



DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

Don Jordan, Secretary

Senate Judiciary Committee
January 21, 2009

S.B. 27: Paternity

Integrated Service Delivery

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Mr. Chairman and members of the committee, thank you for the opportunity to comment on Senate Bill 27, which amends the Kansas Parentage Act.

Adding new subsection (g) to the Act will prohibit judges from considering the best interests of the child when deciding whether a paternity case should proceed, no matter how devastating the litigation may be for the child at the heart of the case. SRS believes that current law fairly addresses and balances the wide range of interests involved, while keeping the well-being of the innocent child in focus. Judges frequently do find that a paternity determination will be in the child's best interests because the child is already aware of the dispute and all the needed parties are available.

SRS has several concerns about the wording of the bill as introduced:

- First, the amendment in subsection (e) creates unnecessary confusion concerning establishment of CSE support orders based on a presumption. Unless paternity is formally contested, Title IV-D of the federal social security act requires that presumed parentage be sufficient basis for establishing a child support order without further legal action concerning paternity; subsection (e) addresses that requirement. The new language in (e) clouds the meaning of (e), yet it is not essential to give effect to subsection (g). In fact, it can only have meaning if the test results and the judge's subsequent ruling are in conflict with a support order under (e). We recommend that the amendments in (e) be omitted.
- Second, subsection (g) as introduced would apply to any presumption arising under K.S.A. 38-1114, including a voluntary acknowledgement under subsection (a)(4), and it would apply "Notwithstanding any other law to the contrary...." Title IV-D, however, specifies the limited conditions under which a written voluntary acknowledgement of paternity may be challenged; those specifications are covered by K.S.A. 38-1115(e). We are concerned that enactment of S.B. 27 as introduced would put Kansas out of compliance with Title IV-D state plan requirements. We believe the introductory clause in (g) is unnecessary to give full effect to the policy proposed, and recommend that, if the bill moves forward, "Notwithstanding any other law to the contrary" be replaced with "Subject to the provisions of K.S.A. 38-1115(e)" to assure continued compliance with Title IV-D requirements.



- Finally, we believe that the current wording of the final sentence of subsection (g) would have unintended consequences. It appears that the purpose of that sentence is to provide finality for orders where the child has already turned 18. However, the current wording would allow parentage to be challenged at any time, not just during minority, for all children who turn 18 on or after July 2, 2009. If it is the decision of the committee to move this bill forward, we urge you to replace the final sentence of subsection (g) with the following, “The provisions of this subsection shall apply only until the child attains 18 years of age.”

Current Kansas law concerning children who were born of a marriage or have strong emotional ties to the presumed father, which places the best interests of the child in the forefront, is good public policy. If, however, this bill is moved forward, SRS requests your consideration of the three changes outlined above.

Thank you.