satisfaction and release of a judgment when required by this section, such judgment creditor or assignee shall be liable to the judgment debtor, or other interested person demanding the satisfaction or release, in damages in the amount of \$100, together with a reasonable attorney’s fee for preparing and prosecuting the action to recover such damages.

(c) The provisions of this section shall not apply if the judgment is satisfied by payment through the office of the clerk of the district court, the district court trustee or any central unit for collection and disbursement of support payments designated pursuant to ~~K.S.A. 23-4,118~~ *K.S.A. 2011 Supp. 39-7,135*, and amendments thereto.

Sec. 82. K.S.A. 60-3103 is hereby amended to read as follows: 60-3103. Any district court shall have jurisdiction over all proceedings under the protection from abuse act. The right of a person to obtain relief under the protection from abuse act shall not be affected by the person’s leaving the residence or household to avoid further abuse. Any petition under

this act seeking orders regarding a custody determination, as defined in ~~K.S.A. 38-1337~~ K.S.A. 2011 Supp. 23-37,102, and amendments thereto, shall state that information required by ~~K.S.A. 38-1356~~ K.S.A. 2011 Supp. 23-37,209, and amendments thereto, and the basis under which child-custody jurisdiction is sought to be invoked.

Sec. 83. K.S.A. 2011 Supp. 60-3107 is hereby amended to read as follows: 60-3107. (a) The court may approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children or grant any of the following orders:

(1) Restraining the defendant from abusing, molesting or interfering with the privacy or rights of the plaintiff or of any minor children of the parties. Such order shall contain a statement that if such order is violated, such violation may constitute assault as defined in subsection (a) of K.S.A. 2011 Supp. 21-5412, and amendments thereto, battery as defined in subsection (a) of K.S.A. 2011 Supp. 21-5413, and amendments thereto, domestic battery as defined in K.S.A. 2011 Supp. 21-5414, and amendments thereto, and violation of a protective order as defined in K.S.A. 2011 Supp. 21-5924, and amendments thereto.

(2) Granting possession of the residence or household to the plaintiff to the exclusion of the defendant, and further restraining the defendant from entering or remaining upon or in such residence or household, subject to the limitation of subsection (d). Such order shall contain a statement that if such order is violated, such violation shall constitute criminal trespass as defined in subsection (a)(1)(C) of K.S.A. 2011 Supp. 21-5808, and amendments thereto, and violation of a protective order as defined in K.S.A. 2011 Supp. 21-5924, and amendments thereto. The court may grant an order, which shall expire 60 days following the date of issuance, restraining the defendant from cancelling utility service to the residence or household.

(3) Requiring defendant to provide suitable, alternate housing for the plaintiff and any minor children of the parties.

(4) Awarding temporary custody and residency and establishing temporary parenting time with regard to minor children.

(5) Ordering a law enforcement officer to evict the defendant from the residence or household.

(6) Ordering support payments by a party for the support of a party's minor child, if the party is the father or mother of the child, or the plaintiff, if the plaintiff is married to the defendant. Such support orders shall remain in effect until modified or dismissed by the court or until expiration and shall be for a fixed period of time not to exceed one year. On the motion of the plaintiff, the court may extend the effect of such order for 12 months.

(7) Awarding costs and attorney fees to either party.

(8) Making provision for the possession of personal property of the parties and ordering a law enforcement officer to assist in securing possession of that property, if necessary.

(9) Requiring any person against whom an order is issued to seek counseling to aid in the cessation of abuse.

(10) Ordering or restraining any other acts deemed necessary to promote the safety of the plaintiff or of any minor children of the parties.

(b) No protection from abuse order shall be entered against the plaintiff unless:

(1) The defendant properly files a written cross or counter petition seeking such a protection order;

(2) the plaintiff had reasonable notice of the written cross or counter petition by personal service as provided in subsection (d) of K.S.A. 60-3104, and amendments thereto; and

(3) the issuing court made specific findings of abuse against both the plaintiff and the defendant and determined that both parties acted primarily as aggressors and neither party acted primarily in self-defense.

(c) Any order entered under the protection from abuse act shall not be subject to modification on *ex parte* application or on motion for temporary orders in any action filed pursuant to K.S.A. 60-1601 *et seq.*, prior to such section's repeal or transfer, or K.S.A. 38-1101 *et seq.*, and amendments thereto, or articles 22 or 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto. Orders previously issued in an action filed pursuant to K.S.A. 60-1601 *et seq.*, prior to such section's repeal

or transfer, or K.S.A. 38-1101 *et seq.*, and amendments thereto, or articles 22 or 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, shall be subject to modification under the protection from abuse act only as to those matters subject to modification by the terms of K.S.A. 2011 Supp. ~~23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2605, 23-3001 through 23-3006, 23-3201 through 23-3207, 23-3216 and 23-3218 and article 27 of chapter 23 of the Kansas Statutes Annotated,~~ and amendments thereto, and on sworn testimony to support a showing of good cause. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause. If an action is filed pursuant to K.S.A. 2011 Supp. ~~23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2605, 23-3001 through 23-3006, 23-3201 through 23-3207, 23-3216 and or 23-3218 or articles 22 or 27 of chapter 23 of the Kansas Statutes Annotated,~~ and amendments thereto, during the pendency of a proceeding filed under the protection from abuse act or while an order issued under the protection from abuse act is in effect, the court, on final hearing or on agreement of the parties, may issue final orders authorized by K.S.A. 2011 Supp. ~~23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2605, 23-3001 through 23-3006, 23-3201 through 23-3207, 23-3216 and 23-3218 and articles 22 and 27 of chapter 23 of the Kansas Statutes Annotated,~~ and amendments thereto, that are inconsistent with orders entered under the protection from abuse act. Any inconsistent order entered pursuant to this subsection shall be specific in its terms, reference the protection from abuse order and parts thereof being modified and a copy thereof shall be filed in both actions. The court shall consider whether the actions should be consolidated in accordance with K.S.A. 60-242, and amendments thereto. Any custody or parenting time order, or order relating to the best interests of a child, issued pursuant to the revised Kansas code for care of children or the revised Kansas juvenile justice code, shall be binding and shall take precedence over any such custody or parenting order involving the same child issued under the protection from abuse act, until jurisdiction under the revised Kansas code for care of children or the revised Kansas juvenile justice code is terminated. Any inconsistent custody or parenting order issued in the revised Kansas code for care of children case or the revised Kansas juvenile justice code case shall be specific in its terms, reference any pre-existing protection from abuse order and the custody being modified, and a copy of such order shall be filed in the preexisting protection from abuse case.

(d) If the parties to an action under the protection from abuse act are not married to each other and one party owns the residence or household, the court shall not have the authority to grant possession of the residence or household under subsection (a)(2) to the exclusion of the party who owns it.

(e) Subject to the provisions of subsections (b), (c) and (d), a protective order or approved consent agreement shall remain in effect until modified or dismissed by the court and shall be for a fixed period of time not to exceed one year, except that, on motion of the plaintiff, such period may be extended for one additional year.

(f) The court may amend its order or agreement at any time upon motion filed by either party.

(g) No order or agreement under the protection from abuse act shall in any manner affect title to any real property.

(h) If a person enters or remains on premises or property violating an order issued pursuant to subsection (a)(2), such violation shall constitute criminal trespass as defined in subsection (a)(1)(C) of K.S.A. 2011 Supp. 21-5808, and amendments thereto, and violation of a protective order as defined in K.S.A. 2011 Supp. 21-5924, and amendments thereto. If a person abuses, molests or interferes with the privacy or rights of another violating an order issued pursuant to subsection (a)(1), such violation may constitute assault as defined in subsection (a) of K.S.A. 2011 Supp. 21-5412, and amendments thereto, battery as defined in subsection (a) of K.S.A. 2011 Supp. 21-5413, and amendments thereto, domestic battery as defined in K.S.A. 2011 Supp. 21-5414, and amendments thereto, and violation of a protective order as defined in K.S.A. 2011 Supp. 21-5924, and amendments thereto.

Sec. 84. K.S.A. 65-2409a is hereby amended to read as follows: 65-

2409a. (a) A certificate of birth for each live birth which occurs in this state shall be filed with the state registrar within five days after such birth and shall be registered by such registrar if such certificate has been completed and filed in accordance with this section. If a birth occurs on a moving conveyance, a birth certificate shall indicate as the place of birth the location where the child was first removed from the conveyance.

(b) When a birth occurs in an institution, the person in charge of the institution or the person's designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file such certificate with the state registrar. The physician in attendance or, in the absence of the physician, the person in charge of the institution or that person's designated representative shall certify to the facts of birth and provide the medical information required by the certificate within five days after the birth. When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority: (1) The physician in attendance at or immediately after the birth, or in the absence of such a person; (2) any other person in attendance at or immediately after the birth, or in the absence of such a person; or (3) the father, the mother or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred.

(c) If the mother was married at the time of either conception or birth, or at any time between conception and birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered. If the mother was not married either at the time of conception or of birth, or at any time between conception and birth, the name of the father shall not be entered on the certificate of birth without the written consent of the mother and of the person to be named as the father on a form provided by the state registrar pursuant to ~~K.S.A. 38-1138~~ *K.S.A. 2011 Supp. 23-2204, and amendments thereto*, unless a determination of paternity has been made by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered.

(d) One of the parents of any child shall sign the certificate of live birth to attest to the accuracy of the personal data entered thereon, in time to permit its filing within the five days prescribed above.

(e) Except as otherwise provided by this subsection, a fee of \$4 shall be paid for each certificate of live birth filed with the state registrar. Such fee shall be paid by the parent or parents of the child. If a birth occurs in an institution, the person in charge of the institution or the person's designated representative shall be responsible for collecting the fee and shall remit such fee to the secretary of health and environment not later than the 15th day following the end of the calendar quarter during which the birth occurred. If a birth occurs other than in an institution, the person completing the birth certificate shall be responsible for collecting the fee and shall remit such fee to the secretary of health and environment not later than the 15th day of the month following the birth.

The fee provided for by this subsection shall not be required to be paid if the parent or parents of the child are at the time of the birth receiving assistance, as defined by K.S.A. 39-702, and amendments thereto, from the secretary of social and rehabilitation services.

(f) Except as provided in this subsection, when a certificate of birth is filed pursuant to this act, each parent shall furnish the social security number or numbers issued to the parent. Social security numbers furnished pursuant to this subsection shall not be recorded on the birth certificate. A parent shall not be required to furnish such person's social security number pursuant to this subsection if no social security number has been issued to the parent; the social security number is unknown; or the secretary determines that good cause, as defined in federal regulations promulgated pursuant to title IV-D of the federal social security act, exists for not requiring the social security number. Nothing in this subsection shall delay the filing or issuance of the birth certificate.

Sec. 85. K.S.A. 2011 Supp. 74-147 is hereby amended to read as follows: 74-147. (a) Any notice to a licensing body served pursuant to K.S.A. 20-1204a, and amendments thereto, shall have attached a copy of

the court order finding the licensee in contempt of court in a child support proceeding. Any notice to a licensing body served pursuant to ~~K.S.A. 60-1622~~ *K.S.A. 2011 Supp. 23-3119*, and amendments thereto, shall have attached a copy of the warrant or subpoena outstanding against the licensee. Any notice to a licensing body served pursuant to *K.S.A. 2011 Supp. 60-1622a 23-3120*, and amendments thereto, shall have attached a copy of the court order stating the findings of fact required by *K.S.A. 2011 Supp. 60-1622a 23-3120*, and amendments thereto. The notice shall advise the licensing body of the duty to comply with *K.S.A. 74-146* and *74-147*, and amendments thereto; shall provide the name of the licensee and information which will assist the licensing body to identify the correct person; and shall provide the name, mailing address and telephone number of the person serving the notice. If inadequate identifying information is included in the notice, the licensing body shall promptly contact the person serving the notice to request additional information.

(b) If a licensing body receives a notice pursuant to subsection (a), the licensing body shall, within 30 days after receiving the notice, notify the licensee of the licensing body's intent to suspend or to withhold issuance or renewal of the licensee's authorization to practice a profession in this state and of the licensee's rights and duties under this section. If the licensing body does not receive sufficient information with the notice to identify the correct licensee, the 30 days shall commence when sufficient identifying information is received.

(c) If the licensing body receives a notice pursuant to subsection (a), the licensing body shall provide the licensee a temporary license, authorizing the individual to practice a profession in this state, if the licensee is otherwise eligible. The temporary license shall be valid for a period of six months from the date the notice to the licensee pursuant to subsection (b) was issued. A temporary license issued under this section shall not be extended, except that the licensing body may extend the temporary license up to 30 days to prevent extreme hardship for a person being served by the licensee. If the licensee does not furnish a release pursuant to subsection (c) within the time required by the licensing body, the licensing body shall proceed to suspend, terminate, deny or refuse to renew the licensee's authority to practice a profession in this state.

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

(e) If a temporary license has been issued pursuant to subsection (c), the licensee shall obtain a release from the court that authorized the notice to the licensing body, as a condition for the issuance or renewal of the licensee's authorization to practice a profession in this state. The licensing body may require the licensee to furnish the release before the temporary license expires.

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

(g) The licensing body shall immediately terminate any proceedings, concerning a court order for support of a child, against a licensee upon presentation by the licensee of a notice of compliance from the court that authorized the initial notice as provided in subsection (a). The court shall issue a notice of compliance to the licensee if the licensee has contacted the court and is attempting to comply with a payment plan. If the licensee's license has been suspended or not renewed, and the licensee has provided the notice of compliance from the court and otherwise qualifies for the license, the licensing body shall reinstate the license or issue the renewal license to the licensee.

Sec. 86. *K.S.A. 2011 Supp. 74-4923* is hereby amended to read as follows: *74-4923. (a) No alteration, amendment or repeal of this act shall affect the then existing rights of members and beneficiaries but shall be effective only as to rights which would otherwise accrue under this act as a result of services rendered by an employee after the alteration, amendment or repeal. This subsection shall not apply to any alteration or amendment of this act which provides greater benefits to members or benefi-*

ciaries, but any increase of benefits shall only be applicable to benefits payable on the first day of the month coinciding with or following the effective date of the alteration or amendment.

(b) Any annuity, benefits, funds, property or rights created by, or accruing to any person under the provisions of K.S.A. 74-4901 *et seq.* or 74-4951 *et seq.*, and amendments thereto, including, but not limited to, for all taxable years beginning after December 31, 2000, amounts received as a lump-sum payment at retirement as provided by K.S.A. 74-4918, 74-4964 or 74-4964a, and amendments thereto, and all earnings thereof, shall be exempt from any tax of the state of Kansas or any political subdivision or taxing body of the state, and such lump-sum payment at retirement, and all earnings thereof, shall retain such tax exempt status even if a retirant elects to roll over such lump-sum payment at retirement, and earnings, into a qualified retirement account whether segregated from or commingled with other retirement funds; shall not be subject to execution, garnishment or attachment, or, except as otherwise provided, any other process or claim whatsoever; and shall be unassignable, except that within 30 days after the death of a retirant the lump-sum death benefit payable to a retirant's beneficiary pursuant to the provisions of K.S.A. 74-4989, and amendments thereto, may be assignable to a funeral establishment providing funeral services to the retirant by the beneficiary of such retirant. Any annuity or benefit or accumulated contributions due and owing to any person under the provisions of K.S.A. 74-4901 *et seq.* or 74-4951 *et seq.*, and amendments thereto, are subject to claims of an alternate payee under a qualified domestic relations order. As used in this subsection, the terms "alternate payee" and "qualified domestic relations order" shall have the meaning ascribed to them in section 414(p) of the federal internal revenue code. The provisions of this act shall apply to any qualified domestic relations order which is in effect on or after July 1, 1994. The Kansas public employees retirement system shall not be a party to any action under ~~article 16 of chapter 60~~ *the Kansas family law code, chapter 23* of the Kansas Statutes Annotated, and amendments thereto, but is subject to orders from such actions issued by the district court of the county where such action was filed and may also accept orders which it deems to be qualified under this subsection from courts having jurisdiction of such actions outside the state of Kansas. Such orders from such actions shall specify either a specific amount or specific percentage of the amount of the pension or benefit or any accumulated contributions due and owing from the system to be distributed by the system pursuant to this act.

(c) In any case where a state agency is owed a debt or where a participating employer under the Kansas public employees retirement system or under the Kansas police and firemen's retirement system has been required to pay and has paid an arrearage obligation of the amount of contributions of a member which were not paid at the time required and where the employment of the member by the state agency or participating employer has been terminated and the member is eligible to withdraw accumulated contributions in accordance with K.S.A. 74-4917 and 74-4963, and amendments thereto, the state agency or participating employer shall be paid from the member's account in the fund an amount equal to the debt or the amount of contributions of the member paid by the participating employer pursuant to an arrearage obligation, upon application to the board therefor accompanied by certification of the amount to be paid to the state agency or participating employer. If any application and certification under this subsection are not received by the board prior to the withdrawal of accumulated contributions by the member, the board shall not be liable to pay and shall not pay any amount from the fund pursuant to any such application and certification.

Sec. 87. K.S.A. 74-7334 is hereby amended to read as follows: 74-7334. (a) There is hereby created in the state treasury the crime victims assistance fund. All moneys credited to the fund pursuant to K.S.A. 12-4117, 19-101e, 19-4707 and 20-367, and amendments thereto, shall be used solely for the purpose of making grants for on-going operating expenses of programs, including court-appointed special advocate programs, providing: (1) Temporary emergency shelter for victims of child abuse and neglect; (2) counseling and assistance to those victims; or (3) educational services directed at reducing the incidence of child abuse and

neglect and diminishing its impact on the victim. The remainder of moneys credited to the fund shall be used for the purpose of supporting the operation of state agency programs which provide services to the victims of crime and making grants to existing programs or to establish and maintain new programs providing services to the victims of crime.

(b) All expenditures from the crime victims assistance fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general.

(c) The attorney general may apply for, receive and accept moneys from any source for the purposes for which moneys in the crime victims assistance fund may be expended. Upon receipt of any such moneys, the attorney general shall remit the entire amount to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the crime victims assistance fund.

(d) Grants made to programs with funds derived from K.S.A. 12-4117, 19-101e, 19-4707 and 20-367, and amendments thereto, shall be based on the numbers of persons served by the program and shall be made only to programs aimed at preventing child abuse and neglect or providing residential services or facilities to victims of child abuse or neglect. In order for programs to qualify for funding under this section, they must:

- (1) Meet the requirements of section 501(c) of the internal revenue code of 1986;
- (2) be registered and in good standing as a nonprofit corporation;
- (3) meet normally accepted standards for nonprofit organizations;
- (4) have trustees who represent the racial, ethnic and socioeconomic diversity of the county or counties served;
- (5) have received 50% or more of their funds from sources other than funds distributed through the fund, which other sources may be public or private and may include contributions of goods or services, including materials, commodities, transportation, office space or other types of facilities or personal services;
- (6) demonstrate ability to successfully administer programs;
- (7) make available an independent certified audit of the previous year's financial records;
- (8) have obtained appropriate licensing or certification, or both;
- (9) serve a significant number of residents of the county or counties served;
- (10) not unnecessarily duplicate services already adequately provided to county residents; and
- (11) agree to comply with reporting requirements of the attorney general.

The attorney general may adopt rules and regulations establishing additional standards for eligibility and accountability for grants made pursuant to this section.

(e) All moneys credited to the fund pursuant to ~~K.S.A. 23-108a~~ K.S.A. 2011 Supp. 23-2510, and amendments thereto, shall be set aside to use as matching funds for meeting any federal requirement for the purpose of establishing child exchange and visitation centers as provided in K.S.A. 75-720, and amendments thereto. If no federal funds are made available to the state for the purpose of establishing such child exchange and visitation centers, then such moneys may be used as otherwise provided in this section. Only those moneys credited to the fund pursuant to ~~K.S.A. 23-108a~~ K.S.A. 2011 Supp. 23-2510, and amendments thereto, may be used for such matching funds. No state general fund moneys shall be used for such matching funds.

Sec. 88. K.S.A. 2011 Supp. 65-6608, as amended by section 1 of 2012 Senate Bill No. 290 is hereby amended to read as follows: 65-6608. As used in the addictions counselor licensure act:

(a) "Board" means the behavioral sciences regulatory board created under K.S.A. 74-7501, and amendments thereto.

(b) "Addiction counseling" means the utilization of special skills to assist persons with addictions, and to assist such persons' families and

friends to achieve resolution of addiction through the exploration of the disease and its ramifications, the examination of attitudes and feelings, the consideration of alternative solutions and decision making, as these relate specifically to addiction. Evaluation and assessment, treatment including treatment plan development, crisis intervention, referral, record keeping and clinical consultation specifically related to addiction are within the scope of addiction counseling. Additionally, at the clinical level of licensure, addiction counseling includes independent practice and the diagnosis and treatment of substance use disorders.

(c) “Licensed addiction counselor” means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed under this act. Such person shall engage in the practice of addiction counseling ~~only~~ in a state-licensed or certified alcohol and other drug treatment program *or in completing a Kansas domestic violence offender assessment for participants in a certified batterer intervention program pursuant to sections 1 through 13, and amendments thereto*, unless otherwise exempt for licensure under subsection (m) of K.S.A. 59-29b46, and amendments thereto.

(d) “Licensed clinical addiction counselor” means a person who engages in the independent practice of addiction counseling and diagnosis and treatment of substance use disorders specified in the edition of the American psychiatric association’s diagnostic and statistical manual of mental disorders (DSM) designated by the board by rules and regulations and is licensed under this act.

Sec. 89. On July 1, 2012, K.S.A. 2011 Supp. 23-3508 is hereby repealed.

Sec. 90. K.S.A. 13-1246a, 20-1204a, 20-2618, 23-4,125, 23-4,126, 23-4,127, 23-4,128, 23-4,129, 23-4,130, 23-4,131, 23-4,132, 23-4,133, 23-4,134, 23-4,135, 23-4,136, 23-4,137, 39-7,138, 39-7,147, 44-514, 60-2308, 60-3103, 65-2409a and 74-7334 and K.S.A. 2011 Supp. 12-4509, 12-5005, 20-164, 20-165, 20-302b, 21-5414, 21-5808, 21-5924, 21-6604, as amended by section 1 of 2012 House Bill No. 2465, 22-4616, 23-2217, 23-2704, 23-2706, 23-2709, 23-2710, 23-2715, 23-2717, 23-2802, 23-2902, 23-2905, 23-3001, 23-3004, 23-3005, 23-3207, 23-3208, 23-3215, 23-3219, 23-3221, 23-3222, 23-3301, 23-3302, 23-3304, 23-3403, 38-1518, 38-2201, 38-2202, 38-2203, 38-2220, 38-2221, 38-2223, 38-2255, 38-2255b, 38-2264, 38-2304, 38-2313, 38-2318, 38-2362, 39-7,135, 39-7,145, 59-2136, 60-308, 60-703, 60-1613, 60-2403, 60-2803, 60-3107, 65-6608, as amended by section 1 of 2012 Senate Bill No. 290, 74-147 and 74-4923 are hereby repealed.

Sec. 91. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

\_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*