

Kansas Department of

Social and Rehabilitation Services

Don Jordan, Secretary

House Committee on Health and Human Services

March 8, 2007

**HB 2503: Child Support Enforcement
Insurance Liens**

Integrated Service Delivery

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HB 2503: Child Support Enforcement - Insurance Liens

Chairperson Landwehr and members of the committee, I am Candy Shively, Deputy Secretary for Integrated Service Delivery at the Kansas Department of Social and Rehabilitation Services. Thank you for the opportunity to speak in support of HB 2503, our proposal concerning the SRS Child Support Enforcement Program and liens on insurance proceeds.

Lack of child support income is an ongoing challenge for many families today. In the 132,000 cases served by the CSE Program, 54 percent of children receive the monthly financial support to which they are entitled. That performance, although meaningful to many Kansas families, has placed Kansas only 37th in state rankings. Within our own federal region, Kansas lags far behind Nebraska (#7) and Iowa (#16).

HB 2503 is intended to improve Kansas' success rate for efficiently and effectively enforcing support orders when they go unpaid. This bill expands existing enforcement remedies by creating procedures to identify and intercept certain types of insurance proceeds otherwise payable to support debtors.

Kansas law presently provides an automatic lien on personal property for nonpayment of support. Our proposal sets out the procedure for attaching such a lien to two types of insurance proceeds. It requires SRS to establish a process, with emphasis on automation and speed, that will allow insurers to determine whether a child support lien exists whenever a workers compensation or personal injury insurance claim has been made and a payment to the individual is pending. By addressing only those claims payable directly to the support debtor, this measure avoids affecting payments to third-party providers such as doctors, attorneys, or hospitals. When fully implemented, we anticipate this change in Kansas law will produce over \$1,000,000 per year in new support collections, most will flow directly to families.

In theory these insurance payments already are available to families who are owed

support by way of garnishments and other legal process. The reality, however, is that too often our workers first learn about the insurance settlement long after the proceeds have been paid out and spent, leaving the dependent children without a meaningful remedy. By identifying insurance claimants who are support debtors very early in the process, this measure provides much-needed protection for the family's support claim while ensuring that insurance claimants have a meaningful opportunity to raise objections and achieve appropriate results or compromises.

Like a number of states, we propose to contract the functions of conducting matches with insurers, such as: Outreach to establish working relationships, developing and testing interfaces, and ongoing technical assistance and support for participating insurers. The proposed method for identifying settlements payable to support debtors is modeled on the contract processes in use by Iowa, Nebraska, Missouri, and 13 other states. It is intended to accommodate both those insurers who prefer a quick and secure method for checking an individual insurance claimant when the claim is made, and any insurers who prefer processes that are performed automatically in batches.

HB 2503 also proposes streamlining existing administrative enforcement procedures to eliminate ambiguities and to allow them to be used quickly and effectively to enforce an insurance lien. Using these administrative processes will:

- Minimize the impact of these liens on court dockets and resources,
- Provide aggrieved persons options for prompt administrative or judicial review,
- Use legal staff only when complex issues or circumstances require, and
- Minimize the administrative burden on insurance carriers who prefer the automation options available through administrative procedures.

Kansas has a recent history of enacting progressive laws to protect and provide for our children, reflecting the high value that we as a people place on our most vulnerable citizens. This measure builds on that history and affirms that children continue to hold that priority today.

This concludes my testimony. I will be glad to stand for questions.

Child Support Enforcement Fact Sheet

January 9, 2007

The Kansas Child Support Enforcement Program, operating under Title IV-D of the federal social security act, has two purposes: (1) to promote genuine financial stability for households with children, and (2) to ease somewhat the taxpayers' burden for public assistance provided to children not being supported by both parents. By pursuing these twin goals CSE helps families become and remain independent of public assistance, which in turn allows the State to manage public resources more effectively on behalf of all Kansans. CSE's work also enables custodial parents to take the initiative in expanding their children's opportunities to learn, grow up healthy, and develop talents and abilities to the fullest—a vital investment in Kansas' future.

The Kansas CSE Program. The Department of Social and Rehabilitation Services is the designated Title IV-D (CSE) agency for the State of Kansas. CSE operates within the Integrated Service Delivery Division of SRS.

The Kansas CSE Program is a multifaceted operation that combines state, county, judicial, and private resources to meet detailed federal requirements concerning all phases of operation. CSE services include:

- Locating noncustodial parents and their assets;
- Establishing parentage, as needed;
- Establishing support orders, including medical coverage;
- Ensuring regular payment of support through income withholding orders;
- Enforcing support through administrative actions, such as passport denial or interception of tax refunds, lottery winnings, and unemployment benefits;
- Enforcing past due support through court actions, such as garnishment of bank accounts;
- Modifying ongoing support orders, as needed, to reflect the child's current needs and the parents' ability to provide support; and
- Receiving and disbursing support payments through a statewide unit, the Kansas Payment Center.

Outsourcing CSE Functions. These various CSE services are provided across Kansas not only by full and part-time SRS staff, but also by more than 20 contractors selected through competitive procurement. CSE's enforcement contractors presently include a county prosecutor, several district court trustees, and an assortment of private sector providers. Other CSE private contractors are

the vendor operating the Kansas Payment Center, a paternity testing laboratory, credit bureaus, and process servers.

Strategic use of outsourcing allows CSE to remain compliant with federal requirements, to compete more effectively with other States for federal incentives, and to tap expertise and specialized services that are not readily available within the public sector. Competitive procurement allows the State to obtain good value by balancing high standards for performance with competitive pricing.

Before SRS prepares a formal request for proposals (RFP), vendors—including potential bidders—are often invited to share their educational information about successful or innovative solutions. Such background information is often helpful in preventing costly mistakes or adapting cutting-edge ideas to Kansas' particular needs. The RFP itself is prepared by knowledgeable CSE staff in collaboration with Department of Administration' s procurement staff. They also draw upon the experience and resources of Kansas CSE and SRS staff, other key stakeholders (for example, the Office of Judicial Administration), other state CSE programs, and the federal Office of Child Support Enforcement.

Once the RFP is published by Department of Administration, Kansas law imposes a “ quiet period” during which contact with potential vendors and anyone else concerning the subject of the RFP is strictly limited and controlled. For example, SRS staff involved with the RFP are forbidden to comment even to other SRS staff about the pending procurement except as authorized by Dept. of Administration. In Kansas, this quiet period extends from publication of the RFP until the Dept. of Administration announces that the final contract has been signed by all necessary parties. The quiet period can be quite frustrating and difficult to observe, but its purpose is to assure that no bidder gains an unfair advantage—an advantage which would likely work against the best interests of the State of Kansas.

An important outsourced function that CSE administers is the Kansas Payment Center (KPC), a joint venture between CSE and the Office of Judicial Administration. The KPC is Kansas' central unit for receiving and disbursing all support payments—both in CSE and non-CSE (i.e., private) cases—ensuring that an accurate history of payments is available to the courts and interested parties. Before the KPC was created in 2000, this function was performed in the local district courts. The district courts continue to provide certified payment records

upon request, and they enter or update data in the KPC database for new and modified orders as they are issued.

The KPC offers a number of customer-friendly functions statewide, including 24-hour access to payment and disbursement information by telephone or via the Internet, toll free customer assistance for parents and employers, and direct deposit of support disbursements. Taken together, these elements have enabled families to monitor support payments independently and use up-to-date information for planning and managing their household expenses. Successful as the initial procurement has been, SRS and OJA recently took advantage of the second round of KPC procurement to increase the expectations for KPC operations. When fully developed and implemented, these advances in electronic services will offer Kansas parents who pay or receive support additional conveniences and options. As implementation progresses, SRS will report regularly to the Legislature's Joint Committee on Information Technology.

The CSE Caseload. The CSE caseload consists of approximately 132,000 cases serving over a quarter million people. CSE cases fall into two broad categories:

- *Temporary Assistance to Families (TAF).* When a child's custodian applies for Temporary Assistance to Families, that child's support rights are assigned to the State. If CSE collects support in a TAF case, it is used to reimburse the state and federal governments for public assistance provided to the child's family. Any collections beyond the claim for reimbursement are passed on to the family. If the TAF eligibility worker determines that monthly child support collections regularly exceed the monthly TAF grant, the TAF cash grant may be ended. When that happens, appropriate transitional services and supports for the family continue, including CSE services.
- *Non-TAF.* Federal law requires the CSE Program to provide services to any family, regardless of income, that applies for support enforcement services. CSE is also required to provide Non-TAF services when a family stops receiving cash TAF benefits, at the custodial parent's discretion. The idea is to prevent the need for TAF and other forms of public assistance by insuring reliable child support income, and to provide equal treatment under the law for all children. It is important to note that over two-thirds of Kansas Non-TAF families formerly received public assistance.

The CSE Non-TAF caseload also includes families that are receiving only Child Care Assistance, Food Assistance, or Medical Assistance. When CSE successfully collects support in such a case, current support (and any past due support that is not subject to an SRS claim for reimbursement) goes directly to the family. For a family receiving Child Care Assistance, this child support income enables them to make their child care co-payments and, after Child Care Assistance ends, pay independently for child care services from the provider of their choice. In similar fashion, child support income that goes to families receiving Food or Medical Assistance helps them to transition more smoothly to financial independence.

Although SRS normally deducts a 4% cost recovery fee from Non-TAF collections, families receiving Child Care Assistance, Medicaid, or Food Assistance are all exempt from the fee. In addition, all of SRS' CSE cases are automatically exempt from any district court trustee fee that might otherwise apply.

CSE funding streams. Kansas currently funds the CSE Program from five sources:

- *Title IV-D federal financial participation (FFP).* The current FFP rate for eligible CSE administrative costs is 66%. To qualify for IV-D federal funds, the Kansas CSE Program must be in compliance with IV-D state plan requirements.

- *Title IV-D federal incentive payments based on performance.* Since 1997, incentive payments have been allocated to the States from a capped pool of federal funds; in effect, the States compete with each other for those funds. Allocations are based upon a complex formula that factors in the size of the State' s program (Kansas represents 1% of the national caseload) and the State' s performance in five areas: collection of current support, collection of past due support, paternity establishment, establishment of support orders, and cost-effectiveness. To qualify for IV-D federal funds, the CSE Program must be in compliance with IV-D state plan requirements.

Effective October 1, 2007, States will no longer be allowed to use incentives earned for CSE performance as the State match for IV-D FFP. Federal law continues to require CSE incentives to be reinvested in the State IV-D program, however.

- *The State' s share of retained support collections (i.e., reimbursement).* For cases in the TAF or federally-funded foster care programs, Kansas keeps 40% of any collections that are retained under federal law for reimbursement of assistance; the other 60% goes to the federal government. For cases in state-funded assistance programs, Kansas retains 100% of such collections because there is no federal share to be paid. The State' s share of collections for both categories represents only 10% of all CSE collections during the year.

Not later than October 1, 2009, the federal rules defining which collections may be retained for reimbursement will change, requiring more collections to be disbursed to families. Although this change will be beneficial to families leaving public assistance, it will erode the ability of the Kansas CSE Program to pay for itself.

- *IV-D cost recovery fees.* Currently, a 4% cost recovery fee is charged on all collections for cases not currently open for TAF, Medical Assistance, Food Assistance, or Child Care Assistance. Under federal law, 66% of this IV-D program income from fees must go to the federal government.
- *State general funds.* State general funds are only required for any portion of CSE Program costs that exceed CSE' s total revenue from federal funding, the State' s share of support collected and retained, and IV-D cost recovery fees. Until recently, state general funds have not been needed to fund the CSE program. However, the cap on federal incentive payments that may be earned, the new prohibition against using incentive payments as the state match, and the newly-enacted limits on State-retained collections all make it more likely that state general funds will be needed in the future to fund CSE services at their present level and to maintain compliance with federal requirements.

Other facts about the Kansas CSE Program.

- In state fiscal year 2006, CSE' s annual support collections reached nearly \$161 million, about 75% of which was passed on to families. Altogether, nearly 2.2 billion dollars of support have been collected for families and taxpayers since the Kansas IV-D program' s inception in 1976.

- In state fiscal year 2006, CSE established over 10,600 child support obligations. The Child Support Guidelines, established by the Kansas Supreme Court, are used to calculate all current support orders in Kansas. The Kansas Guidelines call for work-related child care expenses and the child's health insurance premiums to be factored into the monthly support award, so that the parent who actually pays for child care and/or health coverage will receive a fair contribution toward that expense from the other parent. When appropriate, CSE also establishes a medical support order that specifically requires group health coverage for the child.
- Paternity establishment by the CSE Program also plays a vital role in the SRS mission. Children benefit from having their parentage established because it opens the avenue to cash and medical support from the second parent, assures them access to complete family medical information, and paves the way for potential inheritance and other rights. It also gives the child certainty about his or her family background, which is so important to the child's emotional development and confidence.
- Federal rules permit TAF cash assistance to be ended when current support payments regularly exceed the cash grant. Such closures provide significant advantages to the State, allowing scarce public assistance resources to be focused on the people most in need. CSE services to the former TAF family continue automatically, providing a safety net that reduces the risk of the family returning to dependence on public assistance. This is especially important for people affected by the five-year lifetime limit on TAF eligibility.
- Whenever CSE secures regular child support income for a household receiving Child Care Assistance, Kansas has the opportunity to stretch its limited child care funds a bit further and help additional working families. Dependable income from child support gives a working parent greater confidence that, in spite of ups and downs in public child care funding, he or she will be able to purchase child care services that the family needs.