

2012 Kansas Statutes

38-2323. Placement under juvenile justice code; assignment of support right. (a) In any case in which the commissioner pays for the expenses of care and custody of a juvenile pursuant to the code, an assignment of all past, present and future support rights of the juvenile in custody possessed by either parent or other person entitled to receive support payments for the juvenile is, by operation of law, conveyed to the commissioner. Such assignment shall become effective upon placement of a juvenile in the custody of the commissioner or upon payment of the expenses of care and custody of a juvenile by the commissioner without the requirement that any document be signed by the parent or other person entitled to receive support payments for the juvenile. When the commissioner pays for the expenses of care and custody of a juvenile or a juvenile is placed in the custody of the commissioner, the parent or other person entitled to receive support payments for the juvenile is also deemed to have appointed the commissioner, or the commissioner's designee, as attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the commissioner on behalf of the juvenile. This limited power of attorney shall be effective from the date the assignment to support rights becomes effective and shall remain in effect until the assignment of support rights has been terminated in full.

(b) If an assignment of support rights is deemed to have been made pursuant to subsection (a), support payments shall be made to the juvenile justice authority.

(c) If a court has ordered support payments to be made to an applicant for or recipient of financial assistance or other person whose support rights are assigned, the commissioner shall file a notice of the assignment with the court ordering the payments without the requirement that a copy of the notice be provided to the obligee or obligor. The notice shall not require the signature of the applicant, recipient or obligee on any accompanying assignment document. The notice shall include:

- (1) A statement that the assignment is in effect;
- (2) the name of any juvenile and the caretaker or other adult for whom support has been ordered by the court;
- (3) the number of the case in which support was ordered; and
- (4) a request that the payments ordered be made to the commissioner of juvenile justice.

(d) Upon receipt of the notice and without the requirement of a hearing or order, the court shall forward all support payments, including those made as a result of any garnishment, contempt, attachment, income withholding, income assignment or release of lien process, to the commissioner until the court receives notification of the termination of the assignment.

(e) If the claim of the commissioner for repayment of the costs of care and custody of a juvenile under the revised Kansas juvenile justice code is not satisfied when such aid is discontinued, the commissioner shall file a notice of partial termination of assignment of support rights with the court which will preserve the assignment in regard to unpaid support rights which were due and owing at the time of the discontinuance of such aid. A copy of the notice of the partial termination of the assignment need not be provided to the obligee or obligor. The notice shall include:

- (1) A statement that the assignment has been partially terminated;
- (2) the name of any juvenile and the caretaker or other adult for whom support has been ordered by the court;
- (3) the number of the case in which support was ordered; and
- (4) the date the assignment was partially terminated.

(f) Upon receipt of the notice and without the requirement of a hearing or order, the court shall forward to the commissioner all payments made to satisfy support arrearages due and owing as of the date the assignment of support rights was partially terminated until the court receives notification of the termination of the assignment.

(g) If the commissioner or the commissioner's designee has a notice of assignment of support rights pursuant to subsection (c) or a notice of partial termination of assignment of support rights pursuant to subsection (e) on file with the court ordering support payments, the commissioner shall be considered a necessary party in interest concerning any legal action to enforce, modify, settle, satisfy or discharge an assigned support obligation and, as such, shall be given notice by the party filing such action in accordance with the rules of civil procedure.

(h) Upon written notification by the commissioner's designee that assigned support has been collected pursuant to K.S.A. 44-718 or 75-6201 et seq., and amendments thereto, or section 464 of title IV, part D, of the federal social security act, or any other method of direct payment to the commissioner, the clerk of the court or other record keeper where the support order was established, shall enter the amounts collected by the commissioner in the court's payment ledger or other record to insure that the obligor is credited for the amounts collected.

(i) An assignment of support rights pursuant to subsection (a) shall remain in full force and effect so long as the commissioner is providing public assistance in accordance with a plan under which federal moneys are expended on behalf of the juvenile for the expenses of a juvenile in the commissioner's care or custody pursuant to the code. Upon discontinuance of all such assistance and support enforcement services, the assignment shall remain in effect as to unpaid support obligations due and owing at the time of the discontinuance of assistance until the claim of the commissioner for repayment of the unreimbursed portion of any assistance is satisfied. Nothing herein shall affect or limit the rights of the commissioner under an assignment of rights to payment for medical care from a third party pursuant to K.S.A. 40-2,161, and amendments thereto.

History: L. 2006, ch. 169, § 23; Jan. 1, 2007.