



House Judiciary Committee
March 12, 2013

Testimony in Support of
SB 125

Presented by:

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Trisha Thomas, Director of Child Support Services
Department for Children and Families
Topeka, Kansas

Presented to:

The Honorable Lance Kinzer and Honorable Members
of the Senate Judiciary Committee

DCF testimony on SB 125 - Enforcement of support orders; income withholding.

Chairman Lance Kinzer, Vice-Chair Rob Bruchman, Ranking Member Janice Pauls and Honored Members:

Good morning Mr. Chairman and members of the committee. I am Trisha Thomas, Director of Child Support Services (CSS) at the Department for Children and Families (DCF). I appreciate the opportunity to testify today in support of Senate Bill 125, which would make important changes to distribution of child support, make updates to the income withholding act, and allow CSS to contract directly with source agencies for debt setoff procedures.

CSS administers the State's child support services program under the authority of Title IV-D of the Social Security Act. CSS is charged with establishing and enforcing support on more than 132,000 cases affecting Kansas' children; CSS' primary purpose is to ensure those children have adequate means of support. CSS is measured by the federal government in five key areas: 1) paternity establishment percentage; 2) percentage of cases with support orders; 3) collection of current support; 4) collection of support arrears; and 5) cost effectiveness ratio. The changes sought in this bill will help to ensure that more Kansas children are adequately supported and will help CSS become more efficient in its operations, thereby increasing its cost effectiveness.

This bill has three main parts: 1) updates distribution of child support paid through the Kansas Payment Center to pro-rata distribution so current support is spread across all child support orders for a non-custodial parent; 2) clarifies use of the income withholding act (IWA) to allow withholding of bonuses and unemployment benefits, allows employers to charge an additional fee for withholding on bonuses and requires all income withholding orders to be on standard federal forms; and 3) allows DCF to go directly to source agency for all child support debt setoff.

Child Support Distribution

First, this bill would give DCF the authority to enact major changes to the current child support distribution scheme. This legislation proposes to change distribution of all child support required

to be paid through the Kansas Payment Center (KPC) to a pro-rata distribution ensuring that all current support is paid first, making sure that all of a debtor's children are supported and no one child is favored over another. Generally, this will be support paid by income withholding order. This will have the effect of eliminating an employer's duty under the Income Withholding Act to calculate the amount of support to apply to each order before remitting it to the KPC. The new distribution scheme will leave judicial bypass intact, which preserves a court's authority to direct child support payments to a particular case and to let parties opt out of paying child support through the KPC for good cause shown in non-Title IV-D cases.

The current distribution system in Kansas for Title IV-D child support payments is not always in harmony with federal laws and regulations. *See* 45 CFR 302.51. Currently, even in a IV-D case, a child support debtor with multiple orders can specify which court order will receive the money he is paying. This has the effect of one child receiving support and other children not receiving any. This is inequitable.

Changing the current support distribution scheme in this manner will cause money collected in a IV-D case to be shared with a child support debtor's non-IV-D case(s), and vice versa, provided those cases are paid through the KPC. This would create a share and share alike situation with the IV-D program, sharing its payments, as far as it is able to do so, with non IV-D cases. And, in order for the new distribution rules to have the most impact and reduce costs at the Kansas Payment Center, non IV-D cases must share with IV-D cases. If implemented, the effect will be a more equitable distribution of support so that all of a debtor's children have the chance to share in the support being paid by a particular father. CSS' goal is to make sure that *all* children are supported; this bill makes that possible.

Additionally, changing the distribution method would make the Kansas Payment Center more efficient by enabling the use of more off-the-shelf software and more automated processes. Instead of having to touch each case multiple times, like is done under the current distribution method, the method implemented as a result of this bill would let the KPC touch each case fewer times.

This portion of the legislation will have a delayed effective date. The bill originally contained an effective date of July 1, 2014. However, in order to allow sufficient time to adopt rules and regulations and make system updates to implement these changes, the Senate Judiciary Committee, at the request of CSS, amended the effective date of this portion of the legislation to July 1, 2015. CSS intends the new distribution scheme to mirror federal IV-D distribution where all current support is satisfied first before any arrears are paid.

Income Withholding Act

Second, this bill would make the following changes to the income withholding act (IWA): 1) authorize the use of income withholding to attach bonus payments; 2) simplify the employers' cost recovery fee for processing income withholding orders by making it a flat \$10 per month

and authorizing an additional \$10 flat fee per lump sum withholding; 3) require all income withholding orders to be drafted on standard federal forms; and 4) clarify use of the IWA to collect support from unemployment benefits. Each of these measures is designed to increase efficiency and increase the amount of child support available to Kansas children.

Currently, CSS must file for a garnishment every time it learns that a child support debtor is going to receive a lump sum payment. Getting a new garnishment each time this happens is cumbersome, time consuming and a waste of judicial resources. Amending the IWA to allow this to be done through income withholding (IWO) order streamlines the process while preserving crucial due process protections for child support debtors. This amendment would also allow employers to take an additional cost recovery fee from monies owed to the debtor to cover costs in processing the lump sum IWOs.

Additionally, this bill would require all income withholding orders to use the standard federal form. Employers can choose not to honor IWOs that are not on the federal form. Having a single, statewide form, would simplify matters for employers and the private bar and result in fewer rejected IWOs. CSS always uses the most current federal form as it is required to do by federal rules.

State Debt Setoff

Finally, federal law requires CSS to utilize debt setoff procedures to intercept money owed to child support debtors for the payment of child support. Current law requires CSS to use the debt setoff act for all setoffs except unemployment. Federal rules and regulations require that such expenditures be cost based.

CSS contracts directly with the Kansas Department of Labor for interceptions of UI benefits to pay child support and is seeking amendments to the income withholding act to make that authority more explicit. However, CSS still pays over \$1 million per year for setoff on state taxes, KPERS benefits and lottery winnings. This bill would enable CSS to seek direct agreements with the Department of Revenue, KPERS and Lottery to further reduce its expenditures for setoff.

Any reduction in costs and increases in efficiency help CSS to become more a more cost effective and better functioning program, making it ultimately able to better help Kansas children. Therefore, I encourage the Committee to support and recommend for passage Senate Bill 125.

Thank you for considering CSS' position regarding this legislation. I will be glad to stand for any questions you may have.