

HOUSE BILL No. 2062

AN ACT concerning children and families; relating to orders of child support; providing for child support for unborn children from the date of conception and including the direct medical and pregnancy-related expenses of the mother; requiring the court to consider the value of retirement accounts when determining support orders; eliminating the exemption and retirement moneys from claims to fulfill child support obligations; providing for an income tax exemption for unborn and stillborn children; amending K.S.A. 20-165, 23-2205, 23-3001 and 23-3002 and K.S.A. 2024 Supp. 60-2308 and 79-32,121 and repealing the existing sections.

WHEREAS, The amendments made to the provisions of K.S.A. 23-3002 and K.S.A. 2024 Supp. 60-2308 by this act shall be known as the support compliance and accountability for responsible support act (SCARS).

Now, therefore:

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

Section 1. K.S.A. 20-165 is hereby amended to read as follows: 20-165. (a) The supreme court shall adopt rules establishing guidelines for the amount of child support to be ordered in any action in this state including, but not limited to, K.S.A. 39-755 and K.S.A. 23-2215, and amendments thereto, article 30 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, and K.S.A. 23-2711, and amendments thereto.

(b) In adopting such rules, the court shall consider all relevant factors, including, but not limited to:

- (1) The needs of the child;
- (2) the standards of living and circumstances of the parents;
- (3) the relative financial means of the parents;
- (4) the earning ability of the parents;
- (5) the need and capacity of the child for education;
- (6) the age of the child;
- (7) the financial resources and earning ability of the child;
- (8) the responsibility of the parents for the support of others; ~~and~~
- (9) the value of services contributed by both parents; *and*
- (10) *the direct medical and pregnancy-related expenses of the mother.*

(c) *The maximum amount of child support to be ordered for the support of an unborn child shall not exceed the direct medical and pregnancy-related expenses of the mother of the unborn child. Pregnancy-related expenses shall not include any costs related to an elective abortion.*

(d) *The amount of child support determined pursuant to subsection (b)(10) shall be calculated from the date of conception of such mother's child. Interest shall accrue for any such amount of child support at the statutory rate provided under K.S.A. 16-204, and amendments thereto, and shall continue to accrue until the payment of such child support is no longer in arrearage.*

(e) *As used in this section:*

(1) *"Elective abortion" means an abortion for any reason other than to prevent the death of the mother upon whom the abortion is performed, except that an abortion may not be deemed one to prevent the death of the mother based on a claim or diagnosis that such mother will engage in conduct that would result in such mother's death; and*

(2) *"unborn child" means the same as defined in K.S.A. 23-3001, and amendments thereto.*

Sec. 2. K.S.A. 23-2205 is hereby amended to read as follows: 23-2205. (a) As used in this act, "parent and child relationship" means the legal relationship existing between a child and the child's biological or adoptive parents incident to which the law confers or imposes rights, privileges, duties and obligations. ~~It~~ *"Parent and child relationship"* includes the mother and child relationship and the father and child relationship.

(b) For purposes of this section, the term "child" includes any unborn child as defined in K.S.A. 23-3001, and amendments thereto.

Sec. 3. K.S.A. 23-3001 is hereby amended to read as follows: 23-3001. (a) In any action under article 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the court shall make provisions for the support and education of the minor children.

(b) Regardless of the type of custodial arrangement ordered by the court, the court may order the child support and education expenses to be paid by either or both parents for any child less than 18 years of age, at which age the support shall terminate unless:

(1) The parent or parents agree, by written agreement approved by the court, to pay support beyond the time the child reaches 18 years of age;

(2) the child reaches 18 years of age before completing the child's high school education in which case the support shall not terminate automatically, unless otherwise ordered by the court, until June 30 of the school year during which the child became 18 years of age if the child is still attending high school; or

(3) the child is still a bona fide high school student after June 30 of the school year during which the child became 18 years of age, in which case the court, on motion, may order support to continue through the school year during which the child becomes 19 years of age so long as the child is a bona fide high school student and the parents jointly participated or knowingly acquiesced in the decision ~~which that~~ delayed the child's completion of high school. The court, in extending support pursuant to ~~subsection (b)(3)~~ *this paragraph*, may impose such conditions as are appropriate and shall set the child support utilizing the guideline table category for 12-year through 18-year-old children. For purposes of this section, "bona fide high school student" means a student who is enrolled in full accordance with the policy of the accredited high school in which the student is pursuing a high school diploma or a graduate equivalency diploma (GED).

~~(c) Provision for payment of support and educational expenses of a child after reaching 18 years of age if still attending high school shall apply to any child subject to the jurisdiction of the court, including those whose support was ordered prior to July 1, 1992. If an agreement approved by the court prior to July 1, 1992, provides for termination of support before the date provided by subsection (b)(3), the court may review and modify such agreement, and any order based on such agreement, to extend the date for termination of support to the date provided by subsection (b)(3). As used in article 30 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the term "unborn child" means a living individual organism of the species homo sapiens, in utero, at any stage of gestation from fertilization to birth.~~

Sec. 4. K.S.A. 23-3002 is hereby amended to read as follows: 23-3002. (a) In determining the amount to be paid for child support, the court shall:

(1) Follow the Kansas child support guidelines adopted by the supreme court pursuant to K.S.A. 20-165, and amendments thereto; and

(2) *take into consideration and shall order the use of the total value of any individual retirement plan account that is qualified under sections 401(a), 401(k), 403(a), 403(b), 408, 408A or 409 of the federal internal revenue code of 1986 if the person has experienced a loss of income or termination from employment due to loss, revocation, suspension or surrender of a professional license because of professional misconduct or voluntary underemployment.*

(b) (1) *If a parent accumulates a child support arrearage and experiences a loss of income or termination from employment due to*

loss, revocation, suspension or surrender of a professional license because of professional misconduct or voluntary underemployment the court shall, upon the occurrence of a distributable event as defined by the terms of the qualified plan, order the use of individual retirement plan accounts described in subsection (a)(2) to pay the arrearage with a one-time lump-sum distribution until:

(A) All funds in such accounts are exhausted; or

(B) the parent establishes other means to satisfy the child support obligations.

(2) Claims for child support against an individual retirement plan account described in subsection (a)(2) shall:

(A) Not require a plan to make any distributions that are not otherwise authorized by the terms of the plan;

(B) be subject to early withdrawal penalties and taxable income as a distribution; and

(C) be executed through direct payment from the retirement account through the Kansas payment center.

(c) Any person who files a motion requesting a child support order or modification order shall include in such filing a completed domestic relations affidavit and proposed child support worksheet.

Sec. 5. K.S.A. 2024 Supp. 60-2308 is hereby amended to read as follows: 60-2308. (a) Money received by any debtor as pensioner of the United States within three months ~~next~~ immediately preceding the issuing of an execution, ~~or~~ attachment, or garnishment process, ~~cannot~~ *shall not* be applied to the payment of the debts of such pensioner ~~when~~ *if* it appears by the affidavit of the debtor or otherwise that such pension money is necessary for the maintenance of the debtor's support or a family support wholly or in part by the pension money. The filing of the affidavit by the debtor, or making proof as provided in this section, shall be prima facie evidence of the necessity of such pension money for such support. It shall be the duty of the court ~~in which~~ *where* such proceeding is pending to release all moneys held by such attachment or garnishment process, immediately upon the filing of such affidavit; or the making of such proof.

(b) Except as provided in subsection (c), any money or other assets payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan ~~which~~ *that* is qualified under sections 401(a), 403(a), 403(b), 408, 408A or 409 of the federal internal revenue code of 1986, and amendments thereto, shall be exempt from any and all claims of creditors of the beneficiary or participant. Any such plan shall be conclusively presumed to be a spendthrift trust under these statutes and the common law of the state.

(c) ~~Any~~ *A* plan or arrangement described in subsection (b), *a retirement plan that is qualified under section 401(k) of the federal internal revenue code of 1986, an individual retirement account and any similar retirement instruments, including contributions and amounts within such instruments* shall not be exempt from the claims of an alternate payee under a qualified domestic relations order *or a child support order issued pursuant to article 30 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto.* ~~However,~~ The interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the Kansas department for children and families, of the alternate payee. As used in this subsection, ~~the terms~~ "alternate payee" and "qualified domestic relations order" have the meaning ascribed to them in section 414(p) of the federal internal revenue code of 1986, and amendments thereto.

(d) The provisions of subsections (b) and (c) shall apply to any proceeding ~~which~~ *that*:

- (1) Is filed on or after July 1, 1986; or
- (2) was filed on or after January 1, 1986, and is pending on or on appeal July 1, 1986.

(e) Money held by the central unit for collection and disbursement of support payments designated pursuant to K.S.A. 39-7,135, and amendments thereto, the Kansas department for children and families, any clerk of a district court or any district court trustee in connection with a court order for the support of any person, whether the money is identified as child support, spousal support, alimony or maintenance, shall be exempt from execution, attachment or garnishment process.

(f) (1) The provisions of this subsection shall apply to any proceeding ~~which~~ *that*:

- (A) Is filed on or after January 1, 2002; or
- (B) was filed prior to January 1, 2002, and is pending on or on appeal after January 1, 2002.

(2) Except as provided by paragraphs (3) and (4) ~~of this subsection~~, if the designated beneficiary of a family postsecondary education savings account established pursuant to K.S.A. 75-640 et seq., and amendments thereto, is a lineal descendant of the account owner, all moneys in the account shall be exempt from any claims of creditors of the account owner or designated beneficiary.

(3) The provisions of paragraph (2) ~~of this subsection~~ shall not apply to *claims of any creditor of an account owner, as to amounts contributed within a one-year period preceding*:

(A) ~~Claims of any creditor of an account owner, as to amounts contributed within a one-year period preceding~~ The date of the filing of a bankruptcy petition under 11 U.S.C. § 101 et seq.; or

(B) ~~claims of any creditor of an account owner, as to amounts contributed within a one-year period preceding~~ an execution on judgment for such claims against the account owner.

(4) The provisions of paragraph (2) ~~of this subsection~~ shall not apply to *claims of any creditor of an account owner, as to amounts exceeding \$5,000 contributed within a period of time that is more than one year but less than two years preceding*:

(A) ~~Claims of any creditor of an account owner, as to amounts exceeding \$5,000 contributed within a period of time which is more than one year but less than two years preceding~~ The date of the filing of a bankruptcy petition under 11 U.S.C. § 101 et seq.; or

(B) ~~claims of any creditor of an account owner, as to amounts exceeding \$5,000 contributed within a period of time which is more than one year but less than two years preceding~~ an execution on judgment for such claims against the account owner.

Sec. 6. K.S.A. 2024 Supp. 79-32,121 is hereby amended to read as follows: 79-32,121. (a) For tax year ~~2024~~ 2025, and all tax years thereafter, a taxpayer shall be allowed a Kansas exemption as follows:

(1) In the case of married individuals filing a joint return, a personal exemption of \$18,320;

(2) in the case of all other individuals with a filing status of single, head of household or married filing separate, a personal exemption of \$9,160; ~~and~~

(3) in addition to the amount allowed pursuant to paragraph (1) or (2), a personal exemption of \$2,320 for each dependent for which such taxpayer is entitled to a deduction for the taxable year for federal income tax purposes; *and*

(4) *in addition to the amount allowed pursuant to paragraphs (1), (2) and (3), an unborn child as defined in K.S.A. 23-3001, and amendments thereto, shall be recognized as a dependent and shall be allowed a personal exemption of \$2,320 as follows:*

(A) *For live births, the unborn child personal exemption shall be*

an additional exemption for any qualifying dependent of the taxpayer pursuant to paragraph (3) who was born in the taxable year; and

(B) for an unborn child who does not result in a live birth known as a stillbirth as defined in K.S.A. 65-2401, and amendments thereto, and for whom a certificate of stillbirth is filed pursuant to law, a personal exemption may be allowed by the taxpayer who is a parent for the taxable year of the issuance of the certificate.

(b) In addition to the exemptions provided in subsection (a), any individual who has been honorably discharged from active service in any branch of the armed forces of the United States and who is certified by the United States department of veterans affairs or its successor to be in receipt of disability compensation at the 100% rate, if the disability is permanent and was sustained through military action or accident or resulted from disease contracted while in such active service, such individual shall be allowed an additional Kansas exemption of \$2,250 for tax year 2023 and all tax years thereafter.

Sec. 7. K.S.A. 20-165, 23-2205, 23-3001 and 23-3002 and K.S.A. 2024 Supp. 60-2308 and 79-32,121 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report_____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report_____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.