

Shawnee County

Family Law Guidelines

2003 Edition

INTRODUCTION

The 2003 edition of the Shawnee County Family Law Guidelines was prepared by the Family Law Committee of the Topeka Bar Association. These guidelines are intended to be used by attorneys and by parties in domestic relations cases in the Third Judicial District. These guidelines provide a uniform basis to evaluate issues and negotiate settlements.

While the guidelines are generally followed by the court, they are not court rules and they are not binding. The guidelines may apply to a broad range of cases but may not be determinative of the outcome of a particular case. The guidelines are not a substitute for creative thinking and critical analysis of the facts, circumstances and issues.

The members of the committee who contributed to this edition of the guidelines were: Alan F. Alderson, The Honorable Richard Anderson, The Honorable David Bruns, The Honorable James Buchele, Hal DesJardins, William Ebert, Prof. Linda D. Elrod, James McEntire, The Honorable Nancy Parrish, Larry Rute, Daric S. Smith, Ardith R. Smith-Woertz, Dale Somers, Douglas Wells, and Administrative Hearing Officer Lori Yockers.

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1.0 Practice Standards.

1.01 Case Number Reference.

All correspondence with the court and opposing party or counsel shall include a reference to both the case caption and the case number.

1.02 Identification and Dating of Forms.

All Child Support Worksheets and Domestic Relations Affidavits shall include the caption and indicate the party sponsoring the document, e.g., Petitioner's Child Support Worksheet; or, Respondent's Domestic Relations Affidavit and the date on which the document was prepared.

1.03 Requirements Before Pretrial Conference.

Before scheduling a Pretrial Conference, the Court will either review the case on a Status Docket or hold a telephone conference with counsel and/or the parties. Before the Status Docket setting, discovery shall be completed, Domestic Relations Affidavits shall be filed and proposals for settlement shall be exchanged. At the conclusion of a telephone conference, the Court may prepare, or request counsel to prepare, a memorandum that memorializes the conference.

1.04 Motion to Modify Child Support.

The Motion to Modify Child Support can be made whenever there is a substantial change in circumstances, usually an increase or decrease in the parties' income as described in the Kansas Child Support Guidelines. All discovery relevant to modification of child support should be conducted simultaneously with filing the Motion to Modify. Failure to exchange financial information in a timely manner may result in the imposition of attorney's fees. The procedure set forth in § 4.0 should be followed.

(a) Written Request for Financial Records.

If current financial information has not been previously exchanged, a written request should be sent to the opposing party or to opposing party's counsel who has not withdrawn. Current financial information includes a copy of the most recent pay check stub that shows the present wage and earnings to date and the W-2 and 1099 forms that show earnings for the preceding year as well as current work-related child care costs and current costs for health, dental, vision and prescription insurance premiums that provide coverage for the child. The moving party should enclose the same financial information. If there is no counsel of record, the request should be sent by first class mail to the opposing party, and the Department of Social and Rehabilitation Services ("SRS") or its contracting agent for IV-D cases or the District Court Trustee for private cases. See Appendix 1-1.

(b) Subpoena Financial Records.

If there is no response to the written request for financial records within 10 days, the movant should file a Notice of Intent to Subpoena Business Records and cause a business records subpoena to be served, pursuant to K.S.A. 60-245a, upon the other party's employer to obtain current financial data and the W-2 form(s) for the preceding year. See Appendices 1-2 and 1-3.

(c) Prepare Child Support Worksheet and Proposed Order.

After receipt of current financial information, the moving party shall prepare a Child Support Worksheet and a proposed order modifying child support. Both documents should be sent to the opposing counsel or the opposing party with a cover letter requesting approval of the order. Any party seeking assessment of attorney's fees should send notice to the other party that failure to either approve the order, or open good faith negotiations, may necessitate a request for attorney's fees if a hearing is required.

1.05 Checklist for Uncontested Divorce Hearings.

Counsel or pro se litigants shall complete the checklist found in Appendix 1-4 and present it to the Court along with the settlement agreement and/or proposed journal entry and parenting plan at uncontested hearings. All of the documents listed on the checklist are expected to be prepared in advance of the hearing so that they are available for the Court's inspection and filing with the decree. The Court will hear uncontested matters Tuesday, Wednesday, and Thursday mornings between 8:30 - 9:00 a.m. The Administrative Assistant of the judge conducting the hearing should be contacted to set the date of the uncontested hearing.

1.06 Motions to Enforce.

Court orders, including divorce decrees and temporary orders, are not self-executing and any language to the contrary should not be included in them. The Sheriff's Department will not attach property, remove children, or in any way undertake execution on a general divorce decree. Parties seeking enforcement of parenting time, custody rights, recovery of property, etc., should file a Motion to Enforce, and obtain a specific order directing the Sheriff to execute on the orders.

A Motion to Enforce should be filed prior to filing an accusation in contempt unless the offending party has previously been before the court for failure to comply or the conduct is a flagrant disregard of the letter and spirit of the Court's order.

(a) Prejudgment Enforcement Problems.

Problems relating to custody, residency, parenting time and/or child support payments will be heard by the judge assigned to the case. Settings will be made by the Clerk of the District Court and placed on the next available Motion Docket.

(b) Post Judgment.

Post judgment problems relating to enforcement of parenting time and/or modification of child support shall be heard by the Administrative Hearing Officer. See Sections 3.01 and 4.0.

Post judgment problems relating to issues such as delivery of personal property, execution of deeds and motor vehicle titles, and payment of debts assigned in the divorce, will be set on the Domestic Motion Docket and heard by the judge assigned to the case.

1.07 Motions for Order to Show Cause - Contempt.

Post judgment contempt actions (Motions for an Order to Show Cause), other than those filed by SRS or its contracting agent for IV-D cases, or the District Court Trustee for private cases, should be instituted only for *repeated and serious* violations of court orders which have previously been before the court on enforcement motions. Parties should consider for financial matters the use of income withholding orders, garnishments, aids in execution, attachments, and orders to enforce. Parties should consider for child custody, residency and/or parenting time matters the use of mediation, conciliation or case management.

The complainant bears the burden of proof by clear and convincing evidence. The inability to comply with an order for reasons beyond the obligor's control may not be contemptuous. Rarely is someone held in contempt unless they have previously been directly admonished by the Court.

1.08 Confidentiality of Reports

The standing policy of the Shawnee County District Court is that written reports from Court Services, custody evaluators and CASAs are generally confidential. The Court understands it is usually necessary to disclose the recommendations in these reports and the underlying facts that support the recommendations. Nondisclosure of the name of specific sources of information may be necessary to protect the confidentiality of persons giving information if the release of identifying information is damaging to ongoing relationships, is potentially harmful to children, and may be destructive of family and community ties.

1.09 Status Docket.

Cases that are approximately 80 days old are subject to being scheduled on a Status Docket. Prior to the Status Docket, discovery should be completed and written offers to settle the case should be exchanged. The purpose of the Status Docket is to identify all issues in dispute and establish an appropriate schedule for disposition of all disputed issues. Counsel and parties should be present at

the Status Docket unless excused by the Court. At the Status Docket, the case will be scheduled for either a Pretrial Conference, the Trial Docket or a special trial setting.

1.10 Pretrial Conferences.

The Court, on its own motion or the motion of either party, may conduct a Pretrial Conference before setting a pre-judgment domestic case for trial, after discovery is completed, and after the case has been called on a Status Docket.

The purpose of the Pretrial Conference is to make a meaningful exchange of information and positions of the parties so that issues can be settled without a trial. The parties and counsel should be personally present and prepared to settle as many issues as possible. The Court will encourage the parties to make admissions and stipulations on issues that are not disputed. Items such as the extent and valuation of assets or debts and the parties' incomes are factual disputes. Once these amounts are established by agreement or stipulation, how the assets or debts should be divided and the amount of maintenance or child support to be awarded are arguments, not factual disputes, and often can be settled at the Pretrial Conference or submitted to the Court for decision on an agreed stipulation, or factual statements. Failure to comply with the following procedures may result in the assessment of attorney's fees and rescheduling of the Pretrial Conference.

(a) Exchange of Documents.

Unless otherwise ordered, parties shall exchange and furnish the Court with a current Child Support Worksheet, a Supplemental Factual Statement, and proposals (See Appendices 8-1 and 1-6) at least 48 hours before the scheduled Pretrial Conference or notify the Court and other party that previously filed documents remain current and will be relied upon. The exchange of documents must be actually delivered, not merely mailed, within the time limits. For Monday Pretrial Conferences, delivery should be made by 5:00 p.m. on the Thursday before the Pretrial Conference. All discovery should be reasonably supplemented at pretrial. When preparing the Supplemental Factual Statement, annotations for any disputed issues, e.g., dates of valuation, or why valuations of certain properties are in dispute, should be provided.

(b) Pretrial Conference Order.

At the conclusion of the Pretrial Conference, the Court will either dictate the order on the record or have an order prepared. The original and two copies of the Pretrial Order shall be prepared, with the original to be placed in the court file and with a copy to be provided to each party. The cost of the transcription shall be assessed by the Court as costs of the case.

(c) Effect of Pretrial Agreements and Admissions

Trials will be set only to hear evidence on disputed facts. Agreements, admissions, and stipulations entered into at a Pretrial Conference are binding at trial and contradicting evidence will not be admitted unless leave of the court is granted for good cause upon a showing of prejudice.

1.11 Trial Docket.

Cases that do not involve complex financial or custody issues and which can be tried in one hour or less with only the parties as witnesses are subject to being set on a Trial Docket. At this docket, multiple cases are set simultaneously for trial and will be called in the order scheduled for trial. Counsel and the parties should appear and be prepared for trial at the time scheduled. If counsel or a party feels that the case is inappropriate for the trial docket, the Court should be notified at or before the Status Docket. See DCR 3.401.

1.12 Dismissal Docket.

Unless otherwise ordered, once an agreement has been reached or the Court has issued a decision, final documents will be prepared in accordance with Supreme Court Rule 170. Cases may be dismissed if a Divorce Decree has not been submitted to the Court.

1.13 Shawnee County Domestic Relations Affidavit and Supplemental Factual Statements.

A Shawnee County Domestic Relations Affidavit (Appendix 1-5) should be filed with each petition and with each answer in all cases. Parties should endeavor to make all affidavits as complete as possible.

Supplemental Factual Statements (Appendix 1-6) should be filed at least 48 hours prior to trial or notify the Court and other party that previously filed documents remain current and will be relied upon. The exchange of documents must be actually delivered, not merely mailed, within the time limits. For Monday trials, delivery should be made by 5:00 p.m. on the Thursday before the trial.

1.14 Recommended Order of Settlement in Domestic Cases.

Parties should attempt resolution of domestic cases in the following order:

1. Property and debt division,
2. Maintenance,
3. Child Custody/Residency,
4. Child Support.

Issues relating to children should not be commingled with concerns over division of property and support.

1.15 Motions for Conciliation.

Before filing a Motion for Conciliation, counsel should confer and make a serious attempt to settle any custody, residency and/or parenting time dispute. A Motion for Conciliation shall be accompanied by a memorandum that explains the nature of the dispute, the parties' positions or concerns, the attempts made to reach agreement and both parties' home addresses and telephone numbers. See Section 11.02 and Appendix 11-1.

1.16 Mediation or Conciliation.

With respect to any new or post-decree divorce or paternity action filed in Shawnee County, the parties must participate in mediation pursuant to K.S.A. 23-602, for a minimum of two mediation sessions, unless sooner terminated pursuant to K.S.A. 23-604, before the Court will set any disputed custody matters for hearing. For good cause shown, the Court may either waive the requirements or refer the case to Court Services for conciliation and/or case management in lieu of mediation. Mediation is not recommended in cases in which either one of the parties or a child of the parties has been subjected to *recent* physical abuse. Counsel are to advise the Court of any such allegations in an affidavit.

The process should commence approximately thirty (30) days from the date on which custody or residency is identified as a disputed issue. Unless otherwise directed by the Court, the costs may be divided evenly between the parties for costs incurred prior to the entry of the final decree of divorce; the costs of mediation incurred after the entry of a decree shall be divided as determined by the Court. An order of mediation shall be entered by the Court, appointing the mediator and dividing the responsibility for payment of mediation costs. See Appendix 1-7.

The costs of mediation or conciliation in paternity cases shall be assigned at the direction of the Court, according to the financial circumstances of the parties. All counsel shall advise their clients that the Court expects the parties to pay for services contemporaneously with each session.

When mediation or conciliation is ordered, the Court will refer the parties to a qualified mediator or conciliator. The mediator shall advise the Court of the outcome of the mediation, i.e., whether the parties reached an agreement or partial agreement, reached impasse, or mediation was terminated. The conciliator shall advise the Court of the outcome of the conciliation and make a recommendation to the Court.

Unless both parties to the mediation consent, no person other than the parties shall be permitted to participate in the mediation sessions.

1.17 Parties without Attorneys

Parties without attorneys (Pro se) are encouraged to obtain attorneys or at least get a legal opinion to ensure their legal rights are protected and to create more efficient problem solving. Pro se parties are required to follow the Kansas law, and the Shawnee County Family Law Guidelines. The Guidelines may be found on the internet at <http://www.shawneecourt.org/forms/guidelines.pdf> or a copy may be purchased from the Clerk of the District Court. The Court and its staff cannot give legal advice to any party. All parties are expected to timely file required pleadings and to timely appear in court at designated times. The Court has the discretion under the law to award attorney's fees as justice and equity require. If a party unduly prolongs the proceedings or makes negotiations more difficult, it may be fair to assess attorney fees against a party to pay the attorney of the other party to equalize the cost of the divorce and to offset additional costs caused by the pro se's election

not to hire an attorney.

2.0 Temporary and Ex Parte Orders.

Ex parte orders are considered to be an extraordinary remedy and can adversely impact the settlement process. They should be used only where they are necessary to protect children, assets or access to a house. When the parties have already separated, or counsel is aware the other party is represented by an attorney, ordinarily ex parte orders should not be requested. A motion for temporary orders may be handled on the court's temporary orders docket. Misrepresentation in obtaining an ex parte order may be a basis for awarding attorney's fees.

2.01 Change of Custody or Residency.

The Court does not grant ex parte orders which change the existing living situation, except in those rare situations where there is corroborated evidence of a serious threat to the safety of the child. The parties should not present proposed ex parte orders to the Court that change a child's living arrangements until the motion to change custody and a copy of the proposed order have been served on both the opposing party and counsel of record. The Court will shorten the time for hearing if necessary to accommodate urgent situations.

2.02 Procedure for Obtaining.

Except for good cause, ex parte orders for child support, maintenance and restraining orders will only be entered upon single page printed forms prescribed by the Court (Appendices 2-2 through 2-5) which are available through the Clerk of the District Court. Special ex parte orders are required if the moving party desires to have either a police officer or a sheriff's deputy stand by while one of the parties is removing personal property from the marital residence. District Court Rule ("DCR") No. 3.401.

Requests for ex parte orders in domestic cases should be delivered to the Clerk of the District Court, accompanied by a completed Domestic Relations Coversheet (Appendix 2-1) advising the Clerk and Court of counsel's requests relative to ex parte orders. Counsel should mark with paper clips or stickers the pages where a judge's signature is requested. Originals of each document should be placed on the top of the copies of that document and paper clipped together for ease in filing.

2.03 Motions for Temporary Orders or to Modify Ex Parte Orders.

Motions for temporary orders or to modify ex parte orders will be set on a Temporary Orders Docket. Motions for temporary orders should be set directly with the division hearing the docket. The party filing the motions shall have the responsibility for giving written notice of the docket setting to the opposing party. The Court will not send individual notices for matters set on the Temporary Orders Docket.

3.0 Domestic Motion Dockets.

3.01 Post Judgment Motions.

(a) Parenting Time Motions before Administrative Hearing Officer.

When private counsel file Motions to Enforce Parenting Time, they must receive hearing dates from the Administrative Hearing Officer's administrative assistant and are required to send notice of the hearing to all parties concerned.

The Clerk of the District Court will set hearing dates for any pro se Motions to Enforce Parenting Time on the next available Docket and send notice to counsel of record and parties.

(b) Child Support Motions before Administrative Hearing Officer.

Hearing dates for Motions to Modify Child Support on IV-D cases will be set by the Administrative Hearing Officer's Administrative Assistant on the next available Support Docket. SRS's contracting agent will send notice to counsel of record and the parties.

Parties will still be allowed to file pro se Motions to Modify Child Support. (See Section 4.06) The Clerk of the District Court will set hearing dates for pro se Motions to Modify Child Support on the next available Support Docket and will send notice to counsel of record and parties.

Motions to Modify Child Support filed by private counsel should be set for hearing by contacting the Administrative Assistant for the Administrative Hearing Officer for a setting. Counsel will send notice to counsel of record and the child support enforcement agency, if applicable.

(c) Other Motions.

The Clerk of the District Court shall set all other motions in domestic cases, except those specially set by the Court, on one of the Domestic Motion Dockets called by one of the district judges assigned to domestic matters. Generally, the motion will be set on the next available Motion Docket of the judge assigned to the case subject to changes due to holidays, the Court's schedule, and vacations.

3.02 Notice of Setting on Motion Docket.

The Clerk of the District Court will mail notice to the moving party of the docket date and time. Do not call the judge's office to obtain settings on the Motion Docket, as these are made by the Clerk. It is the responsibility of the moving party to give written notice of hearings on all motions to the opposing counsel of record or the adverse party. On motions pertaining to child support issues,

notice shall also be given by the moving party to either SRS, or its contracting agent for IV-D cases, or the District Court Trustee for private cases.

3.03 Appearance at Motion Docket - Continuance Policy.

If counsel and/or a party has a conflict with the docket settings due to other court appearances or commitments, they are expected to arrange coverage or to resolve the motion before the docket call. If a party wishes to dismiss the motion or advise the Court of an agreement disposing of the motion, he or she should advise the Court's staff prior to the docket call, preferably in writing so the motion will not be dismissed or ruled upon contrary to an agreement.

Counsel and parties are expected to appear at the Motion Docket unless the matter is settled or dismissed or request that the motion be ruled upon based on the written submissions of the parties before the docket call. If there are no appearances on motions called at the motion docket, the Court may dismiss the motion.

3.04 Procedure at Motion Docket.

The Court will only hear arguments and proffers of evidence at the Motion Docket. Witnesses should not be subpoenaed to the Motion Docket. Motions that will require extensive evidence, e.g., to change custody, should be discussed with the Court and opposing counsel by telephone conference prior to filing so a determination can be made if a special setting is required or if a referral for conciliation, mediation, or to the Administrative Hearing Officer should be considered.

3.05 Multiple Motions.

In cases involving multiple motions, which cannot all be handled by the Administrative Hearing Officer, counsel should arrange with the case division's Administrative Assistant to have all matters placed on one Domestic Motion Docket. At the docket, the Court will decide how to proceed.

3.06 Agreed Orders to Modify Support.

_____A Child Support Worksheet (Appendix 8-1), Mandatory Supplemental Orders (Appendix 8-2), and the Kansas Payment Center form (Appendix 8-3) shall be attached to all Agreed orders Modifying Support, with necessary adjustments to show the amount ordered on line F.5 of the worksheet. This is important information in determining if a material change in circumstances has occurred when a subsequent modification is requested. A \$25.00 filing fee must accompany post decree motions to modify child support and agreed child support orders filed without motions. (See Section 8.10)

4.0 Procedure Before the Administrative Hearing Officer.

4.01 Administrative Hearing Officer Jurisdiction.

The Administrative Hearing Officer jurisdiction is set forth in Supreme Court Rule No. 172 and also see DCR 3.401.

4.02 Hearing Procedure.

Post judgment proceedings involving modification of child support, income withholding orders, parenting time and paternity are conducted by the Administrative Hearing Officer. All settings of hearings on matters filed by counsel will be made by the Administrative Hearing Officer's administrative assistant. The telephone number is (785) 233-8200, ext. 4651.

Hearings before the Administrative Hearing Officer are informal in nature, and generally are expected to last about one-half hour. Any party anticipating a more lengthy hearing should advise the Administrative Hearing Officer's administrative assistant at the time the matter is set for a hearing.

4.03 Adherence to Guidelines.

The Administrative Hearing Officer will determine motions to modify child support and parenting time in accordance with the current Kansas Child Support Guidelines and the Shawnee County Family Law Guidelines.

4.04 Administrative Hearing Officer Procedure.

A \$25.00 filing fee must accompany post decree motions to modify child support and agreed child support orders filed without motions. Agreed orders need to have a child support worksheet, mandatory supplemental orders and the Kansas Payment Center form attached.

A Domestic Relations Affidavit (DRA) should be filed by the movant as soon as is practicable after the filing of the motion to modify support. No hearing on the motion will be scheduled prior to the filing of the movant's DRA. After receiving a copy of movant's DRA and more than five (5) days prior to the hearing, the other party shall prepare and file a DRA and provide a copy to the moving party, whether or not a response to the motion is filed. All documents required to be exchanged shall be furnished prior to the day of the hearing to the opposing counsel or party and SRS, or its contracting agent for IV-D cases, or the District Court Trustee for private cases. At the hearing, each party shall provide the Court with proposed Child Support Worksheets and all other documents required to be exchanged pursuant to 1.04.

4.05 Notice of Administrative Hearing Officer Hearings - Settlement Proposal.

The moving party is expected to notify opposing counsel (or party), and SRS, or its contracting agent for IV-D cases, or the District Court Trustee for private cases, on motions pertaining to child support issues of any scheduled hearings. In addition, the moving party is expected to attempt to resolve the matter by making a specific offer of settlement or enter into good faith negotiations with opposing party or counsel. See Section 1.04.

4.06 Pro Se Parties.

There is a \$25.00 filing fee for motions to modify child support and to modify or establish parenting time.

(a) Parenting Time.

The Clerk of the District Court's office will furnish forms for motions to enforce, modify or establish parenting time to parties unrepresented by counsel. See Appendices 4-1 through 4-3. Hearing dates for pro se motions will be set on the next available docket. Notice of the hearing will be sent by the Clerk to counsel of record and parties. Notices for pro se litigants will be sent to their last known addresses.

(b) Child Support.

The Clerk of the District Court will furnish forms to parties. A completed Shawnee County Mini-Domestic Relations Affidavit, together with supporting documents, must be filed with the Clerk of the District Court, together with the Motion to Modify Child Support or Motion to Establish Child Support. The Clerk of the District Court will then set the matter for hearing and mail a Notice of Hearing to the parties at their last known addresses. For Motion to Establish Child Support see Appendix 4-4 and for Motions to Modify Child Support see Appendix 4-5. Except for good cause, only one pro se motion may be filed per year by any party.

(c) Uninsured Health Care Expenses.

The Clerk of the District Court will furnish forms to the parties for Motions to Enforce Payment of Uninsured Health Care Expenses. See Appendix 4-6. The Clerk of the District Court will then set the matter for hearing and will mail a Notice of Hearing to the parties at their last known addresses.

4.07 Stenographic Record.

A record is regularly provided in proceedings before the Administrative Hearing Officer. The record will consist of the Administrative Hearing Officer's findings, the order, the taped recording of the proceeding, and any exhibits admitted into evidence. If a party wishes to order a stenographic record of the proceedings before the Administrative Hearing Officer, arrangements should be made for a court reporter. Requests for typed transcripts of the Administrative Hearing Officer hearing shall be made through the Clerk of the District Court along with prepayment of the estimated cost of transcribing. See Appendix 4-7. Payment in full of the actual cost must be made prior to the transcript being released to the reviewing district judge.

4.08 Judicial Review.

Either party shall have ten (10) days from the filing of the order of the Administrative Hearing Officer to file a Motion for Judicial Review. A moving party or attorney shall send a copy of the Motion for Judicial Review to SRS, or its contracting agent for IV-D cases, or the District Court Trustee for private cases, to the Administrative Hearing Officer (see Appendix 4-8), and file the original Motion with the Clerk of the District Court. See Appendix 4-8. The court will send notice to the parties of the district judge's decision or a hearing will be set on the Motion for Judicial Review.

A Motion for Judicial Review should be accompanied by a memorandum which sets forth the claimed error of the Administrative Hearing Officer. This memorandum is crucial because oral argument or re-hearing is denied, absent a statement showing good cause. A request for a typed transcript of the hearing and pre-payment of estimated cost of transcribing shall accompany the motion. Estimated costs can be found on the Notice of Judicial Review Procedure attached to the Administrative Hearing Officer's order.

The district judge assigned to domestic matters will review the Administrative Hearing Officer's decision and may (1) affirm the decision by denying the appeal; (2) reverse the decision; (3) modify the decision; (4) grant oral argument; (5) grant a re-hearing; or (6) decide the issues based on the written summation. Evidence and issues not presented to the Administrative Hearing Officer will not be considered by the Court on judicial review.

5.0 Property and Debt Division.

Kansas law provides that all property owned by the parties at the time of filing is subject to division. The guidelines should provide a framework for making an equitable property division in the usual case.

5.01 Approaches to Property Division.

Arriving at an equitable division of property and debt should be the first step in settlement of a divorce case. Property division should be an objective process and be conducted separately from negotiations of maintenance, custody and child support. In those cases in which property division appears to overlap with child custody, e.g., the parties agree the children will remain in the marital residence, the parties can still arrive at the value of equity in the property and agree upon the amount that the party receiving the house must pay the other party or be credited within the settlement. Delaying property division until custody is resolved commingles the issues, affects the property division negotiations by making them subjective and usually prolongs final resolution of the case.

5.02 Marital Property.

K.S.A. 23-201 provides that all property of the parties becomes marital property upon the filing for divorce, annulment or separate maintenance. As a practical matter it is often fair to segregate the assets into those acquired before the marriage and those acquired after marriage. The

following property is *always* subject to division: 1) all property acquired during the marriage, including retirement benefits accumulated during the marriage and gifts from one spouse to the other; and 2) the appreciation, rents, profits, dividends, interest, and earnings of any property owned before marriage, as well as gifts or inheritance received during the marriage.

(a) Division.

As a general rule, the net worth in all marital property should be divided equally between the parties. Judges use the criteria in K.S.A. 60-1610(b) as amended:

1. Age of parties;
2. Duration of the marriage;
3. Property owned by the parties;
4. Present and future earning capacities;
5. Time, source and manner of acquisition of the property;
6. Family ties and obligations;
7. Allowance of maintenance, or lack thereof;
8. Dissipation of assets;
9. Tax consequences of the property division on the respective economic circumstances; and
10. Such other factors as the Court considers necessary to make an equitable division.

There should be no effect upon the presumption for equal division of property due to greater dollar earnings of one party or the other during the marriage.

(b) Appreciated Value of Separate Property.

Often it is fair to return the “entry value” of property owned by either party prior to the marriage or acquired during the marriage by gift or inheritance to the party who received it if that property remains in the marital estate in addition to his/her equal share of marital assets.

At the least, any appreciation in value of inherited or separate property during the marriage is subject to division. The amount of appreciation will be the difference in the value on the date the property was received and its value on the date of divorce.

The actual record owner of a given asset or record obligee of a given liability is irrelevant to the division of net worth.

(c) Division of Property in Cash in Lieu of In Kind.

If the property is not to be equitably divided in kind, then a cash payment should be made at the time of divorce to effect an equitable distribution. If there is no immediate cash payment, the Court may order certain assets sold and the proceeds divided, or the Court may

establish a set time for payment. Orders providing for payments in the future should consider the time value of money, and therefore should bear interest or the principal be reduced to present value. See Section 5.07.

(d) Personal Property.

Household goods and personal items of an ordinary nature should be divided in kind. The Court expects that these items should be divided by agreement of the parties, understanding that both the needs of any child and the nonresidential parent for household appliances and furniture must be accommodated. If the parties cannot agree, the Court will see adequate provisions are made for the children, and order either a division of the remainder of the household goods and personal property by lot, a sale with the proceeds divided evenly, or in any other manner.

(e) Automobile Valuation.

Automobiles of the parties should be valued at the NADA trade-in book value, adjusted for accessories, mileage and condition.

(f) Personal Injury Recoveries.

Kansas law indicates that personal injury recoveries or worker's compensation for lost wages and temporary total disability payments for a period during the marriage are in the nature of income and are considered marital property.

(g) Real Property and Valuation.

The parties are encouraged to agree on the value or to agree on one appraiser to value real property. If the parties cannot agree on an appraiser, they should request that the Court appoint an appraiser and the cost of the appraisal should be considered a marital debt. The Court will usually take judicial notice of the county appraiser's records on any parcel of real estate.

One-half of the reasonably anticipated costs to sell marital real property should be allowed as a deduction from the fair market value amount to be used in the property division if the property is not sold. In the usual case, the Court will use 4% as one-half of the reasonably anticipated cost of sale. This adjustment makes comparison of real estate equity with liquid assets more realistic. Ownership of real estate carries substantial opportunity costs which must be considered when making an equitable division of marital estate made up of several types of property.

When real property is owned at the time of the marriage, it may be desirable to determine its value on both the date of marriage and on the property division valuation date. If it is decided it is fair to return the realty to the person who had it prior to the marriage, the

increase in value during the marriage should be equitably divided and the marital equity amount should be reduced by 4% for purpose of comparing it with liquid assets.

5.03 Separate Property.

In many instances it may not be fair to divide separate property but restore it at entry value to the party for or by whom it was acquired. The Court may determine the entry value of property at the time the parties commenced living together if the parties commingled their earnings, jointly acquired assets, and/or shared expenses prior to marriage consistent with the manner that marital expenses were shared.

In some instances when inherited or separate property is sold and the proceeds are used to purchase other property, the new property may be considered non-marital to the extent of the entry value of the original property. If the proceeds were used for living expenses or otherwise dissipated, they generally will not be restored as separate property. The party seeking to recover the value of the original property shall have the burden of tracing the proceeds.

5.04 Debts.

Generally all debts of the parties at the time of filing are considered marital debts notwithstanding who incurred them. The Court will consider extravagant spending near the date of separation and expenditure for necessities or to preserve marital assets made after separation in determining an equitable debt division.

(a) Unsecured Debt.

When possible, unsecured debts should be paid from the parties' assets. If there are not sufficient assets to cover the parties' unsecured debts, the debts should be divided between the parties in proportion to their gross incomes, and adjusted for maintenance paid or received. Child support received or paid should not be included in the proration of income.

(b) Secured Debt.

Usually, secured debts should be assumed and paid by the party receiving the asset that secures the debt. The party with the responsibility for paying the secured debt should hold the other party harmless from any liability.

(c) Debt Incurred After Filing.

It is presumed that debt incurred after the date of filing should be paid by the party incurring the debt. However, if such debt is considered a necessary living expense, it may be divided between the parties in proportions as the Court deems equitable. One factor in this determination will be whether or not temporary maintenance was paid or received. The parties will generally be expected to pay normal living expenses and payments from their

regular incomes and not expend marital assets for living expenses in the separation/pre-divorce period.

5.05 Effect of Bankruptcy.

Bankruptcy can affect the divorce settlement in three ways: the presence of the automatic stay, the dischargeability of debts, and the avoidability of certain liens.

(a) Automatic Stay.

The Bankruptcy Code excepts from the automatic stay actions or proceedings for the establishment of paternity and the establishment or modification of orders for maintenance or child support. 11 U.S.C. § 362(b)(2)(A). It also excepts from the automatic stay the collection of alimony, maintenance or support from property that is not property of the estate. 11 U.S.C. § 362(b)(2)(B).

(b) Exceptions to Discharge.

The Bankruptcy Code excepts from discharge in bankruptcy debt “*to a spouse, former spouse or child of the debtor, for alimony to, maintenance for, or support of such spouse or child. . .*” 11 U.S.C. § 523(a)(5). The child support guidelines usually determine a debtor's child support obligations. If the intent is for a payment to a third party or a hold harmless to be in the nature of support so as to be nondischargeable, the property settlement agreement or the Court’s order should include specific stipulations or findings of fact that can be used to support a later determination as to the nature of the payment.

What constitutes alimony, maintenance or support will be determined under bankruptcy law rather than state law. There is no specified time limit in the bankruptcy code for requesting a determination as to whether an obligation is dischargeable.

11 U.S.C. § 523(a)(15) provides that debt that is not for support may not be discharged under certain conditions. It requires consideration of the debtor’s ability to pay and whether discharging the debt results in a benefit to the debtor which outweighs the detrimental consequences to the spouse, former spouse or child of the debtor.

5.06 Lien Avoidance - Bankruptcy Considerations.

The Bankruptcy Code provides for avoidance of judicial liens on exempt property which impair the fresh start afforded the debtor by the bankruptcy discharge but excepts from avoidance those liens arising from orders for alimony, maintenance or support. 11 U.S.C. § 522(f)(1).

5.07 Interest on Equity to be Paid at a Future Date.

When equity is to be paid to one of the parties in the future, provisions should be made for

interest or the amount of equity division should be settled keeping in mind the time value of money (its present value). Generally, the Court uses the current judgment rate or the amount being charged for equity loans (second mortgages) as the interest rate.

5.08 Valuation Date.

The property that constitutes the marital estate is usually determined as of the date of filing.

- (a) **Fluctuating Values.** Counsel should request the Court to establish a valuation date.
- (b) **Contributions to Value.** If the parties have been separated for more than one year, the Court will consider each party's contributions to the increase or decrease in value of the asset from the time of separation to reach an equitable division.
- (c) **Beginning Value.** The beginning value of property should be the earlier of the date the parties were married or the date they commenced living together and commingled their earnings and jointly acquired assets.

5.09 Valuing a Small Business.

Valuing a business can be difficult. There is no precise formula applicable in every case. Expert testimony is often diverse. The following concepts may assist in valuing a small business or stock in closely held corporations.

- (a) **Net Equity.** Establish the market value of the assets and deduct liabilities. This will give a net equity upon liquidation value.
- (b) **Ongoing Business.** An ongoing business sometimes has greater value than the net equity. Some experts have used formulas to estimate the value of a business:
 - 1. Net equity plus 1.5 years net profit,
 - 2. Net equity times 1.5, *or*
 - 3. A multiple times 1 years net profit (range 3.5 to 5).
- (c) **Net Profit.** When calculating net profit, the salary and benefits paid to principals should be in line with the market.
- (d) **I.R.S. Value.** Counsel and expert witnesses on value should consider the factors described in I.R.S. Revenue Ruling #59-60.
- (e) **Book Value.** Book value when assets have been depreciated based upon I.R.S. schedules are usually not reliable in determining market value.

5.10 Tax Refunds - Tax Liability.

Generally, the Court considers prepayments of taxes, *e.g.*, federal and state income tax withholding or estimated payments, are marital assets and that the tax liability for income which the parties mutually enjoyed is a marital debt.

In the usual case, the Court will order that any tax refunds from the last year the parties were married should be shared equally notwithstanding the parties' respective earnings. Conversely, it will usually be the Court's decision that tax liability for the last year of marriage should be treated as a marital debt and paid from the parties' assets or treated as other marital debts. See Section 5.04.

5.11 Retirement, Pension, and Thrift Plans.

The value of retirement, pension, and thrift plans ("the Plan") should be determined so that the Plan may be distributed proportionately by a Qualified Domestic Relations Order (QDRO), or the value can be offset against other assets to make a fair division. The order distributing the Plan may provide that the Court has continuing jurisdiction to modify a QDRO to give effect to the order of the court and to satisfy the requirements of the Plan administrator. Pursuant to K.S.A. § 74 - 4923(b), KPERs benefits can be subjected to a QDRO in certain circumstances.

Factors that may be considered in the valuation, identification, and distribution of the Plan include, but are not limited to, the following: whether the Plan is vested; type of plan (i.e., "Defined Benefit Plan" or "Defined Contribution Plan"); length of marriage; total time spent at the employment; time spent at the particular employment while married; age of the parties; benefit to be received at time of retirement; life expectancy; tax consequences; discount rate; and the terms of the Plan. In determining the present value of a retirement benefit, the Court will consider the discount rate used to determine the present value of U.S. Treasury Notes or Bonds for a term near to the same period of time as the time between the valuation date and the date the Plan participant is first eligible to retire.

5.12 Preparation of QDROs and QMCSOs.

Absent an order of the Court or an agreement of the parties clearly expressed in a Separation and Property Settlement Agreement to the contrary, the party or counsel whose client will benefit by the division of a deferred tax asset will be responsible for drafting any Qualified Domestic Relations Order (QDRO) or similar order which is necessary to effectuate the division of such an asset. The "participant" or their counsel under a deferred tax plan shall provide to the "alternate payee's" counsel, prior to the submission of a separation and property settlement agreement to the Court, a copy of the plan, or a summary, along with any forms or guidelines available from the plan administrator, that would assist the "alternate payee's" counsel in the drafting of a QDRO or similar order. Such information shall include, at a minimum, the name and address of the plan administrator.

Absent an order of the Court or provision in a Separation and Property Settlement Agreement to the contrary, counsel for the party who will have residency for the children will be assumed to be responsible for the preparation of any Qualified Medical Child Support Order (QMCSO) which is determined to be necessary to insure continuing medical insurance coverage for the parties' children.

Upon a request by that counsel, the attorney for the party who is required to maintain the medical insurance for the children (or that party, if not represented by counsel), shall provide forthwith information showing the name and address of the plan administrator and the specific information identifying all insurance plans that will cover the parties' children.

5.13 Use of Expert Witnesses.

The Court will require the disclosure of expert witnesses at least thirty (30) days in advance of any hearing in which such expert will testify. In order to conserve the parties' assets, parties are encouraged to agree upon valuation experts and to stipulate to valuations of those experts.

6.0 Maintenance.

6.01 Temporary Maintenance.

Temporary maintenance orders are entered to provide for the parties' needs for several weeks during the pendency of the proceeding, and has a different purpose than the award of permanent maintenance. The guideline for permanent maintenance is not applicable to temporary maintenance.

The Court's approach to temporary maintenance is to allocate from the parties' joint net incomes amounts for their rent or house payments, assign responsibility for payments to creditors, provide for child support to the residential parent, then equally divide the funds available. These calculations require use of the total net income of both parties and can be made on Worksheet T. See Appendix 6-1.

Health insurance should be provided, either as a deduction from gross income or assigned as a monthly payment. Usually, it is best to keep existing health insurance in place. If the cost of health insurance is paid through a payroll deduction, use the payor's net income after the deduction.

Frequently, due to the amount of debt and the increased expenses of dividing the household, there will not be sufficient funds to pay for separate shelter for each party and to pay all creditors. In those cases, payments on some debts must be delayed and/or the parties must temporarily arrange to live with friends or relatives. Generally, the court will attempt to allow a minimum of \$450 per month to each party for personal discretionary spending over the amounts allocated for shelter, child support and assigned debts.

When calculating temporary maintenance with the use of Worksheet T, the parents' total child support obligation entered on line 3 of Worksheet T shall be the amount as determined on line 7 of the Shawnee County Child Support Worksheet. However, when calculating the parents' total child support obligation on the Child Support Worksheet, no adjustment to the Domestic Gross Income shall be made for temporary maintenance paid or temporary maintenance received on lines C.3. and C.4. of the Child Support Worksheet, as the parties' income has already been equalized on Worksheet T. Additionally, no income should be imputed to a party in the preparation of a Worksheet T.

6.02 Permanent Maintenance.

Permanent maintenance should be considered after making division of the parties' assets and allocation of the liabilities of the marriage, but before calculating child support. (See Section 5) There is no presumption that permanent maintenance should be awarded in any given case and whether it should be awarded is discretionary.

The primary factors that are considered in determining any award of maintenance are:

1. Ages of the parties.
2. Present and prospective earning capacities of the parties.
3. Property owned by the parties and the division of marital assets and debts made by the court.
4. Length of the marriage.
5. Parties' needs including physical or mental health.
6. Time, source and manner of acquisition of the property.
7. Family ties and obligations.
8. Parties' overall financial situation including obligations for child support.
9. Contribution or sacrifice by one party to aid other party's education or career.
10. Gross and extreme misconduct where the failure to penalize would itself be inequitable.

The guideline formulas contemplate that only a fraction of the income difference be awarded and that the maximum duration for maintenance (121 months) would be ordered when there has been at least a 29 year marriage. When persons are disabled or are on fixed incomes, these limitations may not be realistic. For example, when persons are drawing retirement pensions, the court will usually attempt to equalize the income for a duration of 121 months.

(a) Original Maintenance - No Children.

The maintenance guideline is 25% of the difference between the gross incomes (or earning capacities in the event the Court is satisfied that one of the parties could be earning more than he or she is, in fact, earning) of the parties up to a difference of \$50,000 per year. If there be a greater than \$50,000 difference per year in the earnings of the parties, then add 22% of the difference in excess of \$50,000.

EXAMPLE: Husband earns \$90,000 per year and wife earns \$10,000 per year. The amount of the maintenance to be paid from husband to wife would be \$1,592 per month. (25% of the first \$50,000 difference is \$12,500 which divided by 12, equals \$1,042, 22% of the balance of the difference, (\$30,000) is \$6,600 which, divided by 12, equals \$550. The sum of \$1,042 and \$550 is \$1,592 per month.)

(b) Adjustment to Original Maintenance When Child Support Is to be Ordered.

When child support will be ordered, the guideline amount is 20% of the difference in gross incomes (or earning capacities if the Court is satisfied that one of the parties could be earning more than he or she is, in fact, earning) of the parties up to a difference of \$50,000 per year. If there is a greater than \$50,000 difference, then add 17% of the difference in excess of \$50,000.

EXAMPLE: If the parties in the above example had children, the maintenance amount could be \$1,258 per month. (20% of 50,000 = 10,000 divided by 12 = 833; 17% of 30,000 = 5,100 divided by 12 = 425; 833 + 425 = \$1,258)

The decree should specify that the original maintenance award of \$1,592 is reduced and ordered to be \$1,258 per month, due to the amount of child support ordered. The amount of maintenance may be modified to the amount originally awarded if changes in child custody or child support amounts significantly alter the relative economic positions of the parties.

After calculating maintenance under this section, the amount ordered paid (and received) should be entered in section C of the Child Support Worksheet.

6.03 Length of Time for Payment of Maintenance.

Maintenance should terminate upon the first happening of the following events: (i) death of either party, (ii) remarriage of the maintenance recipient, or (iii) the passage of x years (where x is equal to the lesser of [a] ten years, or [b] a number calculated by taking the number of years of the marriage up to 5 and dividing by 2.5, and dividing the number of years over 5 by 3, then adding the two amounts.) In calculating the duration for permanent maintenance, the length of time should be rounded to the nearest month.

EXAMPLE 1: The parties have been married for seventeen years. The maximum length of maintenance would, accordingly, be calculated by dividing five by 2.5 which equals 2 years and 12 by 3 which equals 4. Total duration of maintenance would be 6 years.

In determining the length of the marriage, the duration should be calculated from the date of the marriage (or, if applicable, the date the parties began cohabitating and mutually acquiring a substantial amount of real or personal property prior to the marriage) to the date of the parties' separation.

In setting the maximum length of maintenance in the decree, the period that temporary support was paid (after the parties' separation but before the settlement or trial) should be subtracted from the total maintenance period.

EXAMPLE 2: The parties were married in April of 1986, but mutually had acquired \$2,000 worth of household furniture for a shared living arrangement in April of 1985. The parties separated in April of 1995, but did not settle their divorce case until January of 1996, (3/4 of a year after the separation). The length of the time of the parties' "marriage" for purposes of

calculation of the duration of maintenance would be from April of 1985 (the date the parties commenced the mutual acquisition of property) until April of 1995 (the date the parties separated) and the total maintenance period would be reduced by the period of time that temporary maintenance was paid.

A calculation of the guideline length of maintenance for the ten year relationship is 3.66 years (3 years, eight months). The parties have, however, been separated for 9 months during which time, husband has made temporary support payments to wife. The guideline length of maintenance for the decree would, therefore, be 35 months. The decree may reserve jurisdiction to extend maintenance if deemed appropriate in the circumstances at the time of the motion.

7.0 Custody, Residency and Parenting Time Guidelines.

7.01 General Considerations.

The mother and father remain parents even though their marriage is legally terminated. As parents, each has an obligation to ensure that the child has contact with the other parent unless the child would be harmed. Frequent contact with each parent includes physical residency, parenting time, correspondence, telephone conversations, and other contact. Each parent is expected to follow through with the scheduled contact. Each parent is expected to supply the other with a current residential and work address and telephone numbers, and to advise the other of any changes within a reasonable time after the change.

Many children suffer stress and maladjustment, not just from the divorce process, but from the continuing conflict between the parents before, during and after the divorce. To minimize conflicts, the parents should have a parenting arrangement for mutual access consistent with the needs of their child and adjust their work and leisure schedules accordingly. Good co-parenting will require them to consider the child's interests as they determine such issues as where to live, their working hours, vacations and even social relationships.

Negotiated settlements of custody, residency and parenting time are almost always in the child's interest compared with contested litigation, which is expensive, stressful and delays resolution of the case. A court decision cannot be as sensitive to the parents' or the child's priorities, strengths and traditions, as the parents' parenting plan can be. Counsel should advise clients of the advantages of an agreed residential arrangement before the parties enter conciliation, mediation, counseling or other social service process.

(a) Children's Rights When Parents Divorce.

Parents should keep the following enumeration of the child's rights in mind as they negotiate.

1. The right to a continuing relationship with both parents.

2. The right to express and receive love and affection from both parents without fear of disapproval by the other parent.
3. The right to continuing care and guidance from both parents.
4. The right to honest answers to questions about the change in the family relationship and to know it is not their "fault" or responsibility.
5. The right to a relaxed and secure relationship with both parents, free from abuse of any kind.
6. The right to know and appreciate what is good in each parent without one degrading the other or undermining the relationship with the other.
7. The right to regular and consistent contact with both parents and the right to know the reason for cancellation or alteration of the regular contact.

7.02 Temporary Custody Criteria - Parents in Divorce Seminar.

The temporary custody orders (Appendix 2-5) provide for joint legal custody for the minor child. The temporary residential placement will usually be with the parent who has in the past provided primary care for the child.

The Court's standard temporary custody orders provide for "reasonable parenting time" and require both parents to attend the Divorce Seminar within 4 weeks from date of entry of the temporary custody order. Counsel should provide clients with the Seminar brochure at the first interview. Pro se litigants should pick up the brochure from the clerk's office. If neither party has attended, the decree may not be approved. If only one party has attended and the other refuses, the order may provide primary residency for the attending party. The Court will not set motions for hearing that involve custody or parenting problems that are filed by a party who did not attend the seminar. Counsel should exchange copies of the certificates of completion and file the originals with the Clerk of the District Court.

7.03 Custody and Residency Determination Criteria.

(a) Deciding Custody and Residency.

In deciding custody, the Court will consider the following factors in conjunction with those specifically set forth in K.S.A. 60-1610:

1. The existing parental bond between each parent and child.
2. The quality and quantities of caretaking made by each parent in the past and the quality and quantity of caretaking contribution that each parent is likely to make

in the future.

3. Any evidence of harmful or negligent caretaking in the past.
4. The attitude and willingness of the parent to foster the child's relationship with the other parent.
5. The ability of each parent to provide for the needs of the child, including any special needs.
6. The amount of change involved and its possible effect on the child.
7. Presence of spousal abuse.
8. Other factors affecting the best interests of the child.

(b) Motions For Change of Custody or Residency.

All post judgment motions for change of custody or residency shall state with particularity the material change of circumstances upon which the movant relies to support his/her motion, verified by the moving party. See K.S.A. 60-1628.

7.04 Forms of Custody and Residency Defined.

(a) Sole Legal Custody.

One parent has sole legal custody and determines all issues regarding the child's life, *e.g.*, education, medical care and religion. The Court must make specific findings of fact upon which the order for sole legal custody is based. The award of sole legal custody to one parent does not deprive the other parent of access to information regarding the child unless the court so orders, and states the reasons for that determination.

(b) Joint Legal Custody.

The Court may designate a primary residential parent. Joint legal custody means the parties have equal rights and responsibilities concerning their minor children, and acknowledge that neither party has rights superior or inferior to the other's. In keeping with their joint, shared and equal responsibilities, the parties shall consult with one another upon issues and matters of importance including, but not necessarily limited to, day care providers, discipline, education, religious and/or spiritual training and education, summer camps, illnesses and operations (except emergencies), special tutoring, orthodontic needs, and other important matters pertaining to the health, welfare and general well-being of their child. Joint legal custody does not give the nonresidential parent veto power.

(c) Shared Physical Residency.

Shared physical residency contemplates a nearly equal sharing of responsibilities for raising the child. Most shared physical residency orders are by agreement of the parties. Providing for a rotation schedule with the child's residence in two places will receive careful scrutiny.

The Court will consider the following factors to determine whether or not a shared physical residency plan should be approved or ordered:

1. The plan should be child centered. The overall plan should promote the welfare and best interests of the child as opposed to the convenience or personal interests of the parent.

2. There should be a joint commitment of sharing residency.

(a) Both parents must demonstrate an affirmative commitment to equally sharing parental responsibilities.

(b) Both parents should show a willingness to foster the other parent's relationship with the child.

(c) The parents have demonstrated a willingness to conform their personal lifestyles, including employment and personal relationships, to the child's needs. The parties should maintain residence within close proximity to the children's schools and the other parent, to minimize the time, inconvenience and extra effort necessary to carry out a shared physical residency plan.

Close proximity means near the other parent. Some measures of proximity that the court considers favorable are: whether the child can go between the parents' homes alone, by walking, bicycle etc; residence within same school attendance center; minimum time and difficulty involved in transportation between parent's homes and between both parent's homes and school.

3. There should be an absence of conflicts.

(a) The parents must have a compatible parenting philosophy and demonstrate general agreement regarding the children's education, religion, activities, and health care.

(b) The parties have demonstrated a cooperative attitude throughout the legal proceedings, shown respect for each other and demonstrated an ability to compromise. Most of the issues in the divorce should have been amicably resolved.

- (c) Substantiated claims of domestic violence, threatening or abusive behavior is contradictory to shared parenting.

4. Shared physical residency increases the parents costs.

- (a) Most estimates are that shared residency increases the expense of raising children 25 to 35 percent. The parties should have sufficient resources available to maintain two separate but relatively equal households, extra clothing, toys and personal effects without the children significantly suffering a lower standard of living.
- (b) The parties' history and demonstrated ability to cooperate in dividing expenses, sharing transportation and other parental responsibilities will be considered.
- (c) The parent's interest in shared physical residency should not be economically driven.

(d) Split or Divided Residency.

Each parent maintains the primary residence for one or more of their children. The residential parent could have sole custody or joint custody with primary residency. The Court will not normally order divided residency because of the policy of keeping siblings together.

7.05 Required Custody and/or Residency Mediation or Conciliation.

The Court shall require the parties in contested custody and/or residency actions to participate in two mediation or conciliation sessions before setting the case for hearing. See Section 1.16. In some cases, the court may order case management in lieu of mediation before setting the case for hearing.

7.06 Parenting Time Guidelines.

(a) Generally.

Notwithstanding the form of custody, both parents should have reasonable parenting time with the child. As a general rule, the more time the child has with each parent, the better. Parents who desire to be closely involved with their children should arrange to live in close proximity. See Section 7.21.

(b) Flexibility.

Child development research concludes that children of divorce have special needs

which should be considered as the parents and attorneys negotiate the issue of parenting time. A child's needs and ability to cope with the parents' situation change as the child develops. Each child is different. To assist in healthy child adjustment, parents should be flexible in adapting the parenting time schedules to the child's changing needs as the child matures. Teenagers often have many non-family interests and parents should take these into account as they develop parenting plans, especially summer when the child's schedule includes jobs, camps or sports leagues. Section 7.07 includes suggestions as to age appropriate parenting time and will be used when the parties are unable to agree on their own schedule.

(c) Clothing.

The residential parent shall send an appropriate supply of clothing with the child. The nonresidential parent shall return the clothing, clean if possible, with the child or by the next visit. The child should be allowed to take reasonable amounts of clothing and toys back and forth between houses. If there is shared physical residency, both parents should have a supply of clothes, but a child should still be allowed to take clothes back and forth.

7.07 Standard Parenting Time.

These guidelines are meant to apply to the majority of situations where the residential parent has been the primary caretaker and the nonresidential parent has maintained a continuous relationship but has not shared equally in the caretaking. They may not apply where the parents are truly sharing equally in all of the caretaking responsibilities for the child and the child is equally attached to both parents.

(a) Infants and Toddlers.

Infants (under eighteen months) and toddlers (eighteen months to three years) have a great need for continuous contact with the primary caretaker who provides a sense of security, nurturing and predictability. Generally, overnight stays for infants and toddlers are not recommended unless the nonresidential parent is closely attached to the child and is able to provide primary care. The Court will order parenting time depending upon the child's age, health, nursing arrangements, child care and the historical care provided by each parent. Generally, the Court will encourage frequent visits (at least 3 two hour visits per week with one weekend day for six hours) for a nonresidential parent of an infant. There may need to be special considerations for a breast-fed baby.

(b) Age 2 1/2 to 6.

Generally, the Court views standard minimum parenting time for children age 2½ through kindergarten to be two evenings per week, e.g., Tuesday - Thursday (possibly 5:00 a.m. to 8 p.m. and one weekend day alternating between Friday night to Saturday and Saturday night to Sunday (5 p.m. to 5 p.m.). This schedule accommodates the goals of frequent

contact, defined schedule, stable day care and familiar bed. Frequent short visits in addition to scheduled parenting time are encouraged and should be freely permitted in most cases.

(c) Age 6 to 12.

Standard minimum parenting time for children age 6 (first grade) and older is alternating weekends (2 or 3 nights) and at least one evening every week. The mid-week parenting time may be expanded to overnight if the circumstances do not unreasonably impose upon the child or the parents. Short visits of 2-3 hours during the week or on the "off" weekend in addition to scheduled parenting time are encouraged and should be freely permitted.

(d) Age 13 to 18.

Beginning at about age 13, the Court will give greater weight to a child's activities and desires in establishing parenting time. After age 16, the parenting time schedule should allow the child to have contact with parents while not unduly limiting the child's work, school activities and a reasonable social life. Within reason, the parent should honestly and fairly consider their teenager's wishes. Neither parent should attempt to pressure their teenager to make a decision adverse to the other parent. Teenagers should explain the reasons for their wishes directly to the affected parent, without intervention by the other parent. One overnight every weekend rather than full alternating weekends and overnights during the week may be more acceptable for children over 16. Although the wishes of a child over 16 will be considered, they are not controlling.

Section 7.08 shows the concerns, common mistakes and makes recommendations on parenting time options by age.

7.08 Parenting Time Outline

PRIMARY

PARENTING TIME	AGE	AGE	AGE
DEVELOPMENTAL TASKS	OF CHILD	ACCESS NEEDS	COMMON MISTAKES
			OF CHILD
			THAT MAY WORK
	<u>Birth to 2½</u>		<u>Birth to 2½</u>
1) Develop trust; 2) Attachment to care givers; 3) Dependency needs met.		1) Frequent, dependable contact; 2) Daily schedule consistency (meals, sleeping); 3) Frequent but short contact with nonresidential parent; 4) Day-care same.	1) Alternating days, weeks or months; 2) Every other weekend only; 3) No familiar bed; 4) Long periods away from primary care giver(s) and home
	<u>2½ to 5 yrs</u>		<u>2½ to 5 yrs</u>
1) Role modeling; 2) Appropriate opposite sex directed behaviors; 3) Development of self-concept.		1) Very reliable and frequent contact with both parents; 2) Very reliable day-care; 3) Parents not conflicting with each other; 4) Consistent schedule for child.	1) Alternating days and weeks; 2) Inconsistent discipline between homes; 3) Different day-care; 4) Every other weekend only; 5) Inconsistency in daily schedule.
	<u>6 to 10-11 yrs (girls)</u> <u>6 to 12-13 yrs (boys)</u>		<u>6 to 10-11 yrs (girls)</u> <u>6 to 13 yrs (boys)</u>
1) Social skill development; 2) Self-esteem enhancement; 3) Morality/conscience development; 4) Beginning independence; 5) Sex role practice.		1) Perception fair access arrangements; 2) Social stability and frequent reliable contact with both parents; 3) Meet dependency/loneliness issues; 4) Consistent discipline and rules; 5) Consistent support of child's activities.	1) Long or difficult travel arrangements; 2) School year with one parent summer with other if not significant contact during school year or strong relationship; 3) Parents demeaning other parent or open conflict; 4) Cohabiting or remarriage soon after divorce.
	<u>Up to 18 yrs</u>		<u>Up to 18 yrs</u>
1) Completion of identity and self-confidence; 2) Survive puberty; 3) Attachment to peer and exploring intimacy; 4) Emotional self-discipline and self-sufficiency.		1) Perception of fair access arrangements; 2) Discipline consistency; 3) Same general rules in both homes; 4) Access to peers; 5) Parents (not child) makes decisions; 6) Child involved in own activities with both parents involved and supporting.	1) Forcing child to miss activities to be with other parent; 2) Letting child set the schedule (without parents' agreement); 3) Not respecting other parent or showing lack of support of other parent's discipline; 4) Parent exhibiting sexual promiscuity (child will imitate); 5) Child, not parents, making decisions; 6) Parents communicating through child.
			1) If relationship strong-homes visit similar; a. Weekdays/weekends; b. 2 or 3 overnights/week; c. Each parent 2 consecutive days fixed, alternate 3 day weekend; 2) If not: a. Alternate weekends & alternate Wednesdays; b. Up to 3 visits of 2 weeks each in summer.
			1) Weekdays/ weekends; 2) Every other weekend plus one arranged around child's activities; 3) Child resides in one house most of the time or clear control by consistent and cooperating parents; 4) June and July with nonresidential parent; 5) Pop and Mealtime visits for busy teens.

7.09 Holiday Parenting Schedule - Structured Parenting Time Orders.

Parents should be encouraged to maximize the contact between each parent and the child(ren) and to consider past family traditions. The following schedules will generally be followed by the Court for dividing holidays in structured parenting orders if the parents cannot agree to another schedule:

(a) School Aged Children

1. New Year's Eve and New Year's Day - From December 30th at 7:00 p.m. to 7:00 p.m. of the evening before school resumes with parent B in even-numbered years and with parent A in odd-numbered years.
2. Easter Weekend - From Friday at 6:00 p.m. until Sunday at 7:00 p.m. with parent B during even-numbered years and parent A during odd-numbered years.
3. Spring Break - Reside with each parent during one-half of the spring break, with the transfer to occur on Wednesday evening at 7:00 p.m. The parent normally having the child during the first weekend of spring break should continue to have the child until the Wednesday transfer.
4. Mother's Day - From 9:00 a.m. until 8:00 p.m. with the child's mother.
5. Memorial Day - From Friday at 7:00 p.m. until Monday at 7:00 p.m. with parent A in even-numbered years and with parent B during odd-numbered years.
6. Father's Day - From 9:00 a.m. until 8:00 p.m. with the child's father.
7. Fourth of July - From 7:00 p.m. on July 3rd until 9:00 a.m. on July 5th with parent A during even-numbered years and with parent B during odd-numbered years.
8. Labor Day - From Friday at 7:00 p.m. until Monday at 7:00 p.m. with parent B during even-numbered years and with parent A during odd-numbered years.
9. Halloween - Halloween evening with parent A in even-numbered years and with parent B during odd-numbered years.
10. Thanksgiving - From Wednesday evening at 7:00 p.m. until Friday evening at 7:00 p.m. with parent B during even-numbered years and with parent A during odd-numbered years. The parent who does not have the child on Thanksgiving should have the child on the weekend following Thanksgiving.
11. Pre-Christmas Period - From 7:00 p.m. the day school is dismissed for vacation until 10:00 a.m. on Christmas day with parent B during even-numbered years and with

parent A during odd-numbered years.

12. Christmas Period - From 10:00 a.m. on December 25th until 7:00 p.m. on December 30th with parent A during even-numbered years and with parent B during odd-numbered years. **NOTE:** If the entire spring or Christmas break is set aside to one parent, the extended residency should be alternated each year.

13. Parents' Birthdays - The child should spend part of the day with the respective parent on that parent's birthday.

14. Child's Birthday - The child shall spend the child's birthday with parent B in even-numbered years and with parent A in odd-numbered years. The parents should try to arrange for the child to have some time with the other parent, if feasible, on their birthday or the weekend before or after.

15. Conflict Between Birthday and Holiday - Where there is a conflict between a holiday and a birthday, the holiday schedule shall apply. The parties, should however, be flexible in allowing the birthday to be celebrated before or after the holiday period.

16. Conflict Between Weekend and Holiday - Where there is a conflict between a weekend and a holiday, the holiday schedule shall apply.

17. Weekend - The schedule of weekend parenting time shall be determined without regard to whether the regular schedule has been preempted from time-to-time by one of the scheduled holidays. There shall be no adjustment for "missed" weekends due to interruption by the holiday visitation schedule; however, the parties are encouraged to compensate for the missed parenting time so the non-residential parent will not go for three weekends without seeing the child.

18. Other Religious Holidays - If the parents follow other religious holidays, there should be a sharing of time with the child similar to those designed for Christian holidays.

(b) Birth to 2 Years Old

1. Easter Weekend - From Saturday at 6:00 p.m. until Sunday at 6:00 p.m. with parent B during even-numbered years and parent A during odd-numbered years.

2. Mother's Day - From 9:00 a.m. until 8:00 p.m. with the child's mother.

3. Memorial Day - From Saturday at 7:00 p.m. until Sunday at 7:00 p.m. with parent A in even-numbered years and with parent B during odd-numbered years.

4. Father's Day - From 9:00 a.m. until 8:00 p.m. with the child's father.

5. Fourth of July - From 7:00 p.m. on July 4th until 7:00 p.m. on July 5th with parent A during even-numbered years and with parent B during odd-numbered years.
6. Labor Day - From Saturday at 7:00 p.m. until Sunday at 7:00 p.m. with parent B during even-numbered years and with parent A during odd-numbered years.
7. Halloween - Halloween evening from 5:00 p.m. until 8:00 p.m. with parent A in even-numbered years and with parent B during odd-numbered years.
8. Thanksgiving - From Wednesday evening at 7:00 p.m. until Thursday evening at 7:00 p.m. with parent B during even-numbered years and with parent A during odd-numbered years. The parent who does not have the child on Thanksgiving Day should have the child on the day following Thanksgiving or a weekend day.
9. Christmas Period - From noon on December 24th until noon on December 25th with parent A during even-numbered years and with parent B during odd-numbered years.
10. Parents' Birthdays - The child should spend part of the day with the respective parent on that parent's birthday.
11. Child's Birthday - The child shall spend the child's birthday with parent B in even-numbered years and with parent A in odd-numbered years. The parents should try to arrange for the child to have some time with the other parent, if feasible, on their birthday or the weekend before or after.
12. Conflict Between Birthday and Holiday - Where there is a conflict between a holiday and a birthday, the holiday schedule shall apply. The parties, should however, be flexible in allowing the birthday to be celebrated before or after the holiday period.
13. Other Religious Holidays - If the parents follow other religious holidays, there should be a sharing of time with the child similar to those designed for Christian holidays

(c) **2 Years to 4 Years Old**

1. Easter Weekend - From Saturday at 6:00 p.m. until Sunday at 6:00 p.m. with parent B during even-numbered years and parent A during odd-numbered years.
2. Mother's Day - From 9:00 a.m. until 8:00 p.m. with the child's mother.
3. Memorial Day - From Saturday at 7:00 p.m. until Sunday at 7:00 p.m. with parent A in even-numbered years and with parent B during odd-numbered years.

4. Father's Day - From 9:00 a.m. until 8:00 p.m. with the child's father.
5. Fourth of July - From 7:00 p.m. on July 4th until 7:00 p.m. on July 5th with parent A during even-numbered years and with parent B during odd-numbered years.
6. Labor Day - From Saturday at 7:00 p.m. until Sunday at 7:00 p.m. with parent B during even-numbered years and with parent A during odd-numbered years.
7. Halloween - Halloween evening from 5:00 p.m. until 8:00 p.m. with parent A in even-numbered years and with parent B during odd-numbered years.
8. Thanksgiving - From Wednesday evening at 7:00 p.m. until Thursday evening at 7:00 p.m. with parent B during even-numbered years and with parent A during odd-numbered years. The parent who does not have the child on Thanksgiving Day should have the child on the day after or on a weekend day following Thanksgiving.
9. Christmas Period - From noon on December 24th until noon on December 25th with parent A during even-numbered years and with parent B during odd-numbered years.
10. Parents' Birthdays - The child should spend part of the day with the respective parent on that parent's birthday.
11. Child's Birthday - The child shall spend the child's birthday with parent B in even-numbered years and with parent A in odd-numbered years. The parents should try to arrange for the child to have some time with the other parent, if feasible, on their birthday or the weekend before or after.
12. Conflict Between Birthday and Holiday - Where there is a conflict between a holiday and a birthday, the holiday schedule shall apply. The parties, should however, be flexible in allowing the birthday to be celebrated before or after the holiday period.
13. Other Religious Holidays - If the parents follow other religious holidays, there should be a sharing of time with the child similar to those designed for Christian holidays.

(d) 4 Years to 6 Years Old

1. New Year's Eve and New Year's Day - From December 30th at 7:00 p.m. to 7:00 p.m. on January 2nd with parent B in even-numbered years and with parent A in odd-numbered years.
2. Easter Weekend - From Friday at 6:00 p.m. until Sunday at 6:00 p.m. with parent

B during even-numbered years and parent A during odd-numbered years.

3. Mother's Day - From 9:00 a.m. until 8:00 p.m. with the child's mother.
4. Memorial Day - From Friday at 7:00 p.m. until Monday at 7:00 p.m. with parent A in even-numbered years and with parent B during odd-numbered years.
5. Father's Day - From 9:00 a.m. until 8:00 p.m. with the child's father.
6. Fourth of July - From 7:00 p.m. on July 3rd until 9:00 a.m. on July 5th with parent A during even-numbered years and with parent B during odd-numbered years.
7. Labor Day - From Friday at 7:00 p.m. until Monday at 7:00 p.m. with parent B during even-numbered years and with parent A during odd-numbered years.
8. Halloween - Halloween evening from 5:00 p.m. until 8:00 p.m. with parent A in even-numbered years and with parent B during odd-numbered years.
9. Thanksgiving - From Wednesday evening at 7:00 p.m. until Friday evening at 7:00 p.m. with parent B during even-numbered years and with parent A during odd-numbered years. The parent who does not have the child on Thanksgiving should have the child on the weekend following Thanksgiving.
10. Pre-Christmas Period - From 7:00 p.m. on December 23rd until 10:00 a.m. on Christmas day with parent B during even-numbered years and with parent A during odd-numbered years.
11. Christmas Period - From 10:00 a.m. on December 25th until 7:00 p.m. on December 28th with parent A during even-numbered years and with parent B during odd-numbered years.
12. Parents' Birthdays - The child should spend part of the day with the respective parent on that parent's birthday.
13. Child's Birthday - The child shall spend the child's birthday with parent B in even-numbered years and with parent A in odd-numbered years. The parents should try to arrange for the child to have some time with the other parent, if feasible, on their birthday or the weekend before or after.
14. Conflict Between Birthday and Holiday - Where there is a conflict between a holiday and a birthday, the holiday schedule shall apply. The parties, should however, be flexible in allowing the birthday to be celebrated before or after the holiday period.
15. Other Religious Holidays - If the parents follow other religious holidays, there should be a sharing of time with the child similar to those designed for Christian

holidays

7.10 Summer Schedule.

As a general rule for school age children, the nonresidential parent should receive summer parenting time. The nonresidential parent should therefore assume responsibility for planning the summer schedule for the child taking into account the child's school, scout, sport or other activities. Attempts should be made to accommodate each parent's vacation plans. The residential parent should not make any commitments for the child during the months of June and July without consulting the nonresidential parent.

Child support may be adjusted if the total amount of summer parenting time exceeds 30 days. See Section 8.08. The residential parent should exercise the same mid-week and weekend parenting time when the child is with the other parent 2 weeks or more as the other parent had during the school year.

7.11 Child's Preference Considered.

An older child may express a preference as to the parent with whom the child wishes to reside, although the preference of a child is never determinative. The weight to be given to a child's preference will depend upon the child's age, maturity, intelligence and reasons the child can state for the preference. A clearly stated preference by a child over age 13 may be persuasive with the Court; a preference stated by a child age 8 - 12 may be given moderate weight; and little weight may be given to a preferences of a child under age 8. Considerable caution will be exercised by the Court in deciding to confer with children below the age of 8.

Absent other objective factors, a child's preference to a change of residency is often insufficient to persuade the Court. If the Court is to give consideration to a child's preference on residency, the preference must be expressed clearly, be convincing and must have existed for some period of time. Evidence of coaching or alienation is usually weighed against the parent engaged in these activities and appropriate sanctions may be ordered.

7.12 Vacation Periods.

Each parent should be able to take the child on an annual vacation trip of up to fourteen days, depending on the age of the child(ren), after at least 30 days advance consultation with the other parent regarding that parent's summer parenting time schedule. The vacation trip should not be scheduled during the other parent's holiday time or during the summer parenting time schedule, absent an agreement of the parties.

7.13 Notice of Missed Parenting Time.

Each parent shall advise the other as soon as possible if he or she cannot exercise assigned

parenting time. If the event is known about in advance, the nonresidential parent should give the residential parent at least three (3) days advance notice. If an emergency arises, the parent shall give notice as soon as possible. If scheduled parenting time must be canceled, the parent who must cancel has the primary responsibility to find appropriate supervision for the child during the scheduled period if the other parent is unable or unwilling to provide care during that time. Both parents should work together to find appropriate supervision.

7.14 Make up Parenting Time.

When a scheduled parenting time cannot occur due to events beyond either parent's control, such as illness, a mutually agreeable substituted date shall be arranged, as quickly as possible. Missed parenting time should not be unreasonably accumulated.

7.15 Mail and E-Mail Contact.

Parents and children generally should have an unrestricted right to send cards, letters, packages, audio and video cassettes, and e-mail messages to each other. Neither parent should interfere with the other. A parent should provide a child with self-addressed stamped envelopes for the child's use in corresponding with that parent.

7.16 Telephone Communication.

Telephone calls between parent and child should be liberally permitted at reasonable hours and at the expense of the calling parent. If necessary, the residential parent may call the child at reasonable hours when the child is visiting the nonresidential parent. The child may, of course, call either parent, at reasonable hours, frequencies and at the cost of the parent called if it is a long distance call. During long vacations the parent with whom the child is on vacation is only required to make the child available to telephone calls every five days. At all other times the parent the child is with shall not refuse to answer the phone, turn off the phone or put on a call blocker in order to deny the other parent telephone contact. If a parent uses an answering machine, messages left on the machine for the child should be returned. Parents should agree on a specified time for calls so that the child will be available.

7.17 Privacy of Residence.

A parent may not enter the residence of the other, except by express invitation of the other parent, regardless of whether a parent retains a property interest in the residence. Unless otherwise agreed, the child should be picked up and returned to the front entrance of the appropriate residence. The parent dropping the child off should not leave until the child is safely inside. Parents should refrain from surprise visits to the other parent's home.

7.18 Transportation Responsibilities.

Usually, transportation should be equally shared. Unless otherwise agreed, for parents living

in the same city, the nonresidential parent should pick up the child at the times specified from the residential parent. The residential parent should pick up the child for return home at the times specified. The parent with the child should have the child ready at the time he or she is to be picked up. The other parent should be prompt in picking up the child. The parents should communicate as early as possible regarding any delay, change or emergencies.

7.19 Problem Solving.

When disagreements occur regarding the child, both parents should make every effort to openly discuss options to resolve the disputes. If conflicts continue, parents should consider, or the Court may order the parties to attend educational classes, mediation, counseling, conciliation or case management.

7.20 Special Circumstances.

(a) Child Abuse.

When child abuse has been established and a continuing danger is shown to exist, the Court will generally cease all parenting time or allow it only under supervision, depending on the circumstances. Because allegations of child abuse can cause trauma to the child and damage relationships, the Court deals harshly with false allegations.

(b) Spousal Abuse.

Witnessing spousal abuse has long-term, emotionally detrimental effects on children. Furthermore, a person who loses control and acts impulsively with a spouse may be capable of doing so with children as well. Depending on the nature of the spousal abuse and when it occurred, the Court may require an abusive spouse to successfully complete appropriate counseling before commencement of unsupervised parenting time.

(c) Substance Abuse.

Alcohol or controlled substance abuse may result in a suspension or loss of parenting time or residential custody, or the imposition of supervised parenting time.

(d) Long Interruption of Contact.

In those situations where the nonresidential parent has voluntarily not had an ongoing relationship with the child for an extended period, parenting time should commence gradually to give the child time to adjust.

(e) Kidnapping Threats.

When it has been established that a parent has kidnapped or hidden the child, or

threatened to do so, physical residency or parenting time may be denied or supervised parenting time may be imposed.

(f) A Parent's New Relationship.

Parents should be sensitive to exposing a child too quickly to new relationships while the child is still adjusting to the trauma of the parents' separation and divorce.

(g) Religious and Cultural Issues.

In keeping with a child's cultural and religious heritage, parents should cooperate with each other and respect the child's needs to be raised in their faith or culture. Religious training should be left up to the parents. Because the First Amendment prohibits the Court from ordering anyone, including children, to any religious exercise, judges usually remain neutral on choice of religion. When parents cannot agree, the Court may have to make a decision. Absent parental agreement, the Court will usually order that a child attend a public school, rather than a private or church-sponsored school, unless the Court finds that the child has special needs or has been attending a private school and it is not in the child's interests to change. Religious and cultural issues should not be used to deprive the nonresidential parent of parenting time.

7.21 Moving.

Each parent should consult with the other before committing to move. The best interest of the child generally is served by frequent contact with both parents. Good parenting may limit a parent's freedom of relocation during the minority of their child. The parent intending to move must give proper notice (*not less than 30 days*) as required by K.S.A. 60-1620 or K.S.A. 38-1132. A move is normally considered a material change of circumstances for which the Court may consider a change in residency.

Factors to be considered include, but are not limited, to:

1. The effect of the move on the best interests of the child.
2. The effect of the move on any party having rights - parenting time, visitation.
3. The increased cost the move will impose on any party seeking to exercise rights.
4. Valid reasons for the proposed move.
5. Expense and impact of increased travel on the child and parent.
6. The child's attachment to the residential parent and the damage that may be caused from removing the child from the primary caretaker.
7. The child's relationship with the nonresidential parent and the frequency of contact in the current arrangement.
8. Effect of the move on the child's access to the nonresidential parent.
9. Impact of changing schools, friends, and distance from relatives.

7.22 Long Distance Parents.

Generally, the Court holds the view that parents have a duty to the children to keep the amount of travel involved to a minimum whether it is local or long distance. Where there is significant geographical distance separating the parents, they should consider the following:

(a) Weekly Telephone Contact or Teleconferencing.

A scheduled weekly telephone contact between the child and the absent parent. A child should have the right to call the nonresidential parent, collect, at any time. The parents can provide for videoconferencing.

(b) Nonresidential Parent Priority Weekends.

The nonresidential parent should have priority for those weekends when school vacation days, such as those for parent-teacher conferences, can afford a 3-4 day visitation period. Also, consideration will be given to permit the nonresidential parent to have more than half of the holiday break time.

(c) Extended Summer Residency.

Summer residency shall be set with weeks added incrementally as the child matures.

(d) Exchange of Information.

The parent with residency should send school records, school calendars, school photographs, activity schedules, report cards, standardized test results, etc. on a frequent basis to the other parent.

(e) Costs of Transportation.

As a general rule, the parent who moved from the jurisdiction will be charged the cost of transportation for long distance parenting time. The Court will consider the reasons for the move, the costs of parenting time, the parents' financial circumstances, and the historical frequency of parenting time before apportioning the expenses.

7.23 End of Summer Motions to Change Residency.

Except in emergency situations, motions to change residency filed after July 15 will not be heard until after September 1. Last minute motions to change residency filed by nonresidential parents who have had the children for the summer will not be heard until after school starts. The children will be expected to return home under the existing order for the fall semester of school, and until further order of the Court.

7.24 Urinalysis.

Upon order of the Court, the parties may be required to submit to random urinalysis drug screens conducted by Court Services. Contested drug screens may be confirmed by additional testing, at a cost to the party requesting confirmation. A positive drug screen may result in, but not be limited to: (1) suspension of parenting time; (2) temporary change of residency and/or custody to the other parent or a third party supervised parenting time; (3) further drug evaluation; and (4) continuing random UA screens by Court Services.

7.25 Parenting Plans

Temporary Parenting Plan.

(a) Generally, the Court will enter a temporary parenting plan in any case in which temporary orders relating to child custody are authorized.

As a general rule, the temporary parenting plan should provide for the following:

- (i) Designation of the temporary legal custody of the child;
- (ii) Designation of a temporary residence of the child;
- (iii) Allocation of parental rights and responsibilities regarding the child's health, education, and welfare;
- (iv) A schedule for the child's time with each parent, when appropriate.

(b) A parent seeking a temporary order, in which matters of child custody, residency or parenting time are included, shall file a proposed temporary parenting plan contemporaneously with any request for issuance of such temporary orders.

(c) If the parent who has not filed a proposed temporary parenting plan disputes the allocation of parenting responsibilities, residency, parenting time or other matters, that parent shall file and serve a responsive proposed temporary parenting plan.

(d) Either parent may move to have a proposed temporary parenting plan entered as a part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order.

(e) A parent may move for amendment of a temporary parenting plan, and the Court may order amendment to the temporary parenting plan, if the amendment is in the best interest of the child.

(f) If the proceeding is dismissed, any temporary parenting plan is vacated.

(g) A sample Proposed Parenting Plan is included as Appendix 2-3.

Permanent Parenting Plan.

(a) Although any parenting plan is always subject to the continuing jurisdiction of the court, a permanent parenting plan will generally be entered simultaneously with, or as a part of, the Decree dissolving the relationship or Journal Entry of Paternity.

(b) A permanent parenting plan may consist of a general outline of how parental responsibilities and parenting time will be shared and may allow the parents to develop a more detailed agreement on an informal basis. A permanent parenting plan must set forth the following minimum provisions:

- (1) Designation of the legal custodial relationship of the child;
- (2) A schedule for the child's time with each parent, when appropriate; and
- (3) A provision for a procedure by which disputes between the parents may be resolved without need for court intervention.

(c) A detailed permanent parenting plan shall include those provisions required by subsection(b), and may include, but need not be limited to, provisions relating to:

- (1) Residential schedule;
- (2) Holiday, birthday and vacation planning;
- (3) Weekends, including holidays and school in-service days preceding or following weekends;
- (4) Allocation of parental rights and responsibilities regarding matters pertaining to the child's health, education and welfare;
- (5) Sharing of and access to information regarding the child;
- (6) Relocation of parents;
- (7) Telephone access;
- (8) Transportation; and
- (9) Methods of resolving disputes.

(d) The Court shall develop a permanent parenting plan, which may include detailed provisions as the Court deems appropriate, when requested by either parent or the parents are unable to develop a parenting plan.

Dispute Resolution Procedure.

(a) The parties may agree on any appropriate form of post-decree dispute resolution. It may be difficult to anticipate the future needs of the children and/or the parties, and to specify the appropriate process in advance. Possible dispute resolution processes include, but are not limited to: mediation, conciliation, family therapy, co-parenting therapy, parenting classes, individual therapy, case management, and arbitration.

(b) Absent an agreement to the contrary, the court's general policy will be as follows:

A panel of Supreme Court approved domestic relations attorney-mediators or conciliators will be maintained by the court. To satisfy the dispute resolution component of the Permanent Parenting Plan, the Court will appoint a mediator or conciliator from the panel who shall:

- (1) Meet with the parties;
- (2) Identify the issues which are disputed;
- (3) Reach an agreement if possible;
- (4) If an agreement is not reached, then the mediator shall identify and discuss with the parties the various resources, or processes, which are available. This would include discussion of the costs associated with any appropriate option.
- (5) Assist the parties in selecting the most appropriate process.
- (6) Fees of the mediator or conciliator shall be divided equally between the parties unless otherwise ordered by the Court.

(c) The Dispute Resolution component of any Permanent Parenting Plan may be satisfied by citation to Section 7.25 "Dispute Resolution Procedure" of the Shawnee County Family Law Guidelines in any Separation Agreement, Decree, or other appropriate order.

8.0 Child Support Guideline Clarifications.

The Kansas Child Support Guidelines promulgated by the Kansas Supreme Court in Administrative Order No. 128 will be followed in Shawnee County District Court, with the following clarifications.

8.01 Income Sources.

As a general rule, the calculations of child support obligations should include all sources of

income. Child support calculations should include overtime and bonus income of the parents when such income sources were historically relied on by the family for support.

(a) Calculating Gross Income.

When calculating domestic gross income for a salaried person, the salary figure to be used is the current salary being paid. Income for the previous year should only be used when income fluctuates and it is necessary to approximate a current income figure. See Administrative Order No. 128, Section II.D.

(b) Parents' Income Greater than Child Support Schedules.

Section IV.C. of Administrative Order No. 128 provides a formula to calculate support when the total income is greater than the schedules. The use of this formula is discretionary.

If the parties' combined earnings exceed the amounts shown on the child support schedules, the court encourages deposit of funds into trusts or joint signature accounts to accumulate funds to be used for the benefit of the child as the parties agree rather than large payments from one parent to the other. Examples of how these funds can be used are for college, purchase of automobiles, educational trips and other major expenses benefitting the child.

8.02 Level Child Support Payments.

Child support covers a child's basic housing, food, clothing, and transportation. A regular periodic (monthly, weekly, bi-weekly or semi-monthly) child support obligation should be ordered as a general rule. Even with self-employed, sporadic or seasonal income, parents should pay a regular periodic child support obligation as it allows both parents to budget and protects the best interests of the children with an enforceable, determinable judgment. Non-uniform amounts must be entered by hand into the court's computer. Variable amounts of monthly child support should be avoided. A specific amount and due date should be set for all orders. (Prepayment of child support may be considered a gift.)

Any credits given for summer visitation should be amortized over the entire year. See Section 8.08.

8.03 Health Insurance and Uninsured Health Care Expenses.

Every order for child support should also include provisions for the child's health insurance and for proration of uninsured health care expenses based upon the parties' gross incomes after adding or subtracting maintenance. The order should state the fixed percentage to be paid by each parent. Uninsured health care expenses shall be shared pro rata.

Health care expenses include services rendered by licensed medical and osteopathic

physicians, chiropractors, optometrists, podiatrists, dentists, mental health professionals and any services, prescription drugs, devices or therapy prescribed by them including orthodontia. Before incurring any uninsured health care expense that will render the other parent liable for more than \$250, the contracting parent should advise and consult with the other parent.

The parent contracting for medical services, within thirty days after the insurance payment has been made, shall furnish to the other parent copies of statements that show the services rendered, the amount originally billed, the amount of insurance payment and the amount not covered by insurance. Any claims for reimbursement of uninsured health care expenses not submitted to the other parent within 6 months from the date the insurance payment was made will be presumptively disallowed. The reimbursement is due within fourteen (14) days from the date the claims were presented unless otherwise agreed to by the parties.

Whenever possible, counsel are encouraged to prepare a qualified medical child support order (QMCSO) to ensure adequate health insurance coverage for minor children. QMCSOs are authorized by K.S.A. 23-4,119. Subsection (a) of this statute states in part:

- (a) Whether or not a medical child support order has previously been entered, the Court may enter a medical child support order requiring either parent to provide coverage under any health benefit plan available to the parent after consideration of the cost of coverage, including deductibles and co-payments, in relation to the overall financial circumstances.

A QMCSO requires a group health insurance plan to provide medical coverage for the minor children of a parent who participates in the plan. A QMCSO can also require a group health insurance plan to provide coverage for the minor children, without any direction from the parent who participates in the plan. This is especially beneficial when the residential parent has no health insurance coverage, and the nonresidential parent refuses to cooperate in post-divorce matters involving medical and dental treatment for the minor children.

8.04 Child Support Enforcement Fee.

(a) Private cases that are enforced by the District Court Trustee shall have a fee of 4.0%. The fee shall be shared by both parents. The amount shown on line F.3. of the Child Support Worksheet should be multiplied by 2.0%. This fee will be added on line F.4. to the total monthly support obligation. The monthly cap of \$40.00 will apply to current support payments.

(b) IV-D Non-Public Assistance related cases that are enforced by the contracting agent of SRS may be assessed a 4 % fee. If this fee is assessed on the case, line F.3. of the Child Support Worksheet should be multiplied by 2.0%. This fee shall be collected by SRS.

8.05 Calculating Support When Divided Residency.

Divided residency occurs when each parent has one or more children from the marriage primarily living in their household. When this occurs, a child support worksheet must be completed for each household. The child support schedule for the number of the parties' children in the household should be used to determine the basic child support obligation amount for that household. After determining each parent's obligation for the child or children living in the other parent's household, subtract the lower support obligation from the higher support obligation. This is the amount of child support to be paid by the parent with the higher obligation. See Administrative Order No. 128.

8.06 Calculating Support When Shared Physical Residency.

Before considering adjustment in child support for shared physical residency, the Court will examine the existing court order and determine if shared residency exists as defined in Guideline 7.04(c). An adjustment for child support using the shared residency formula will only be addressed after the Court has reviewed the residency arrangement and is satisfied it is in the best interest of the child and has entered an order for shared residency. Cases where shared residency has not been ordered by the Court or shared residency cases that do not conform to the shared residency criteria as outlined in Guideline 7.04(c) will not be considered appropriate for a shared physical custody child support adjustment, but an adjustment using parenting time principles may be considered.

Equal time sharing does not relieve a parent from payment of child support unless there is also equal income and equal division of all expenses and responsibilities for caring for the children.

8.07 Parenting Time Adjustment.

It is anticipated that this section of the Shawnee County Guidelines will be superceded by a revision of the Kansas Child Support Guidelines

(a) The Kansas Child Support Guidelines mandate consideration be given of the time spent with the nonresidential parent as an adjustment to child support when the time spent with the nonresidential parent exceeds 30% of the time or more than 30 days. However, reaching either threshold standing alone does not entitle a nonresidential parent to receive credit for child support.

In determining if an adjustment should be made, the Court will primarily consider three factors:

- (1) the amount of expense incurred by the nonresidential parent;
- (2) the benefit (reduction of expenses) received by the nonresidential parent; and
- (3) the amount of time involved.

The Court will take into consideration the extent to which the nonresidential parent is contributing to the children's extracurricular activity expenses including, but not limited to, music

lessons (including cost of instruments), sports (including entry fees, uniforms and equipment), camps, scouting, dance lessons (including travel and costumes); and school expenses including, but not limited to, books, fees, yearbooks, senior pictures, junior/senior prom, and other similar expenses. Since more than time is involved, it follows that any adjustment made will not necessarily correspond to the amount of time spent, e.g. 35% of time does not standing alone justify a 35% reduction in support.

Generally, no credit will be allowed if there are less than 10 overnight visits per month. Between 10 and 15 nights per month, the Court may allow up to 1/30th of the line D.3 support obligation per night in excess of normal age-appropriate guideline visitation (generally between 5 and 7 nights per month), depending upon the relative costs, savings and benefits to the children. In cases where 15 or more nights are spent with the nonresidential parent and shared custody has been ordered, the case may be analyzed as a shared physical residency case using the primary factors set forth in Section 7.04(c).

8.08 Credit for Summer Parenting Time.

In the usual case, the Court will allow the nonresidential parent a credit of up to 50% of the monthly child support payment for each 30 days or more of summer parenting time. In determining the amount of the adjustment, the Court will consider the actual costs to the nonresidential parent and the actual savings or benefit to the residential parent due to summer parenting time. Credit should be made on line 2, Section E of the Child Support Worksheet so that there will be level monthly payments of child support, and the credit is amortized over the year.

EXAMPLE: The nonresidential parent will have the children for two months in the summer. The Worksheet line 9 support is \$600 per month. A 50% credit would be \$300 per month X 2 months or \$600. (\$600 divided by 12 months = \$50). The nonresidential parent should receive \$50 per month credit on line 2, Section E of the Worksheet. The final child support order would be \$550 per month.

8.09 Income Tax Considerations.

As a general rule, the parties should benefit equally from the dependents' exemptions for their minor children. Absent some other arrangement, this can be accomplished by dividing the exemptions equally, or alternating them from year to year. Before entry of the Decree of Divorce, if the nonresidential parent is to claim a dependent's exemption for a child, pursuant to either an order of the court or an agreement between the parties, the residential parent should execute IRS Form 8332. In the event the residential parent refuses to execute this form, an adjustment should be made on line E.3. of the Child Support Worksheet.

Parties should cooperate and maximize any potential tax savings that might be available if the exemptions for dependents are assigned creatively. For example, two income tax returns can be prepared for each party, one return with the exemptions and one without the exemptions. If it is

determined one party will then receive a substantial refund, the parties could agree to divide the refund rather than alternate the years in which they will claim the exemptions.

If the parties have greatly disparate incomes, they may each benefit if the party with the higher income claims all of the exemptions, and the other party receives one-half of the additional tax benefit in the form of a child support adjustment.

8.10 Mandatory Supplemental Orders.

The form of Appendix 8-2 shall be attached to every new or modified order of support, unless there is an agreement pursuant to K.S.A. 23-4,107(j)(1). This information should be included in the language of the order.

8.11 Temporary Child Support.

When calculating temporary child support using the Shawnee County Child Support Worksheet, no adjustment to Domestic Gross Income shall be made for temporary maintenance paid or temporary maintenance received on lines C.3. and C.4. of the Worksheet. See Section 6.01.

8.12 Withdrawal of Counsel.

Counsel should consider including a Withdrawal of Counsel Order filed simultaneously with the Journal Entry of Divorce to avoid confusion regarding notice of future child support enforcement proceeding, particularly those brought by SRS or its contracting agent for IV-D cases, or the District Court Trustee for private cases. Counsel remaining of record will have the responsibility of giving notice to the party of post-judgment proceedings before being permitted to withdraw.

9.0 Attorney's fees.

9.01 Assessing fees.

(a) General Policy.

Generally, each party should pay their own attorney's fees.

(b) Equal for Each Party.

Absent an obvious imbalance in the amount or nature of work performed, the attorney's fees as a general proposition will be presumed to be equal for each party.

(c) Other Factors.

Another factor that the Court will consider in deciding whether to require one party to pay the other party's fees is whether the litigation has been extended unnecessarily or made more difficult due to unreasonable conduct of one of the parties or their counsel. If one side is found to be at fault in this respect, the Court may require one party to pay some or all of the other party's attorney's fees.

(d) Presumptively Allowed.

When a written request to approve a proposed order to modify child support has been made pursuant to Section 1.04, and not responded to or declined, and the Court after a hearing finds that the proposed order was based upon current, accurate income data and calculated in accordance with the Kansas Child Support Guidelines, as supplemented by these guidelines, the moving party's attorney's fees will be presumptively allowed. Copies of the demand, supporting documents, time records and proposed order should be filed with the motion to modify, if attorney's fees are requested.

9.02 Determining the Amount of Fees.

(a) Factors Court Considers.

If the Court has determined that a portion or all of one party's attorney's fees should be paid by the other party and/or a party asks the Court to determine the reasonableness of an attorney's fees, the Court will consider the following factors:

1. The time and labor involved, the novelty and difficulty of the questions involved, and the skill or requisite learning necessary to perform the legal services properly.
2. That acceptance of the particular employment will preclude other employment by the attorney.
3. The fee customarily charged in the Topeka area for similar legal services.
4. The value of the marital estate and the results obtained.
5. Time limitations imposed by the client or by the circumstances.
6. The nature and length of the attorney's professional relationship with the client.
7. The experience, reputation, and ability of the attorney or attorneys performing the services.
8. The expense of an attorney's overhead in Shawnee County.
9. The efforts of counsel to minimize the parties' costs and expenses.

9.03 Simultaneous Billing.

If an attorney is consulted who specializes in a particular area such as taxation or pension plans, the fees of the principal attorney and the consultant should be allowed. Generally, the Court will not approve simultaneous billing for conferences between attorneys within the same firm engaged in discussion of routine matters or for supervision.

10.0 Emergency Divorces.

10.01 Obtaining an Emergency Divorce.

(a) Factors Court Considers.

Motions to waive the 60 day waiting period should be filed pursuant to K.S.A. 60-1608(a), as amended, and shall include a statement of the precise nature of the emergency, the substance of the evidentiary material to demonstrate the emergency and the names of any witnesses. Some factors that will be considered by the Court as significant in deciding these motions are:

1. The special adverse consequences of waiting the full 60 day period claimed, as compared to those suffered by all other divorcing couples.
2. The length or frequency of separation of the parties, if any, during the previous 24 months.
3. If there are minor children.
4. The length and nature of any marriage counseling or therapy process undertaken by the parties.
5. Whether or not there is threat of injury or an abusive situation.
6. Whether or not both parties have been represented by legal counsel.
7. The nature and extent of the parties' property and if there is a separation and property settlement agreement.
8. The steps taken to ensure full disclosure of marital property and if there has been an objective evaluation and verification.
9. Any adverse economic consequences caused by the waiting period.

(b) General Policy.

Generally, a letter rendered by a short-term counselor or mental health professional, concluding the stress and anxiety caused by an impending divorce constitutes circumstances for granting an emergency divorce, will not be considered a sufficient basis for an emergency divorce.

(c) **Time to answer.**

Unless otherwise agreed by the parties, a request for a declaration of any emergency shall not be heard prior to the expiration of the time permitted for the filing of an answer. Unless waived, notice of the hearing requesting the declaration of an emergency shall be given to all parties not in default not less than seven days prior to the date of the hearing. K.S.A. 60-1608(a), as amended.

11.0 Domestic Social Services.

11.01 Parents In Divorce Seminar.

DCR 3.401 requires all parties having minor children to attend the Divorceworks Seminar (or an approved equivalent). This seminar consists of two educational sessions on the effects of divorce on children and co-parenting issues after the divorce. Counsel should advise clients in cases with minor children that they must attend this seminar within 4 weeks from the date on which the petition for divorce is filed. The Court may not approve a journal entry finalizing a divorce until the parties have attended this seminar, or may not grant relief in a post-divorce dispute to a party who has not attended the seminar. Counseling is usually not viewed as a substitute for the seminar.

11.02 Court Services.

(a) **Services Provided.**

Services provided by the Third Judicial District Department of Court Services pursuant to K.S.A. 60-1607(a)(5) and K.S.A. 60-1615 on domestic cases referred by the Court are as follows:

1. Conciliation. Court ordered conciliation is an attempt to resolve the parties' differences in an informal setting with the assistance of a neutral Court Services Officer and to persuade them to reach an agreement. Unlike mediation (see K.S.A. 23-601), which is a confidential process, conciliation is an open process. The parties' agreement, or lack thereof, will be communicated to the court and counsel. This report will contain an evaluation of the dispute and may include a recommendation. Court Services does not undertake to resolve issues concerning property or debt distribution. Counsel should consult with the Court before preparing a conciliation order. The attorney responsible for preparing the conciliation order should submit a copy of that order to Court Services. See Appendices 11-1 and 11-2 for the Motion and Order for Conciliation.

2. Home Studies. Court Services will only conduct home studies in a limited number of cases. Before issuing an order for a home study by Court Services, the Court will examine the necessity for the study and the financial resources of the parties. Whenever possible, the parties should retain the services of an independent professional to perform home studies and custody evaluations. While home studies are for the use of court and counsel only, a party may file a motion to see the home study report. Information derived from children's interviews will be submitted to the Court under a separate cover from the main body of the report, if Court Services believes that information derived from these interviews could be of an inflammatory

nature or could place the child at risk. The Court may decide to disseminate this information to counsel by means other than furnishing a copy of the report to protect the child.

3. Case Management. Case management is the process by which the Court refers a case to Court Services for supervision and management. Case management is specifically designed for chronic cases in which there has been repeated and protracted litigation. Under supervision of Court Services, outside resources may be employed to resolve the on-going problems. The family members can contact the case manager directly. Case management is not a confidential process and the Court and counsel may be furnished reports and recommendations prior to court hearings. The parties may not file motions without first putting the issue before the case manager. Recommendations of the case manager become orders of the court within ten (10) days if no written objection is filed.

4. Protection From Abuse. The Clerk of the District Court shall notify Court Services personnel when a pro se petitioner requests ex parte orders pursuant to the Protection from Abuse Act. In such an event, Court Services personnel will meet with the pro se petitioner to assist the petitioner in determining whether or not relief is proper pursuant to K.S.A. 60-3101 before presenting the matter to the judge. If Court Services personnel are not available within a reasonable period of time, the Clerk will accept a petition as presented and refer the pro se petitioner to the appropriate judge.

5. Guardianship and Adoption. Court Services will provide assessments in contested guardianship or adoption cases. The Court will make referrals if there is financial need and/or the assessment cannot be obtained from other sources.

11.03 Court Ordered Referrals to Private Providers.

The following services are provided by the private sector and may be ordered by the Court on its own motion or the motion of either party. The cost of these services will be assessed against the parties by court order. The Court will make all reports available to counsel. Reports are not to be given to the parties, except on approval of the Court.

(a) Counseling (K.S.A. 60-1608(c), as amended).

The Court, on the motion of either party, may require the parties to participate in marriage counseling. The purpose of this court ordered counseling is to assist the parties in understanding their circumstances and minimizing the stress and trauma of the divorce proceeding. Although usually termed "marriage counseling," the purpose of this referral will not necessarily be to focus on reconciliation, unless so directed by the parties. The usual court order will compel both parties to attend at least three sessions with an approved therapist and up to six sessions if the therapist advises that:

1. The parties and/or their children will benefit from further counseling regarding the separation and the divorce process; or,
2. There are prospects for reconciliation.

(b) Family Counseling (K.S.A. 60-1617(a)).

The Court may at any time require the parties and any minor children to be interviewed and counseled to facilitate resolution of disputes over co-parenting during the separation and post divorce. The duration of family counseling is open-ended and would depend upon the circumstances and the professional opinion rendered.

(c) Child Custody, Residency and/or Parenting Time Assessment (K.S.A. 60-1615).

1. The case will be referred to a professional for investigation and evaluation of the personal circumstances of the children, the parents, and the home environment provided the child when there are serious disputes over the parenting ability or the environment. The assessment may include a recommendation to the Court on contested custody, residency and/or assessment issues.
2. When there are allegations of child abuse, the Court will endeavor to obtain a stipulation of the parties to the appointment of a single expert to both evaluate and treat the alleged victim and to minimize the expense and intrusion upon the child. If this process is to be successful, counsel should contact the Court before making contact with a mental health professional in the community to avoid "poisoning the well" and limiting the Court's alternatives for a neutral referral.

(d) Mediation.

Mediation is a process in which a neutral third party assists the parties to resolve their disputes and/or plan their agreements. Unlike a judge or an arbitrator, the mediator has no authority to impose a solution.

(e) Special Master K.S.A. 60-252, *et seq.*

1. A Special Master may be appointed by the Court to make recommendations for findings of fact and for disposition of the case. Unless the parties have stipulated, the Special Master recommendations will be subject to approval of the Court.
2. The Special Master should make a record sufficient to permit the Court to fully review the proposed findings and conclusions.
3. The Special Master will be paid by the parties, the fee to be apportioned by the Court.

11.04 Court Appointed Representation for Children.

(a) Guardian Ad Litem and Attorneys.

Either a guardian ad litem or an attorney may be appointed to represent the child's interest on motion of either party or on the Court's own motion. The fees of either the

guardian ad litem or the attorney will be assessed against the parties as costs, or in case of indigent parties, the costs will be assessed to the County.

(b) CASAs.

A CASA may be appointed for a child if the Court determines that a CASA would be of assistance to the Court or benefit to the child of divorcing parents. CASA volunteers will be appointed pursuant to existing court guidelines.

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Practice Standards
Appendix 1-1

Re: Doe v. Doe
Case No. _____

This is to advise that I represent _____ who is the child support (recipient)(payor) in this matter. The financial circumstances of the parties may have changed since the last court orders. Therefore, the existing child support orders may need to be modified to reflect the parties' present incomes and the current Kansas Child Support Guidelines.

Please provide me with the following information within ten (10) days of the date of this letter:

- (a) A copy of the most recent pay stub or record that shows (your/your client's) current salary or wage and annual earnings to date.
- (b) A copy of all W-2s and/or 1099 forms, or other evidence of income reflecting total income for last year.
- (c) Documentation of any work-related day care expenses that (you have/your client has) incurred to date this year.
- (d) Documentation of any health and dental insurance premium for the children that (you are/your client is) currently paying.

I am enclosing information that shows my client's current income and the W-2 statement(s) for last year.

In the event that you do not provide this information within ten days from the date of this letter, I will issue a subpoena to (your client's) (your) employer to obtain it. (If we must go to court to obtain the modification of the child support order, I will request the Court to order (you) (your client) to pay my fees pursuant to §1.04(a) of the Shawnee County Family Law Guidelines.

Sincerely,

NOTE - For self-employed, the request should be for business records and tax returns.

**Practice Standards
Appendix 1-2**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

NOTICE OF INTENT TO ISSUE BUSINESS RECORDS SUBPOENA
(Pursuant to K.S.A. 1997 Supp. 60-245 a (e))

COMES NOW _____ and gives notice to the Petitioner/Respondent that unless objection to the production of documents referenced in the Praecipe for Business Records Subpoena attached hereto is received within ten (10) days of the date of this Notice, the subpoena shall be served upon:

DATED this ____ day of _____, 20__.

Attorney for Petitioner/Respondent

(CERTIFICATE OF SERVICE)

**Practice Standards
Appendix 1-4**

In the District Court of Shawnee County, Kansas
Division _____

In the Matter of the Marriage of:)
) Case No. _____
)

UNCONTESTED HEARING CHECKLIST

The following checklist should be completed in all cases and presented to the Court at the time of the hearing.

- _____ 1. _____ Summons return; _____ Entry of Appearance; _____ Publication Affidavit.
- _____ 2. Complete Domestic Relations Affidavit; _____ Petitioner; _____ Respondent.
- _____ 3. Child Support Worksheet complete.
- _____ 4. Court Costs Paid - Will be paid by _____ (date).
- _____ 5. Attendance Certificates Parents in Divorce Seminar:
 _____ Petitioner; _____ Respondent.
- _____ 6. Mandatory Supplemental Orders for Child Support per Court Rule
 are included or attached to journal entry.
- _____ 7. Kansas Payment Center Form.
- _____ 8. Provisions for health insurance and uninsured health care expenses
 included in the child support orders.
- _____ 9. Typed Vital Statistics Form.
- _____ 10. _____ Settlement Agreement; _____ Agreed Decree; _____ Default Decree.
- _____ 11. Personal Property items have all been delivered.
- _____ 12. Other documents: IRS Form 8332; Titles; Deeds; IV-D application.
- _____ 13. Parenting Plan.

I certify the indicated items are completed and in the court file, available at hearing to exhibit and discuss with the Court or are incorporated into the proposed Journal Entry approved by counsel.

(Petitioner)(Respondent)

**Practice Standards
Appendix 1-5**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

PETITIONER'S/RESPONDENT'S (Circle One)
DOMESTIC RELATIONS AFFIDAVIT

1. Petitioner's _____
Date of Birth _____ Social Security Number _____
Address _____

2. Respondent's _____
Date of Birth _____ Social Security Number _____
Address _____

3. Date of Marriage: _____

4. Number of Marriages: _____
Petitioner Respondent

5. Number of children of this marriage or relationship: _____

6. Names, Social Security Numbers, birth dates, and ages of minor children of this marriage or relationship:

<u>Name</u>	<u>Social Security Number</u>	<u>Date of Birth</u>	<u>Age</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

7. Names, Social Security Numbers, and ages of minor children of previous marriage or relationship and facts as to residential custody and support payments paid or received, if any.

<u>Name</u>	<u>Name of Custodian</u>	<u>Social Security Number</u>	<u>Date of Birth</u>	<u>Support Paid Or Received</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

8. If this is a post judgment matter, please list any names, social security numbers, and ages of minor children from your present marriage or relationship.

<u>Name</u>	<u>S.S. Number</u>	<u>Date of Birth</u>	<u>Age</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

9. Petitioner is employed by: _____
(Name and address of employer)

Respondent is employed by: _____
(Name and address of employer)

with monthly income as follows:

A. Wage Earner	Petitioner	Respondent
1. Gross Income	\$ _____	\$ _____
2. Other Income	\$ _____	\$ _____
3. Subtotal Gross Income	\$ _____	\$ _____
4. Federal Withholding: (Claiming _____ exemptions)	\$ _____	\$ _____
5. Federal Income Tax	\$ _____	\$ _____
6. FICA (social security & medicare)	\$ _____	\$ _____
7. Kansas Withholding	\$ _____	\$ _____
8. Subtotal Deductions	\$ _____	\$ _____
9. Net Income (Line A.3. minus Line A.8).	\$ _____	\$ _____
B. Self-Employed		
1. Gross Income from Self-employment	\$ _____	\$ _____
2. Other Income	\$ _____	\$ _____
3. Subtotal Gross Income	\$ _____	\$ _____
4. Reasonable Business Expenses (Itemize on attached exhibit)	\$ _____	\$ _____
5. Self-Employment Tax	\$ _____	\$ _____
6. Estimated Tax Payments (Claim _____ exemptions)	\$ _____	\$ _____
7. Federal Income Tax	\$ _____	\$ _____
8. Kansas Withholding	\$ _____	\$ _____
9. Subtotal Deductions	\$ _____	\$ _____
10. Net Income (Line B.3. minus Line B.9.)	\$ _____	\$ _____

Pay period _____
 Petitioner _____ Respondent _____

10. Work Related Child Care Expenses:
 Weekly Expense _____ Name and Address of Provider _____
 \$ _____

11. Health Insurance Expenses: Family Coverage _____ Yes _____ No _____
 List the name of Health Insurance Plan, Name and Address of Administrator and the right pursuant to ERISA §601-608, 29 USC §1161-1168 (1986) to continued coverage for the spouse who is not a member of the covered employee group:

Which party pays for family health insurance coverage?: ___ Petitioner ___ Respondent
 Monthly cost of health insurance \$ _____; monthly cost of dental insurance \$ _____;
 Persons insured on family plan: _____
 What is the increased cost for providing family plan over the party's cost of single plan coverage?
 \$ _____; Any additional cost for number of dependents, if so, how much?
 \$ _____; Amount of annual deductible.
 _____%; coinsurance.

12. List any adjustments requested for child support purposes, the amounts requested and the reasons for said request:

a.	Long Distance Visitation Costs	\$ _____	_____
b.	Visitation Adjustment	\$ _____	_____
c.	Income Tax Considerations	\$ _____	_____
d.	Special Needs	\$ _____	_____
e.	Agreement Past Minority	\$ _____	_____
f.	Overall Financial Condition	\$ _____	_____

13. The assets of the parties are:

Asset and Ownership	Ownership		Date Acquired	Fair Market Value	Date of Valuation
	Joint or Individual				
A. Checking Accounts:				\$	
				\$	
B. Savings Accounts and Certificates of Deposit:				\$	
				\$	
C. Cash on Hand:				\$	
(Petitioner)				\$	
(Respondent)				\$	

*** PARAGRAPHS 12 D. THROUGH 12 K., 13, 14, 15 and 16 NEED NOT BE ANSWERED IN POST JUDGMENT PROCEEDINGS.***

D. Employer Retirement/Savings/ Pension Plans (401K, Pensions, Profit Sharing, etc.):				\$	
				\$	
E. Real Estate:					<u>County</u>
					<u>Appraiser</u>
					<u>Value</u>
				\$	
				\$	
F. Stocks, Bonds, Mutual Funds, and Other Marketable Securities:				\$	
				\$	
G. Money Owed to You:				\$	
				\$	
H. Life Insurance:				<u>Cash Value</u>	
				\$	
				\$	
I. Automobiles and Motorcycles:				<u>Fair</u>	
Make/Model/VIN#				<u>Market Value</u>	
				\$	
				\$	
				\$	
J. Miscellaneous Personal Property:					

Boats, Trailers or Campers:

_____ \$ _____

Hand or Power Tools:

_____ \$ _____

Jewelry:

_____ \$ _____

Guns:

_____ \$ _____

Camera Equipment:

_____ \$ _____

Antiques:

_____ \$ _____

Household goods and furnishings:

_____ \$ _____

Personal Injury or Worker's
Comp. Claims:

_____ \$ _____

K. All other Assets not
Included Above:

_____ \$ _____

_____ \$ _____

Total: \$ _____

14. List all liabilities of the parties: Include mortgages and indebtedness to banks, individuals, loan companies or on credit accounts. Indicate actual balance due as of the date this document is prepared. If secured, state the property which secures the loan.

Creditor	Balance	Amount of Monthly Payment	Security
_____	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	_____
Total:	\$ _____	\$ _____	

15. Recapitulation:

Assets

A. Checking Accounts	\$ _____
B. Savings Accounts	\$ _____
C. Cash	\$ _____
D. Retirement Plans	\$ _____
E. Real Estate	\$ _____
F. Marketable Securities	\$ _____
G. Accounts Receivable	\$ _____
H. Life Insurance	\$ _____
I. Misc. Personal Property	\$ _____
Total Assets	\$ _____

Liabilities

A. Real Estate Mortgages \$ _____
 B. Auto Loans \$ _____
 C. Total Other Debts \$ _____

 Total Liabilities \$ _____

 Parties' Net Worth \$ _____
 (Assets minus Liabilities) \$ _____

16. Identify the property if any owned by each of the parties prior to the marriage or acquired during marriage by family gift, will or inheritance.

17. List any payments or contributions received or paid by the parties:
 (Specify source or payee and the amount denoting (+) if income and (-) if payment.)

Source	Petitioner	Respondent
_____	_____	_____
_____	_____	_____

18. Income and financial resources of the children:

<u>Income/Resources:</u>	<u>Amount</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

19. The monthly expenses of each party are:

<u>Living Expenses:</u>	<u>Petitioner</u>	<u>Respondent</u>
A. House payment, rent or mortgage	\$ _____	\$ _____
B. Food	\$ _____	\$ _____
C. Utilities:	\$ _____	\$ _____
Trash service	\$ _____	\$ _____
Newspaper	\$ _____	\$ _____
Telephone	\$ _____	\$ _____
Gas and Lights	\$ _____	\$ _____
Water	\$ _____	\$ _____
Cable	\$ _____	\$ _____
D. Insurance:	\$ _____	\$ _____
Life	\$ _____	\$ _____
Health	\$ _____	\$ _____
Car	\$ _____	\$ _____
House	\$ _____	\$ _____
Other	\$ _____	\$ _____
E. Uninsured Health	\$ _____	\$ _____
F. Child care (babysitting)	\$ _____	\$ _____
G. Clothing	\$ _____	\$ _____
H. School expenses	\$ _____	\$ _____
I. Hair cuts and beauty	\$ _____	\$ _____
J. Car repair	\$ _____	\$ _____
K. Gas and oil	\$ _____	\$ _____
L. Personal property tax	\$ _____	\$ _____
M. Miscellaneous (Specify)	\$ _____	\$ _____
<u>Recreation</u>	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
TOTAL	\$ _____	\$ _____

(Please indicate with an asterisk all figures which are estimates rather than actual figures taken from records.)

**Practice Standards
Appendix 1-6**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

**PETITIONER'S/RESPONDENT'S
SUPPLEMENTAL FACTUAL STATEMENT**

(Pursuant to K.S.A. Chapter 60 and S.C.R. 164)

1. Names, addresses, dates of birth and Social Security numbers of both parties:
 - A.
 - B.
2. Names, ages and birth dates of the minor children of the marriage:
3. Names and ages of the minor children of previous marriages and facts as to custody and support payments:
4. Parents and Divorce Seminar completed:
5. Documents exchanged:
6. Date of marriage or relationship:
Date of separation:
7. Discovery:
8. Income of the parties:
 - A. Petitioner's gross monthly income:
 - B. Employer's name and address:
 - C. Respondent's gross monthly income:
 - D. Employer's name and address:
9. Date of valuation:
10. Assets:
 - A. Personalty:

- i. Checking Accounts:
- ii. Savings Accounts and Certificates of Deposit:
- iii. Cash on Hand:
 - Petitioner:
 - Respondent:
- iv. Employer Retirement/Savings/Pension Plans (401K, Pensions, Profit Sharing, etc.):
- v. Stocks, Bonds, Mutual Funds, and Other Marketable Securities:
- vi. Money Owed to You:
- vii. Life Insurance: Cash Value
- viii. Automobiles and Motorcycles:
 - Make/Model/VIN# Fair Market Value
- ix. Miscellaneous Personal Property:
 - Boats, Trailers or Campers:
 - Hand or Power Tools:
 - Jewelry:
 - Guns:
 - Camera Equipment:
 - Antiques:
 - Personal Injury or Worker's Compensation Claims:
- x. All other Assets not Included Above:

Total: \$ _____

B. Real Estate:

11. Debts and obligations:
12. Non-marital assets:
13. Attorney's fees:
14. Tax returns/refunds/liabilities:
15. Maintenance:
16. Custody and visitation:
17. Child support:
18. Witnesses (other than parties, include name, address and telephone number):
19. Documents to be exchanged:

Submitted by

Attorney for Petitioner/Respondent

**ADDENDUM TO PETITIONER'S/RESPONDENT'S
SUPPLEMENTAL FACTUAL STATEMENT**

ASSET/DEBT	TO WIFE	TO HUSBAND
<u>1. Checking accounts</u>		
\$0 Description	\$ 0	\$ 0
\$0 Description	\$ 0	\$ 0
<u>2. Savings accounts & CD's</u>		
\$0 Description	\$ 0	\$ 0
\$0 Description	\$ 0	\$ 0
<u>3. Cash on hand</u>		
\$ 0 Wife	\$ 0	\$ 0
\$ 0 Husband	\$ 0	\$ 0
<u>4. Retirement, pension plans, etc.</u>		
\$0 Description	\$ 0	\$ 0
\$0 Description	\$ 0	\$ 0
<u>5. Equity in real estate</u>		
\$ 0 residence		
\$ 0 real estate commission		
\$ 0 1st mortgage		
\$ 0 2nd mortgage		
\$ 0 equity	\$ 0	\$ 0
<u>6. Stocks, bonds, mutual funds</u>		
\$0 Description	\$ 0	\$ 0
\$0 Description	\$ 0	\$ 0
<u>7. Money owed to parties</u>		
\$0 Description	\$ 0	\$ 0
<u>8. Life ins. w/cash surrender value</u>		
\$0 Description	\$ 0	\$ 0
<u>9. Motor vehicles (less loan balances)</u>		
\$0 Description	\$ 0	\$ 0
<u>10. Boats, trailers, campers</u>		
\$0 Description	\$ 0	\$ 0
<u>11. Hand & power tools</u>		
\$0 Description	\$ 0	\$ 0
<u>12. Jewelry</u>		
\$0 Description	\$ 0	\$ 0
<u>13. Guns</u>		
\$0 Description	\$ 0	\$ 0
<u>14. Camera equipment</u>		
\$0 Description	\$ 0	\$ 0
<u>15. Antiques</u>		
\$0 Description	\$ 0	\$ 0
<u>16. Household goods & furnishings</u>		

\$0	Description	\$ 0	\$ 0
<u>17. All other assets not included above</u>			
\$0	Description	\$ 0	\$ 0
<u>18. All other debts not included above</u>			
\$0	Description	\$ 0	\$ 0
\$0	Description	\$ 0	\$ 0
\$0	Description	\$ 0	\$ 0
\$ 0	NET WORTH	\$ 0	\$ 0
\$ 0	TO WIFE		
\$ 0	TO HUSBAND		
\$ 0	TOTAL		

(Certificate of Service)

**Practice Standards
Appendix 1-7**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

ORDER OF MEDIATION

_____ 1. Having been advised that a dispute exists between the parties as to certain issues, the Court finds that it is in the best interests of the parties that they attempt to reach an amicable settlement through the mediation process.

2. The Court finds that a (jointly-selected)(court-appointed) mediator shall meet with the parties to assist them in reaching agreements as to the issues:

- _____ Residential Placement
- _____ Parental Access (visitation)
- _____ Decision Making (education, medical needs, spiritual training, etc.)
- _____ Support
- _____ Property Issues
- _____ Other:

3. The parties are directed to take part in the mediation process and to respect and follow the rules of mediation to be supplied by the mediator.

4. The parties are directed to furnish each other, and/or the mediator, with information which may be requested by the mediator in a prompt and accurate manner.

5. The parties are directed to pay all mediation fees promptly and divide responsibility for the payment of the fees equally unless otherwise agreed or ordered by the Court.

6. The parties are advised that _____ [mediator] is acting in the capacity of mediator in carrying out this Order. The mediator is not rendering legal opinions and is forbidden from giving legal advice to either participant in the mediation process.

IT IS THEREFORE BY THE COURT ORDERED that the parties to this case shall meet with _____ [mediator] and participate in the mediation process.

ENTERED this _____ day of _____, _____ at _____

_____, Kansas.

IT IS SO ORDERED.

THE HONORABLE _____
JUDGE OF THE DISTRICT COURT

Counsel for Petitioner: _____

Petitioner's Address: _____

Petitioner's Phone #s: Work _____ Home _____

Counsel for Respondent: _____

Respondent's Address: _____

Respondent's Phone #s: Work _____ Home _____

**Practice Standards
Appendix 2-1**

DOMESTIC RELATIONS COVERSHEET

(Caption)

Case No. _____

Attached Find:

_____ Copy of District Court Form - Motion for Temporary Orders.

_____ District Court Form - Temporary Restraining Order for Judge's signature.

_____ District Court Form - Temporary Child Custody and Support Orders for Judge's signature. A motion for temporary child support or maintenance must be accompanied by a Domestic Relations Affidavit, a Child Support Worksheet, and/or Worksheet T. Orders for Temporary Child Support or Maintenance should be dated to **begin ten days** after the Orders are signed.

Proposed child support \$ _____

Proposed maintenance \$ _____

The Original Motion and all originals of proposed orders, affidavits and worksheet should be collated into a packet and attached directly to the coversheet. Copies of orders should be placed behind the packet of original material and not interspersed.

_____ Will pick up. _____ Mail copies in self addressed stamped envelope attached.

_____ Please file when signed. _____ Hold Service _____ Send to Sheriff for certificate mail service.

_____ Please file stamp _____ attached copies of _____

_____ Attached find (Cash)(Check) in the amount of \$ _____.

Name of Person delivering:

Office Telephone: _____

**Practice Standards
Appendix 2-2**

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____**

IN THE MATTER OF THE MARRIAGE OF:

and

Case No. _____

MOTION FOR TEMPORARY ORDERS

1. The applicant is the **(PETITIONER) (RESPONDENT)** in this action and moves the Court to issue temporary orders as follows:

- _____ (a) issue a restraining order with regard to disposition of the property of the parties and provide for the use, occupancy, management and control of that property and also restrain the parties from molesting or interfering with the privacy or rights of each other;
- _____ (b) provide for temporary custody, residency and support of the parties' minor child(ren);
- _____ (c) provide for temporary maintenance of the applicant during the pendency of the action pursuant to Worksheet T attached.

2. A Parenting Plan is attached to this motion.

3. A completed Child Support Worksheet and Domestic Relations Affidavit are attached to this motion.

4. That the adverse party is not known to be represented by counsel. (Notice to counsel should be excused because _____.)

5. **These proposed orders do not change the existing residence or de facto custody of the minor child(ren).**

6. That these orders are necessary to provide for the parties' financial circumstances and the interests of their minor child(ren) during the pendency of this action.

Applicant

Subscribed and sworn to before me this _____ day of _____, 200__.

Notary Public

My Appointment Expires: _____

Prepared and approved by:

Attorney for Petitioner/Respondent

**Practice Standards
Appendix 2-3**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

PROPOSED PARENTING PLAN

1. Designation of the temporary legal custody of the child: _____ Joint _____ Sole
2. Designation of a temporary residence for the child:
_____ with Petitioner at (address): _____
_____ with Respondent at (address): _____
3. Allocation of parental rights and responsibilities regarding matters pertaining to the child's health, education and welfare:
_____ Joint _____ with Petitioner _____ with Respondent
Other: _____
4. A schedule for the child's time with each parent (when appropriate):
_____ Unsupervised parenting time. Proposed schedule: _____

_____ Supervised parenting time. Proposed schedule: _____

_____ No parenting time unless ordered by the Court. Specific reason for request that no parenting time be allowed: _____

_____ Other. Explain: _____

Petitioner/Respondent

Date: _____

Submitted by:

Attorney for Petitioner/Respondent

**Practice Standards
Appendix 2-4**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

TEMPORARY RESTRAINING ORDERS

On motion of **(PETITIONER) (RESPONDENT)**, the Court enters the following restraining orders pursuant to K.S.A. 60-1607(a)(1)(2), (b). These are temporary orders and may be modified upon application by either party. The parties are entitled to obtain counsel and the opportunity to present their views and evidence at a modification hearing or trial. The entry of this temporary order is not an indication of the Court's final decision on any issue.

1. Temporary possession of the parties' residence is awarded to **(PETITIONER) (RESPONDENT)**. The **(PETITIONER) (RESPONDENT)** shall forthwith vacate the premises. Within twenty-four hours after service of this order, the **(PETITIONER) (RESPONDENT)** shall remove clothing and personal items in a reasonable manner and arrange to live elsewhere, until further order of the Court. The parties shall share use of their automobile(s) or obtain a court hearing if a suitable agreement cannot be reached.

2. The parties are restrained from interfering with the privacy, or bothering or hindering the other at their place of residence, employment, or wherever they may be found. Use of threatening language in person or by telephone and any violent verbal or physical actions is a direct violation of this order.

3. Each party is restrained from selling, encumbering or disposing of any of the parties' property, or otherwise placing it beyond the control of the court, including withdrawing funds from checking or savings accounts, cashing certificates of deposit except for usual living expenses and payment of already existing installment indebtedness. The parties will maintain all their insurance policies (life, health/medical, auto) in their present status. This order applies to all property owned by either party, whether held jointly or individually.

This order is binding upon service by court order until vacated or modified by written agreement of the parties. Willful violation of a temporary restraining order may subject the offending party to sanctions for contempt of court or criminal trespass charges.

IT IS SO ORDERED on this _____ day of _____, 200___, at Topeka, Kansas.

District Judge

Prepared by:

Attorney for Petitioner/Respondent

Address _____

Telephone _____

**Practice Standards
Appendix 2-5**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

TEMPORARY CHILD CUSTODY AND SUPPORT ORDERS

Upon the motion of the **(PETITIONER) (RESPONDENT)**, the Child Support Worksheet and Domestic Relations Affidavit attached, the Court enters the following orders pursuant to K.S.A. 60-1607(a)(3), (b) and (c). These are temporary orders and may be modified upon application by either party. Each party is entitled to obtain counsel and the opportunity to present their views and evidence at a modification hearing or trial. The entry of this temporary order is not an indication of the Court's final decision on any issue in dispute.

1. The parties are directed to attend both parts of the Parents and Divorce Seminar **within 4 weeks** from the date of this order. Arrangements for the seminar can be made by calling 232-7214.
2. The parties shall have joint custody of their minor child(ren). Due to the separation, until further order of the Court, temporary residence of the child(ren) shall be with the **(PETITIONER) (RESPONDENT)** subject to the right of reasonable visitation by the other parent. Any restraining order entered in this case is construed to permit reasonable access of the non-residential parent to exercise visitation. This order does not authorize a law enforcement officer to remove children from the custody of either natural parent without a hearing. The parties shall maintain their present health insurance until further order of the Court.
3. **(PETITIONER)(RESPONDENT)** shall pay temporary child support to the other parent in the amount of \$_____ per month beginning on _____, 200____, and temporary maintenance to the **(PETITIONER) (RESPONDENT)** in the amount of \$_____ per month beginning on _____, 200____. When temporary maintenance is ordered, each party shall be ordered to pay the indebtedness attributed to each respective party on the Worksheet T adopted by the Court.

IT IS ORDERED BY THE COURT that all child support and maintenance payments shall be made payable to the order of the Clerk of the District Court of Shawnee County. Each party shall inform the Clerk of the District Court, AND SRS for IV-D cases, or the District Court Trustee for private cases, in writing of any change of name, residence or employer (with business address) within seven (7) days after such change.

IT IS FURTHER ORDERED BY THE COURT that unless the Court makes findings in conformity with K.S.A. 23-4,107(j) income withholding from the Obligor's income shall take effect 20 days after service of this order to enforce the order of support granted herein. A temporary order of support may also be subject to enforcement by garnishment. The party ordered to pay has five (5) days after service of this order to request a hearing to contest the issuance of garnishment orders.

This order is binding upon service until vacated or modified by court order. Willful violation of a temporary order may subject the offending party to sanctions for contempt of court.

IT IS SO ORDERED on this ___ day of _____, 200 ___, at Topeka, Kansas.

District Judge

Attorney for Petitioner/Respondent

**Practice Standards
Appendix 4-1**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

MOTION TO ENFORCE PARENTING TIME

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the Court:

1. The current order, filed on _____ grants the **Petitioner/Respondent** parenting time as follows: _____

_____.

2. Parenting time was last requested of the other parent on: _____.

3. The order of Parenting time is not being followed because: _____

_____.

4. The name, current address and telephone number of the other parent is **known** to be: **(If not known, do not complete)** _____
_____.

WHEREFORE, the **Petitioner/Respondent** prays that the Court grant **his/her** Motion and for such further and other relief the Court deems just and equitable in the premises.

Respectfully submitted,

Petitioner/Respondent

Address

Phone

VERIFICATION

_____, being first duly sworn upon **his/her** oath, states that **he/she** is the custodian and next friend of the **child/ren**, who are the subject matter of this motion; that **he/she** is the **petitioner/respondent mother/father** named herein and that **he/she** has read the foregoing Motion and **he/she** knows the contents thereof and that all of the allegations and statements contained therein are true and correct.

(Print Name)
Petitioner/Respondent Mother/Father

STATE OF KANSAS)
)ss:
COUNTY OF SHAWNEE)

SUBSCRIBED AND SWORN TO BEFORE ME THIS ____ DAY OF _____,
_____.

Notary Public

My commission expires:

CERTIFICATE OF SERVICE

The below signed hereby certifies that on the ____ day of _____, 2002, **he/she** caused to be served a true and correct copy of the above and foregoing instrument in writing by causing the same to be deposited in the United States Mail, First Class, postage prepaid and addressed as follows:

**Practice Standards
Appendix 4-2**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

MOTION TO ESTABLISH PARENTING TIME

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the Court:

1. The current order, filed on _____ does not grant the **Petitioner/Respondent** parenting time.

2. Parenting time was last requested of the other parent on: _____.

3. Parenting time should be changed to comply with the attached Proposed Parenting Plan.

4. The name, current address and telephone number of the other parent is **known** to be: **(If not known, do not complete)** _____
_____.

WHEREFORE, the **Petitioner/Respondent** prays that the Court grant **his/her** Motion and for such further and other relief the Court deems just and equitable in the premises.

Respectfully submitted,

Petitioner/Respondent

Address

Phone

VERIFICATION

_____, being first duly sworn upon **his/her** oath, states that **he/she** is the custodian and next friend of the **child/ren**, who are the subject matter of this motion; that **he/she** is the **petitioner/respondent mother/father** named herein and that **he/she** has read the foregoing Motion and **he/she** knows the contents thereof and that all of the allegations and statements contained therein are true and correct.

Petitioner/Respondent Mother/Father

STATE OF KANSAS)
)ss:
COUNTY OF SHAWNEE)

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 20__.

Notary Public

My commission expires:

CERTIFICATE OF SERVICE

The below signed hereby certifies that on the ____ day of _____, 20__, **he/she** caused to be served a true and correct copy of the above and foregoing instrument in writing by causing the same to be deposited in the United States Mail, First Class, postage prepaid and addressed as follows:

(Attach Proposed Parenting Plan Here)

**Practice Standards
Appendix 4-3**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

MOTION TO MODIFY PARENTING TIME

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the Court:

1. The current order, filed on _____ grants the **Petitioner/Respondent** parenting time as follows: _____

_____.

2. Parenting time was last requested of the other parent on: _____.

3. Parenting time should be changed to comply with the attached Parenting Time Plan.

4. The name, current address and telephone number of the other parent is **known** to be: **(If not known, do not complete)** _____
_____.

WHEREFORE, the **Petitioner/Respondent** prays that the Court grant **his/her** Motion and for such further and other relief the Court deems just and equitable in the premises

Respectfully submitted,

Petitioner/Respondent

Address

Phone

VERIFICATION

_____, being first duly sworn upon **his/her** oath, states that **he/she** is the custodian and next friend of the **child/ren**, who are the subject matter of this motion; that **he/she** is the **petitioner/respondent mother/father** named herein and that **he/she** has read the foregoing Motion and **he/she** knows the contents thereof and that all of the allegations and statements contained therein are true and correct.

Petitioner/Respondent Mother/Father

STATE OF KANSAS)
)ss:
COUNTY OF SHAWNEE)

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 20__.

Notary Public

My commission expires:

CERTIFICATE OF SERVICE

The below signed hereby certifies that on the ____ day of _____, 2002, **he/she** caused to be served a true and correct copy of the above and foregoing instrument in writing by causing the same to be deposited in the United States Mail, First Class, postage prepaid and addressed as follows:

(Attach Proposed Parenting Plan Here)

**Practice Standards
Appendix 4-4**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

MOTION TO ESTABLISH CHILD SUPPORT ORDER

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the Court:

1. The last court order, filed on _____ did not set child support because: _____
_____.

2. The following material change(s) of circumstance warrant(s) the establishment of a current child support order: _____

_____.

4. Submitted with this Motion is, a current Domestic Relations Affidavit and copies of my most recent paystub(s) or other proof of income.

5. My gross income each month is \$ _____ and the other parent's gross income each month is estimated to be \$ _____.

6. The name, current address and telephone number of the other parent is **known** to be: **(If not known, do not complete)** _____
_____.

WHEREFORE, I pray that the Court establish a current child support order of \$ _____ per month current support and \$ _____ per month to be applied toward any arrearage in accordance with

the Kansas Child Support Guidelines and for such further and other relief the Court deems just and equitable in the premises.

Respectfully submitted,

Petitioner/Respondent

Address _____

Phone _____

CERTIFICATE OF SERVICE

The below signed hereby certifies that on the ____ day of _____, 20____, **he/she** caused to be served a true and correct copy of the above and foregoing instrument in writing by causing the same to be deposited in the United States Mail, First Class, postage prepaid and addressed as follows:

A Mini-Domestic Relations Affidavit must accompany all Motions To Establish Child Support. Financial information is not required if the request is for termination only.

**Practice Standards
Appendix 4-5**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

MOTION TO MODIFY CHILD SUPPORT ORDER

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the Court:

1. The last court order, filed on _____ sets the child support of the **Petitioner/Respondent** at \$ _____ per month for current support and \$ _____ per month to be applied toward any arrearage.

2. The following material change(s) of circumstance warrant(s) modification of the last child support order: _____

_____.

4. I am submitting with this Motion, a current Domestic Relations Affidavit and copies of my most recent paystub(s) or other proof of income.

5. My gross income each month is \$ _____ and the other parent's gross income each month is estimated to be \$ _____.

6. The name, current address and telephone number of the other parent is **known** to be: **(If not known, do not complete)** _____
_____.

WHEREFORE, I pray that the Court modify the last child support order to \$ _____ per month current support and \$ _____ per month to be applied toward any arrearage in accordance with the

Kansas Child Support Guidelines and for such further and other relief the Court deems just and equitable in the premises

Respectfully submitted,

Petitioner/Respondent

Address _____
Phone _____

CERTIFICATE OF SERVICE

The below signed hereby certifies that on the ____ day of _____, 20____, **he/she** caused to be served a true and correct copy of the above and foregoing instrument in writing by causing the same to be deposited in the United States Mail, First Class, postage prepaid and addressed as follows:

A Mini-Domestic Relations Affidavit must accompany all Motions To Modify Child Support. Financial information is not required if the request is for termination only.

**Practice Standards
Appendix 4-6**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

**MOTION FOR REIMBURSEMENT OF UNINSURED
HEALTH CARE EXPENSES**

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the Court:

1. The Court's order of _____, _____, states that the **Petitioner/Respondent** shall be responsible for _____% of the total uninsured medical expenses, which includes any deductible, for the **child/ren** of the parties.

2. I have not agreed to any treatment (except for emergencies) that makes the other parent responsible for more than \$250 without advising and consulting with the other parent before agreeing to the expense of treatment.

3. True and correct copies of the attached bills were sent to the other parent and **he/she** was requested to pay **his/her** percentage of them, but **he/she** has failed and refused to pay **his/her** percentage.

4. The name, current address and telephone number of the other parent is **known** to be: **(If not known, do not complete)** _____

WHEREFORE, the **Petitioner/Respondent** prays that the Court grant **his/her** Motion in the amount of \$_____, and for such further and other relief the Court deems just and equitable in the premises.

Respectfully submitted,

Address _____
Petitioner/Respondent

Phone _____

CERTIFICATE OF SERVICE

The below signed hereby certifies that on the ____ day of _____, 20 __, **he/she** caused to be served a true and correct copy of the above and foregoing instrument in writing by causing the same to be deposited in the United States Mail, First Class, postage prepaid and addressed as follows:

**Practice Standards
Appendix 4-7**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

REQUEST FOR TRANSCRIPT

(Name of party) hereby requests a typed transcript of the hearing before the Administrative Hearing Officer on the _____ day of _____, 20____. The tape of the hearing is indexed as tape # _____ from _____ to _____. Attached is a certified check or money order for the estimated cost of transcribing, which is \$_____.

(Signature of Requesting Party)

(Address of Requesting Party)

(Telephone Number of Requesting Party)

**Practice Standards
Appendix 4-8**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

MOTION FOR JUDICIAL REVIEW

COMES NOW the _____ and moves the Court for a judicial hearing relative to the Administrative Hearing Officer's recommended order filed _____, 200____, for the following reason(s);

1. _____
_____ ; and
2. _____
_____.

Petitioner/Respondent

Address

Telephone Number

CERTIFICATE OF MAILING

I certify that a copy of the Motion for Judicial Review, filed _____, _____, was mailed or delivered to the following:

on this _____ day of _____, _____.

Clerk of the District Court _____

Practice Standards

2003 Edition

Appendix 4-9

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____**

(Caption)

Case No. _____

MOTION TO CHANGE RESIDENCY AND MODIFY SUPPORT

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the Court:

1. The current order, filed on _____ names the **Petitioner/Respondent** as residential custodian of the minor **child/ren**.

2. The minor **child/ren** currently reside(s) with the **Petitioner/Respondent** and **has/have** since _____.

3. The following material change(s) of circumstance warrant(s) a legal change of the **child/ren's** residence: _____

_____.

4. The current child support order should be properly modified in accord with the Kansas Child Support Guidelines.

5. The name, current address and telephone number of the other parent is **known** to be: **(If not known, do not complete)** _____
_____.

WHEREFORE, the **Petitioner/Respondent** prays that the Court grant **his/her** Motion and for such further and other relief the Court deems just and equitable in the premises.

Respectfully submitted,

Petitioner/Respondent

Address

Phone

VERIFICATION

_____, being first duly sworn upon **his/her** oath, states that **he/she** is the **petitioner/respondent mother/father** named herein and that **he/she** has read the foregoing Motion and **he/she** knows the contents thereof and that all of the allegations and statements contained therein are true and correct.

_____ (Signature)

_____ (Print Name)

Petitioner/Respondent Mother/Father

STATE OF KANSAS)

)ss:

COUNTY OF SHAWNEE)

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 20__.

Notary Public

My commission expires:

CERTIFICATE OF SERVICE

The below signed hereby certifies that on the ____ day of _____, 20 __, **he/she** caused to be served a true and correct copy of the above and foregoing instrument in writing by causing the same to be deposited in the United States Mail, First Class, postage prepaid and addressed as follows:

5. Monthly income:
- A. Wage Earner, Gross income \$ _____
- B. Self-Employed, Gross income \$ _____
Reasonable Business Expense \$ _____
Self-Employment Tax \$ _____
6. Work Related Child Care Expenses:
- A. Weekly Summer Expense Name and Address of Provider
\$ _____ _____

- B. Weekly School Year Expense Name and Address of Provider
\$ _____ _____

7. Father/Mother provides Health Insurance for child(ren).
- A. Name and Address of Health Insurance Plan: _____

- B. Persons insured on plan: _____
- C. Monthly cost of health insurance: \$ _____
Monthly cost of dental insurance: \$ _____
Monthly cost of vision insurance: \$ _____
Monthly cost of drug prescription insurance: \$ _____
Increase cost of adding child(ren) to the plan: \$ _____
8. Father/Mother claims child(ren) for income tax purposes.
You file taxes: _____ Single _____ Head of Household _____ Joint _____ Other
9. Child Support Adjustments requested: _____ Long Distance Parenting Time Adjustment
_____ Parenting Time Adjustment _____ Income Tax Adjustment
_____ Special Needs _____ Agreement Past Minority _____ Overall Financial
Condition
10. Attached is: _____ Current Pay Stub _____ Last Year's Tax Form _____ W-2
_____ Written Proof of Day Care Cost _____ Written Proof of Insurance Costs
_____ Other

I have read the above affidavit and to the best of my knowledge and belief the information is accurate and complete.

Party's Name

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 20__.

NOTARY PUBLIC

My Appointment Expires: _____

**Practice Standards
Appendix 6-1**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

WORKSHEET T - TEMPORARY MAINTENANCE

Monthly payments to creditors (exclude house payments)

	Petitioner		Respondent	
_____	\$ _____		\$ _____	
_____	\$ _____		\$ _____	
_____	\$ _____		\$ _____	
_____	\$ _____		\$ _____	
1. Total Payments to creditors.	\$ _____	+	\$ _____	= \$ _____
2. Parties' shelter expense (total house payment or rent for each party)	\$ _____	+	\$ _____	= \$ _____
3. Parents' total child support obligation (line 7 Child Support Worksheet)	\$ _____	+	\$ _____	= \$ _____
4. Total Fixed Obligations	\$ _____	+	\$ _____	= \$ _____
5. Combined <u>Net</u> Income of parties	\$ _____	+	\$ _____	= \$ _____
6. Amount available for parties' variable expenses (line 5 total minus line 4)	\$ _____			
7. Allocation for variable expenses. (In usual case 50% to each.)	\$ _____		\$ _____	
8. Amount required to pay assigned obligations and variable expenses. (Line 4 + 7)	\$ _____		\$ _____	
9. Amount of maintenance (line 5 minus line 8)	\$ _____		\$ _____	

PREPARED AND APPROVED BY:

ATTORNEY FOR PETITIONER/RESPONDENT

**Practice Standards
Appendix 8-1**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

CHILD SUPPORT WORKSHEET OF: _____

A. INCOME COMPUTATION-WAGE EARNER

PARENT A

PARENT B

1. Domestic Gross Income (Insert on Line C.1. below)* _____

B. INCOME COMPUTATION-SELF-EMPLOYED

1. Self-Employment Gross Income* _____

2. Reasonable Business Expenses (-) _____

3. Domestic Gross Income (Insert on Line C.1. below) _____

C. ADJUSTMENTS TO DOMESTIC GROSS INCOME

1. Domestic Gross Income _____

2. Court-Ordered Child Support Paid (-) _____

3. Court-Ordered Maintenance Paid (-) _____

4. Court-Ordered Maintenance Received (+) _____

(Insert on Line D.1. below)

D. COMPUTATION OF CHILD SUPPORT

1. Child Support Income _____ + _____

= _____

2. Proportionate Shares of Combined Income
(Each parent's income divided by combined income) _____ % _____ %

3. Basic Child Support Obligation**
(Using combined income from Line D.1., find amount
for each child and enter total for all children)

Age of Children 0-6 7-15 16-18

Number Per Age Category _____ _____ _____

Total Amount _____ _____ _____

* Cost of Living Differential Adjustment? _____ Yes _____ No

* Multiple Family Adjustment? _____ Yes _____ No

PARENT A

PARENT B

4. Health and Dental insurance Premium _____

5. Work-Related Child Care Costs
(Amount x % + [.25 x (Amt. x %)]
for child care credit = _____)

6. Parents' Total Child Support
Obligation (Line D.3. plus Lines D.4. and D.5) _____

7. Parental Child Support Obligation

- (Line D.2. times Line D.6. for each parent) _____
8. Adjustment for Insurance and Child Care
(Subtract for actual payment made for items
D.4. and D.5.) _____
9. Net Parental Child Support Obligation
(Obligation (Line D.7. minus Line D.8.;
Insert on Line F.1. below) _____

E. CHILD SUPPORT ADJUSTMENTS

APPLICABLE	N/A	CATEGORY		AMOUNT ALLOWED	
				PARENT A	PARENT B
1.	_____	Long Dist. Visitation Costs	(+/-)	_____	_____
2.	_____	Visitation Adjustment	(+/-)	_____	_____
3.	_____	Income Tax Considerations	(+/-)	_____	_____
4.	_____	Special Needs	(+/-)	_____	_____
5.	_____	Agreement Past Minority	(+/-)	_____	_____
6.	_____	Overall Financial Condition	(+/-)	_____	_____
7.	TOTAL (Insert on Line F.2. below)			_____	_____

F. DEVIATION(S) FROM REBUTTABLE PRESUMPTION AMOUNT

1.	Net Parental Child Support Obligation (Line D.9 from above)		.	_____	_____
2.	Total Child Support Adjustments (Line E.7. from above)		(+/-)	_____	_____
3.	Adjusted Child Support Obligation			_____	_____
4.	Child Support Enforcement Fee		(+)	_____	_____
5.	*Estimated amount of arrearage _____				
6.	Monthly support towards arrearage		(+)	_____	_____
7.	Total Monthly Support Due			_____	_____

* As shown by the records of the collecting agency. Arrearage does not include interest. Attorneys are expected to check the arrearage amount with SRS for IV-D cases, and the District Court Trustee for private cases, prior to submitting this worksheet.

District Court Judge/Administrative Hearing Officer

PREPARED AND SUBMITTED BY:

Attorney for Respondent/Petitioner

**Practice Standards
Appendix 8-2**

CASE NO.: _____

DATE: _____

MANDATORY SUPPLEMENTAL ORDERS

The following mandatory supplemental orders pertaining to enforcement of child support are incorporated in the foregoing order and are incorporated as a part thereof pursuant to Shawnee County District Court Rule **#3.401**:

IT IS FURTHER ORDERED that all child support and maintenance payments shall be paid to the Kansas Payment Center. Any payments of child support not made in accordance with this provision shall be presumptively disallowed. Any payments made payable to the obligee may be endorsed and cashed by the Clerk of the District Court.

IT IS FURTHER ORDERED that the Office of SRS or their contracting agent for IV-D cases, or the District Court Trustee for private cases shall monitor and enforce the payments of support ordered herein and may pursue on behalf of any child all civil remedies available to the obligee to enforce payments of child support.

IT IS FURTHER ORDERED that each party shall inform the Kansas Payment Center and SRS for IV-D cases, or the District Court Trustee for private cases in writing of any changes of name, residence, and employer including business address within seven (7) days after such change.

IT IS FURTHER ORDERED that withholding of income to enforce this order of support or modification shall take effect thereto without further notice pursuant to K.S.A. 23-4,107, and any amendments thereto.

IT IS FURTHER ORDERED that the amount of child support payable per month in this case is \$_____, current, due on or before the _____ day of each month and \$_____ on arrears per month. The payments in this case are to be paid monthly.

IT IS FURTHER ORDERED that the following information be provided each time an Order is entered:

<u>Petitioner</u>	<u>Respondent</u>
Home Phone: _____	Home Phone: _____
Home Address: _____	Home Address: _____
Employer Name: _____	Employer Name: _____
Business Phone: _____	Business Phone: _____
Soc. Sec. No.: _____	Soc. Sec. No.: _____

Judge of the District Court

Prepared and submitted by:

Attorney for Petitioner/Respondent

**Practice Standards
Appendix 8-3**

Kansas Payment Center - Child Support Order Information Sheet

Purpose: Federal law requires Kansas to process child support through a single location in the state. To insure that processing of child support payments is not delayed, the Kansas Payment Center must have all information listed on the form below.

Who submits the completed form: The payee’s attorney shall file the completed form along with the Journal Entry with the Clerk of the District Court per Kansas Supreme Court Administrative Order No. 154.

Case Number: You must give the full, accurate court order number, or payments may be delayed. The case number may be copied from the child support order. The case number format is as follows:

County - Year - Case Type - Case Number
Example: WY00D 000123 (WY) (00) (D) (000123)

**Please call your local Clerk of the District Court if you need additional information to complete this form.
Additional copies may be made as necessary.**

PLEASE print or type all information				
Case Number: _____ <div style="text-align: right; margin-right: 50px;">Circle One</div> Interstate: Y N	Check if applicable: <input type="checkbox"/> Court Trustee case			Check One: <input type="checkbox"/> New Case/order <input type="checkbox"/> Modified order Filestamp Date of Order (above): _____
Obligation Information	Support Amount	Frequency Code	Start Date	Payment Frequency Codes (W) Weekly (B) Biweekly (M) Monthly (SM) Semi-Monthly (Q) Quarterly (A) Annually (SA) Semi-Annually (L) Lump Sum
Current Child Support due:	\$			
Current Maintenance (Alimony) due:	\$			
Other Support due:	\$			
Arrearage	\$			
	\$			
	\$			
	\$			
	\$			
	\$			
Information about the PAYING Parent				

PLEASE print or type all information		
NAME (First, Middle Initial, Last):		
Social Security Number:	Date of Birth:	Phone:
Address:	City:	State: Zip:
Information about the Parent or Person RECEIVING support		
NAME (First, Middle Initial, Last):		
Social Security Number:	Date of Birth:	Phone:
Address:	City:	State: Zip:
Information about CHILD(REN) covered by this support order		
NAME (First and Last):	Social Security Number	Date of Birth:
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		

Form Completed By: _____ Date: _____

Print Name (and title): _____

The completed form must be attached to the journal entry and filed with the Clerk of the District Court.

**Practice Standards
Appendix 11-1**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

MOTION FOR CONCILIATION

Comes now, the (Petitioner) (Respondent) and moves the Court for an Order for Conciliation. In support of this motion, movant states:

1. That the parties have completed both sessions of the Parents in Divorce Seminar.
2. The parties are presently not able to resolve the custody and parenting time issues involving their minor children, _____.
3. That conciliation by a Court Services Officer may be of assistance in resolving the disputed issues of custody and visitation.

Wherefore, movant prays that the Court enter an Order for Conciliation, requiring the parties to conciliate the disputed issues.

Attorney for _____

Petitioner's Address: _____
Telephone: _____

Respondent's Address: _____
Telephone: _____

**Practice Standards
Appendix 11-2**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Heading)

Case No. _____

ORDER FOR CONCILIATION

The Court having been advised that a dispute exists between the parties relative to custody, residency and parenting time of the minor child(ren) in this case, enters the following findings:

1. That it is in the best interests of the parties and their minor child(ren) that there be an amicable settlement of the custody, residency and parenting time issues; and
2. The Court finds that a (jointly-selected)(Court-appointed) conciliator shall meet with the parties to assist them in reaching agreements as to the issues identified below:

- _____ Residential Placement
- _____ Parental Access (parenting time)
- _____ Decision Making (education, medical needs, spiritual training, etc.)
- _____ Other:

3. That a Court Services Officer (CSO) in the domestic relations division should meet with the parties and serve as conciliator pursuant to the Shawnee County Family Law Guidelines on the issues of parenting time, residency and custody. If unable to accomplish an agreement, the CSO shall prepare a report to the Court stating whether or not an agreement has been reached and if not, the reasons for failure of conciliation. This report will contain an evaluation of those issues which bear on custody, residency and parenting time and may contain a recommendation for court resolution or for an order for counseling, mediation or other dispute resolution services.

IT IS THEREFORE ORDERED that the parties to this case confer with a Court Services Officer and participate in a conciliation process.

IT IS FURTHER ORDERED that if an agreement cannot be reached, the CSO shall provide the Court

with a report as set forth above relative to the custody and visitation issues and recommendations to serve the best interests of the parties' minor child(ren).

IT IS FURTHER ORDERED that the parties shall meet with a Court Services Officer at such times, places and appointments which are set and to provide such information as the CSO requests.

Entered this _____ day of _____, 20____ at Topeka, Kansas.

IT IS SO ORDERED.

JUDGE

Counsel for Petitioner: _____

Petitioner's Address: _____

Petitioner's Phone #s: Work _____ Home _____

Counsel for Respondent: _____

Respondent's Address: _____

Respondent's Phone #s: Work _____ Home _____