

39-756. Support enforcement services available to certain persons; assignment of support rights; limited power of attorney; continuation of services after discontinuance of public assistance; fees for services; distribution of collections; attorneys representing Kansas department for children and families; attorney-client relationship.

(a) (1) The secretary for children and families shall make support enforcement services required under part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., and federal regulations promulgated pursuant thereto, including, but not limited to, the location of parents, the establishment of paternity and the enforcement of child support obligations, available to persons not subject to the requirements of K.S.A. 39-709, and amendments thereto, and not receiving support enforcement services pursuant to subsection (b). Persons who previously received public assistance but who are not receiving support enforcement services pursuant to subsection (b) may apply for or receive support enforcement services pursuant to this subsection.

(2) By applying for or receiving support enforcement services pursuant to subsection (a)(1), the applicant or recipient shall be deemed to have assigned to the secretary on behalf of the state any accrued, present or future rights to support from any other person such applicant may have in behalf of any family member, including the applicant, for whom the applicant is applying for or receiving support enforcement services. The assignment shall automatically become effective upon the date of application for or receipt of support enforcement services, whichever is earlier, and shall remain in full force and effect so long as the secretary provides support enforcement services on behalf of the applicant, recipient or child. By applying for or receiving support enforcement services pursuant to subsection (a)(1), the applicant, recipient or obligee is also deemed to have appointed the secretary or the secretary's designee as an 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 secretary in behalf of any person for whom the secretary is providing support enforcement services. This limited power of attorney shall be effective from the date support rights are assigned and shall remain in effect until the assignment is terminated in full.

(3) Nothing in this subsection shall affect or limit any existing assignment or claim for repayment of any unreimbursed portion of assistance pursuant to K.S.A. 39-709, and amendments thereto, or affect or limit any subsequent assignment of support rights.

(b) (1) Upon discontinuance of all public assistance giving rise to an assignment of support rights pursuant to K.S.A. 39-709, and amendments thereto, the secretary shall continue to provide all appropriate support enforcement services required under title IV-D of the federal social security act for the persons who were receiving assistance, unless the recipient requests that support enforcement services be discontinued.

(2) When support enforcement services are provided pursuant to subsection (b)(1), the assignment of support rights and limited power of attorney pursuant to K.S.A. 39-709, and amendments thereto, shall remain in full force and effect. When the secretary is no longer providing support enforcement services related to support obligations accruing after the date assistance was discontinued, the assignment of support rights shall remain in effect to the extent provided in K.S.A. 39-756a, and amendments thereto.

(3) Nothing in this subsection shall affect or limit any existing assignment or claim for repayment of any unreimbursed portion of assistance pursuant to K.S.A. 39-709, and amendments thereto, or affect or limit any subsequent assignment of support rights.

(c) The secretary shall fix by rules and regulations fees for services rendered pursuant to this section. Such fees shall conform to the requirements of title IV-D of the federal social security act. Any fees imposed by the secretary upon a person required to make payments under a support order shall be in addition to any amount the person is required to pay as support.

(d) Except as otherwise provided in this subsection, assigned support that is collected while a person is receiving services pursuant to subsection (a) or (b) shall be distributed as required by title IV-D of the federal social security act. If federal law authorizes the secretary to elect to distribute more support to any families than would otherwise be permitted, the secretary may make such election by adopting rules and regulations for that purpose.

(e) If any attorney provides legal services on behalf of the secretary in any case in which the secretary is furnishing title IV-D services, such attorney shall have an attorney-client relationship only with the secretary. The provisions of this subsection shall apply whether the attorney is an employee of the state, a contractor subject to the requirements of K.S.A. 75-5365, and amendments thereto, or an employee of such a contractor. Nothing in this subsection shall be construed to modify any statutory mandate, authority or confidentiality required by any governmental agency. No action by such attorney shall be construed to create an attorney-client relationship between the attorney and any person, other than the secretary.

History: L. 1976, ch. 210, § 5; L. 1982, ch. 187, § 1; L. 1989, ch. 125, § 2; L. 2006, ch. 169, § 110; L. 2007, ch. 174, § 3; L. 2014, ch. 115, § 88; July 1.

Revisor's Note:

Section was amended twice in the 2006 session, see also 39-756b.

Section was amended twice in the 2007 session, see also 39-756d.