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February 15, 2011

Mr. Chairman Tim Owens and Members of the Senate Judiciary Committee:

Thank you for this opportunity to provide testimony on behalf of the court trustees across the State of Kansas supporting the passage of Senate Bill 160 which will assist in the enforcement of child support orders across Kansas.

Two primary agencies across the State of Kansas enforce support orders, those entities that contract with SRS for enforcement services and court trustee offices. An individual who is owed child support can seek collection assistance from SRS and their contractors or from a local court trustee office. The purpose behind SB 160 is to allow all individuals owed child support to equally take advantage of enforcement measures regardless of which agency enforces their case.

There are two types of trustee offices: those who only enforce non-IV-D cases or, for lack of a better term, a regular support case, and those who enforce both IV-D cases and regular cases. To illustrate, my office, the Douglas County District Court Trustee office, only enforces regular cases; we do not have the IV-D contract. By contrast, the Johnson County District Court Trustee Office, for example, has the IV-D contract and enforces both regular cases and IV-D cases. Under the current law, children in regular cases lack certain enforcement tools available in IV-D cases. Additionally, trustee offices that have the IV-D contract cannot treat all children in their caseload equally. The end result is not all children have the full complement of enforcement tools in Kansas. Senate Bill 160 addresses these inequities

First, I will address the proposed amendment regarding how income withholding orders are served on employers. K.S.A. 23-4,107(f)(2) currently allows only a IV-D agency to use alternate methods of service acceptable to the employer in lieu of personal service or registered mail. Current technology allows trustees to fax or e-mail income withholding orders to employers resulting in faster commencement or termination of income withholding. The court trustees are simply seeking the same tools for non-IV-D cases, i.e., regular cases, as allowed in IV-D cases. Additional smaller benefits are sheriff's offices are removed from the loop in serving orders by personal service or registered mail and courts benefit from cost savings as fewer registered mailers are purchased.

Second, current state debt setoff law, K.S.A. 75-6202(b)(2), defines a "debt" to include any amount of support owed an individual who is receiving assistance in collecting that debt through a IV-D agency. This means that a child in a IV-D case can look to state tax refund interception, for example, to pay current or past due support while a child in a regular case is foreclosed from that enforcement tool. Senate Bill 160 merely includes cases enforced by trustees pursuant to K.S.A. 23-495, i.e., regular cases, within the definition of "debt." Trustee offices similar to the Douglas County Court Trustee could then use state debt setoff for a regular case, and trustee offices similar to the Johnson County Trustee would no longer discriminate between cases when considering state debt setoff as an enforcement tool.

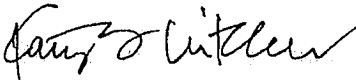
Passage of Senate Bill 160 will result in a level playing field for all children of Kansas regardless of

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Attachment 7

which agency enforces the support order or the designation of the support order. For these reasons, I ask for your support of the passage of the bill.

Thank you for the honor of presenting my testimony on behalf of court trustee offices across the State of Kansas.

Respectfully,



Katy S. Nitcher  
Douglas County District Court Trustee

**SENATE BILL No. 160**

By Senator Lynn

2-9

1 AN ACT concerning child support; relating to collection of support  
2 payments, amending K.S.A. 2010 Supp. 23-4,107 and 75-6202 and  
3 repealing the existing sections.  
4

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

6 Section 1. K.S.A. 2010 Supp. 23-4,107 is hereby amended to read as  
7 follows: 23-4,107. (a) Any new or modified order for support shall  
8 include a provision for the withholding of income to enforce the order for  
9 support.

10 (b) Except as otherwise provided in subsection (j), (k) or (l), all new  
11 or modified orders for support shall provide for immediate issuance of an  
12 income withholding order. The income withholding order shall be issued  
13 without further notice to the obligor and shall specify an amount  
14 sufficient to satisfy the order for support and to defray any arrearage. The  
15 income withholding order shall be issued regardless of whether a payor  
16 subject to the jurisdiction of this state can be identified at the time the  
17 order for support is entered.

18 (c) Except as otherwise provided in this subsection or subsections (j)  
19 order, an income withholding order shall be issued by the court upon  
20 request of the obligee or public office, provided that the obligor accrued  
21 an arrearage equal to or greater than the amount of support payable for  
22 one month and the requirements of subsections (d) and (h) have been  
23 met. The income withholding order shall be issued without further notice  
24 to the obligor and shall specify an amount sufficient to satisfy the order  
25 for support and to defray any arrearage. The income withholding order  
26 shall be issued regardless of whether a payor subject to the jurisdiction of  
27 this state can be identified at the time the income withholding order is  
28 issued.

29 (d) Not less than seven days after the obligee or public office has  
30 served a notice pursuant to subsection (h), the obligee or public office  
31 may initiate income withholding pursuant to paragraph (1) or (2).

32 (1) The obligee or public office may apply for an income  
33 withholding order by filing with the court an affidavit stating: (A) The  
34 date that the notice was served on the obligor and the manner of service;  
35 (B) that the obligor has not filed a motion to stay issuance of the income  
36 withholding order or, if a motion to stay has been filed, the reason an

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District Court Trustee  
Lawrence, KS

23-495 or

1 is receiving assistance in collecting that support under K.S.A. [39-756,  
2 and amendments thereto, or under part D of title IV of the federal social  
3 security act (42 U.S.C. § 651 *et seq.*), as amended; or  
4 (3) owes a debt to a foreign state agency.

5 (b) "Debt" means:

6 (1) Any liquidated sum due and owing to the state of Kansas, or any  
7 state agency, municipality or foreign state agency which has accrued  
8 through contract, subrogation, tort, operation of law, or any other legal  
9 theory regardless of whether there is an outstanding judgment for that  
10 sum. A debt shall not include special assessments except when the owner  
11 of the property assessed petitioned for the improvement and any  
12 successor in interest of such owner of property; or

13 (2) any amount of support due and owing an individual, or an  
14 agency of another state, who is receiving assistance in collecting that  
15 support under K.S.A. 23-495 or K.S.A. 39-756, and amendments thereto,  
16 or under part D of title IV of the federal social security act (42 U.S.C. §  
17 651 *et seq.*), as amended, which amount shall be considered a debt due  
18 and owing the district court trustee or the department of social and  
19 rehabilitation services for the purposes of this act.

20 (c) "Refund" means any amount of Kansas income tax refund due to  
21 any person as a result of an overpayment of tax, and for this purpose, a  
22 refund due to a husband and wife resulting from a joint return shall be  
23 considered to be separately owned by each individual in the proportion of  
24 each such spouse's contribution to income, as the term "contribution to  
25 income" is defined by rules and regulations of the secretary of revenue.

26 (d) "Net proceeds collected" means gross proceeds collected through  
27 final setoff against a debtor's earnings, refund or other payment due from  
28 the state or any state agency minus any collection assistance fee charged  
29 by the director of accounts and reports of the department of  
30 administration.

31 (e) "State agency" means any state office, officer, department, board,  
32 commission, institution, bureau, agency or authority or any division or  
33 unit thereof and any judicial district of this state or the clerk or clerks  
34 thereof. "State agency" also shall include any district court utilizing  
35 collection services pursuant to K.S.A. 75-719, and amendments thereto,  
36 to collect debts owed to such court.

37 (f) "Person" means an individual, proprietorship, partnership,  
38 limited partnership, association, trust, estate, business trust, corporation,  
39 other entity or a governmental agency, unit or subdivision.

40 (g) "Director" means the director of accounts and reports of the  
41 department of administration.

42 (h) "Municipality" means any municipality as defined by K.S.A. 75-  
43 1117, and amendments thereto.

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