

## **Rule 400**

### **SCOPE OF FAMILY LAW DEPARTMENT AND AUTHORITY OF PRESIDING JUDGE**

Family Law cases shall be assigned to the Family Law Department. These shall include divorce, annulment, separate maintenance, paternity, reciprocal enforcement, writs of habeas corpus involving children, actions filed under the Uniform Child Custody Jurisdiction and Enforcement Act, the Protection From Abuse Act, and the Protection from Stalking Act.

The Presiding Judge of the Family Law Department shall supervise the Family Law Department dockets and trials, and shall assign motions and trials to the other judges and the Hearing Officer of the Family Law Department. The Presiding Judge may temporarily assign the duties of the Presiding Judge to another judge of the Family Law Department.

All requests for continuances of trial settings or evidentiary hearings shall be heard by the Presiding Judge unless another judge has been assigned this duty by the Presiding Judge.

## **Rule 401**

### **EXECUTION OF INTERLOCUTORY EX-PARTE ORDERS**

All orders in family law cases issued pursuant to K.S.A. 60-1607(b), as amended, shall be presented to a judge in the Family Law Department before the action is filed. Judges will be available to sign such orders each day that the Court is in session.

If there are deviations in these orders from the standard order set out in Rule 404, counsel and pro se parties must personally identify such deviations to the Court for the Court to initial and approve of such modifications. Runners may obtain a judge's signature on standard temporary orders only. Such deviations include, but are not limited to, the following situations:

1. The spouse designated to have temporary, primary residency of the child(ren) of this marriage or the spouse having primary residency of minor child(ren) from another relationship is being removed from the family residence;
2. Children are being temporarily divided between different residential custodians;
3. Child support is not set in accordance with the Kansas Supreme Court Child Support Guidelines or any adjustments are being considered under Section "E" of the Child Support Worksheet;
4. The order has non-standard language for the protection of one of the parties or the child(ren) of the parties;

5. One of the parties is ordered out of the residence where they currently reside in less than 24 hours after service of the Temporary Order; or
6. The non-primary residency parent is not being allowed reasonable parenting time.

### **Rule 402**

#### **AFFIDAVITS AND WORKSHEETS FOR SUPPORT ORDERS**

All ex-parte Interlocutory Orders shall be accompanied by a completed Domestic Relations Affidavit as required by Kansas Supreme Court Rule 139, in a form as set out in Kansas Supreme Court Administrative Order No. 128. If there are minor children of the marriage the Order must also be accompanied by the affidavit required in the UCCJEA, K.S.A. 38-1356, a completed Child Support Worksheet, and a Temporary Parenting Plan.

Any party challenging a temporary support order shall file a completed Domestic Relations Affidavit at the time of filing the notice of hearing or motion to modify.

### **Rule 403**

#### **ISSUANCE OF SUMMONS**

No summons shall be issued in a divorce, annulment, or separate maintenance case unless an order is filed with the Clerk providing for the support of the minor child(ren) of the parties, unless approval of a judge of the Family Law Department is obtained, said approval being noted by the judge on the first page of the petition.

### **Rule 404**

#### **STANDARD TEMPORARY ORDER**

Temporary Orders shall be in the following form as adopted to fit the facts of each particular case. (See Rule 401 for procedures that govern deviations). Sections clearly inapplicable should be omitted.

In all Divorce/Annulment/Separate Maintenance cases, a standard Temporary Order shall be issued at the time of filing of the Petition unless approval to the contrary has been obtained from a judge of the Family Law Department, said approval being noted by the judge on the first page of the Petition.

All Temporary Order Support payments must be stated in monthly amounts, although the order may also provide that the monthly payments may be paid in more frequent installments.



appropriate orders on this matter but payments made for these obligations need not be made through the Kansas Payment Center. However, the responsibility of proper record keeping of expenses and payments shall be upon the party making claims of either expense or payment.

Removal of the child(ren) from this State without permission of the Court is prohibited unless otherwise agreed in writing between the parties.

## II. SUPPORT OF SPOUSE

Husband/Wife is ordered to pay \_\_\_\_\_ per month as and for the support of Husband/Wife beginning \_\_\_\_\_. Said obligation shall terminate upon the death of either Husband or Wife.

Said support shall be paid through the Kansas Payment Center at the address set out below in Article III.

## III. ADDRESS FOR PAYMENTS AND ROLE OF COURT TRUSTEE

The address for support payments is as follows:

Kansas Payment Center  
Box 758599  
Topeka, KS 66675-8599

The case number shown on the first page of this order shall be placed on all checks or money orders and said checks or money orders shall be made payable to the Kansas Payment Center and include the county designation (SG).

The Kansas Payment Center shall forward said payments to Husband/Wife at \_\_\_\_\_ and it shall be the responsibility of Husband/Wife to inform the Clerk of any change in address.

No commission shall be credited to the Court Trustee for payments under this order.

## IV. COLLECTION OF UNPAID SUPPORT

Should either party fail to be current with the support obligations as set out herein so that there is an arrearage in an amount equal to or greater than the amount of support payable for one month or two months if only spousal support is ordered, an income withholding order shall be issued by the Court upon proper application. The income withholding order shall require any payor of income to the party in arrears to withhold income from each pay period in the necessary and lawful amounts to pay the current support obligation and to reduce the accrued arrearage.

The above orders for support may be enforced by garnishment unless the Husband/Wife requests a hearing to contest the issuance of an Order of Garnishment within five (5) days after the service of the within order of support upon Husband/Wife.

**V. RESIDENCE**

Husband/Wife shall have the temporary possession of the residence located at \_\_\_\_\_ and Husband/Wife shall have vacated the said residence within twenty-four (24) hours after the service of this Order.

The Husband/Wife is granted exclusive possession of the dwelling located at \_\_\_\_\_.

The Husband/Wife, \_\_\_\_\_, is granted the right to remove from the dwelling personal effects necessary for personal hygiene and personal clothing for the Husband/Wife and for any child(ren), listed below, in the Husband's/Wife's primary residency.

_____	_____	_____
(Name of Child)	(Current Age)	(Date of Birth)
_____	_____	_____
(Name of Child)	(Current Age)	(Date of Birth)

Husband/Wife is hereby given notice that their return to said residence without the permission or upon the invitation of Husband/Wife could be considered a Criminal Trespass under K.S.A. 21-3721 and appropriate municipal ordinance, for which he or she could be prosecuted.

If Husband/Wife has not voluntarily vacated this dwelling after twenty-four (24) hours of being served with the Temporary Orders, then any duly authorized law enforcement office of the State of Kansas is requested to use reasonable and necessary means to evict Husband/Wife from this dwelling.

**VI. PERSONAL PROPERTY**

Husband shall remain in temporary possession of the following items of property:

Wife shall remain in temporary possession of the following items of property:

Any duly authorized law enforcement office of the State of Kansas is requested to use reasonable and necessary means to prevent Husband/Wife from interfering with the Wife/Husband's removal of his/her personal clothing and such personal effects as set forth herein.

**VII. DEBTS**

Husband shall be temporarily responsible for the periodic payment of the following debts:

Wife shall be temporarily responsible for the periodic payment of the following debts:

Each party shall be responsible for individual debts and obligations incurred after the date the Petition herein is filed.

#### **VIII. RESTRAINT**

The parties are jointly restrained and enjoined from molesting or interfering with the privacy or rights of each other in any manner. Furthermore, they are restrained from disposing or encumbering any property of the parties or of each of them without prior Court approval other than for reasonable living expenses or attorney fees.

In addition, the parties are restrained and enjoined from canceling any utility services and/or deposits or canceling or modifying (including changing beneficiaries) of any existing pension benefits, medical, health, automobile, homeowner's or renter's, life, or disability insurance coverage's involving any family members or their property.

#### **IX. COUNSELING**

If the parties have minor children, both parties shall attend and participate in a parent education class as designated by order pursuant to K.S.A. 60-1626(b), as amended. Each party shall pay their own fee for such class.

This registration shall occur within ten (10) days after either filing this action or receiving notice of this action unless explicitly ordered otherwise by the Court. Information on such classes shall be provided to petitioner by petitioner's counsel and shall be attached to this Temporary Order for Respondent's benefit.

#### **X. RECONCILIATION**

In event of a reconciliation of the parties before trial, the filing party shall promptly notify his or her attorney or if petitioner does not have an attorney who shall promptly prepare and present to this Court a Journal Entry of Dismissal of this action in which event the attorney shall be entitled to be paid for his/her services.

#### **XI. ENFORCEMENT**

Nothing in this Temporary Order shall be construed as a final decision concerning the property or rights of either party. The ultimate decision relating to all such matters will be made at the time of trial. This Temporary Order shall remain in effect until the trial of this case unless modified by the Court upon the motion of either party. **DISOBEDIENCE OF THIS ORDER OF THE COURT IS PUNISHABLE AS INDIRECT CONTEMPT OF COURT AND MAY BE PUNISHED BY CONFINEMENT IN JAIL.** Any duly authorized law enforcement office of the State of Kansas is requested to use reasonable and necessary means to enforce the provisions of this Temporary Order.

#### **XII. HEARING**





**Rule 405**

**DEFAULT OR UNCONTESTED HEARINGS**

Final hearings for Uncontested and default family law cases shall be heard on the fourth floor of the Sedgwick County Courthouse at 8:45 a.m. on any weekday that the Court is in session. The testimony of one of the parties, either directly before the Court under oath or through written interrogatories, shall be submitted to the Court at the hearing.

**Rule 406**

**DISCOVERY CONFERENCES**

Discovery conferences will be scheduled with the Civil Discovery Judge on Monday afternoons between 2:00 p.m. and 4:00 p.m.

The attorneys and parties of record will receive written notice from the Court of the date and time of a discovery conference. Counsel are required to attend such discovery conference. At the discovery conference the parties shall identify, so far as possible, the issues, the names and addresses of witnesses, and the relevant exhibits. The Court shall then set separate deadlines for identifying additional witnesses or exhibits, the completion of all discovery, the pre-trial and trial dates, and such other orders as are appropriate including court ordered mediation, parenting education, and counseling. A Discovery Conference Order shall be completed during the conference.

**Rule 407**

**PRETRIAL CONFERENCE**

A date for a pretrial conference shall be set at the discovery conference. Parties are expected to have all discovery completed by the time of the pre-trial setting. In addition, all mediation efforts should be completed prior to this conference. A standard pretrial conference order shall be completed by the parties and submitted to the court for approval. In the event an agreed pretrial order is not presented to the Court, the parties shall be prepared to conduct a formal pretrial conference forthwith, or as soon thereafter as the Court shall determine, in accordance with Kansas Supreme Court Rule 140.

**Rule 408**

**TRIALS**

The Presiding Judge of the Family Law Department shall maintain a calendar for all matters assigned for trial or evidentiary hearing. No case will proceed to trial until a

Pretrial Order is filed. Each party will file and serve on opposing parties an updated Domestic Relations Affidavit, pursuant to Kansas Supreme Court at least one week prior to the date of trial or evidentiary hearing.

Trials and evidentiary hearings will be set at 9:00 a.m. on Tuesday, Wednesday or Thursday.

### **Rule 409** **MOTIONS**

- (a) **Hearing Officer**: Motions which include issues involving CHILD SUPPORT, (including medical) PARENTING TIME, SPOUSAL MAINTENANCE ENFORCEMENT, or PATERNITY shall be heard by the Hearing Officer on Monday or Tuesday mornings at 9:00 a.m.
  
- (b) **Court Trustee**: Motions to Stay Income Withholding Orders issued by the Court Trustee shall be heard by the Hearing Officer on the docket attended by the Court Trustee assigned to the particular case.
  
- (c) **District Judges**: All other motions in Family Law Cases will be heard on Mondays and Fridays at 9:30 a.m. or 1:30 p.m. by a District Court Judge.
  
- (d) **Notice**. All motions shall be noticed for hearing in the Family Law Department, 4<sup>th</sup> Floor, Sedgwick County Courthouse, 525 N. Main, Wichita, Kansas, and shall contain a notice of the time and date of hearing, along with a certificate of service upon the opposing party or counsel. The Court Trustee or SRS shall be given notice of all motions to modify child support in cases which they have entered appearances. All motions shall be served according to the time requirements of K.S.A. 60-206, unless the Presiding Judge approves an expedited hearing.
  
- (e) **Domestic Relations Affidavit/Child Support Worksheet**. Motions or Notices of Intent to Appear which include child support or spousal maintenance issues must have a Domestic Relations Affidavit and Child Support Worksheet filed with the Motion or Notice. Any opposing party responding to such motion shall also file a Domestic Relations Affidavit and Child Support Worksheet with such response.
  
- (f) **Parenting Plan**. Motions requesting a modification of residency or parenting time must have a Proposed Parenting Plan filed with the motion. Any opposing party responding to such motion shall also file a Proposed Parenting Plan with such response.

- (g) The parties shall confer and exchange documents prior to any hearing by the court.

**Rule 410**

**EX-PARTE ORDERS OTHER THAN  
INTERLOCUTORY ORDERS (TEMPORARY ORDERS)**

No ex-parte orders changing de facto residency shall be issued unless supported by sworn testimony under the provisions of K.S.A. 60-1628, as amended. Such testimony may be a narrative affidavit signed by the moving party setting forth in detail the facts necessitating such a change of residency as well as any other affidavits providing information to the Court.

The requesting party, pro se or through counsel, shall notify the opposing party and that party's attorney of record of the date and time when ex-parte contact with the Court is scheduled, and afford the opposing party a reasonable opportunity to meet with the Court at the scheduled time.

The requesting party shall prepare a motion to confirm said ex parte order which shall be set for hearing at the next regular docket after service of the order on the other parent can be accomplished. Said motion shall be filed with the Clerk simultaneously with the ex-parte order. Both the motion and order shall be mailed to the non-moving party and any attorney of record at their last known address.

At the hearing on the motion, the Court shall consider the matter de novo and the moving party shall have the burden of proof. If the facts presented to the judge resulting in such an order are later shown to be incorrect or willfully misleadingly or if this rule is not complied with, sanctions may be ordered against the offending parties or counsel as otherwise provided by law.

**Rule 411**

**RECONCILIATION/DISMISSAL**

Reconciliation of the parties in a divorce, annulment or separate maintenance case shall cause that case to be dismissed.

In the event of a reconciliation, it shall be the duty of counsel for petitioner or for petitioner, if not represented by counsel, to promptly submit a Journal Entry of Dismissal.

**Rule 412**

**PENDING PROTECTION FROM ABUSE OR STALKING CASES**

If an Order in a Protection From Abuse or Stalking case is in effect between two parties, no temporary orders shall be filed in a new family law case unless counsel indicates to

the Court any inconsistencies between the existing Order and the proposed Temporary Order and such inconsistencies are approved by the Judge.

**Rule 413**  
**HEARING OFFICER/APPEALS**

Pursuant to Supreme Court Rule 172, a Hearing Officer shall be appointed to preside at summary hearings related to the establishment, modification or enforcement of support and enforcement of parent visitation rights.

The Hearing Officer will maintain a separate calendar for all matters assigned for summary hearings. These matters will be scheduled for hearing on Mondays at 1:30 p.m. or Tuesday at 1:30 p.m.

Decisions of the Hearing Officer shall be subject to review by a District Judge on the motion of any party filed within 10 days after the decision has been filed. The party seeking the review will be responsible for securing a transcript of the proceedings before the Hearing Officer.

**Rule 414**  
**COURT TRUSTEE**

**COURT TRUSTEE**

1. The Office of the Court Trustee, as provided for in K.S.A. 23-494 and amendments thereto, is hereby established for the Eighteenth Judicial District effective July 1, 1985.

2. Effective February 1, 1996, all new and modified child support orders in the Eighteenth Judicial District, except temporary orders, shall be assigned to the Office of the District Court Trustee for monitoring and enforcement unless, pursuant to K.S.A. 23-4,100, a "good cause exception" is granted by the Court relieving the Office of the Court Trustee of the duty of enforcement of the order.

3. Requests pursuant to K.S.A. 23-4,100 for an exemption from the Office of the Court Trustee's responsibility for collection of support shall be granted only after a motion is filed and hearing is held before the Presiding Judge of the Family Law Department. The Office of the Court Trustee shall be given notice of the hearing.

4. The Court Trustee shall have the additional powers and duties set out in K.S.A. 23-496(c).

5. The Court Trustee shall have the power to enter into child support enforcement contracts with the secretary of social and rehabilitation services pursuant to K.S.A. 75-5365.

6. The Court Trustee is appointed as a hearing officer to preside at summary administrative hearings in accordance with the provisions of Supreme Court Rule No 172.

7. When the Court directs that an income withholding order shall immediately issue and the duty to enforce the support order is assigned to the District Court Trustee, the Trustee shall prepare the income withholding order for filing with the Court and issuance to the employer or income payer.

8. If a new or modified final child support order is issued by the Court and the journal entry memorializing the proceeding is silent as to the assignment or non-assignment of the enforcement duty to the Court Trustee, the support order shall be by this rule deemed assigned to the Office of the District Court Trustee for enforcement. No motions for Nunc Pro Tunc orders to amend the language of child support orders with respect to assignment or non-assignment of enforcement duties to the Office of the Court Trustee shall be considered by the Court unless the Office of the Court Trustee is formally notified by movant of the date and time the motion is scheduled to be heard by the Court.

9. Except as otherwise provided in K.S.A. 23-4,107(j), (k) or (l), and pursuant to other provisions of K.S.A. 23-4,105 et seq., each final order containing orders of child support or child support and spousal support which is entered in the Eighteenth Judicial District and assigned to the Office of the Court Trustee for enforcement shall include the following provisions:

- a. IT IS FURTHER ORDERED that an income withholding order shall be issued immediately as required by K.S.A. 23-4,105 et seq., as amended. The Office of the District Court Trustee shall immediately prepare the income withholding order, notice and answer forms for filing and service to the obligor's payer of income. Each party shall inform the Clerk of the District Court, in writing, of any change of name, residence and employer (with business address) within seven (7) days of a change.
- a. IT IS FURTHER ORDERED that, until the commencement of withholding by a payer/employer, the obligor shall pay all child support payments required by the support order. Payments shall be remitted by the obligor to the Kansas Payment Center on or before the due date specified in the order.
- a. IT IS FURTHER ORDERED that all support payments shall be paid to the Kansas Payment Center, P.O. Box 758599, Topeka, KS 66675-8599, and a fee shall be deducted therefrom by the Kansas Payment Center to defray the expense of the operation of the Office of the District Court Trustee. All support payments shall be payable to the order of the Kansas Payment Center.

The following provision and subparagraph (c.) above shall be included in all final orders where only spousal support is ordered:

- a. IT IS FURTHER ORDERED that, unless the parties have agreed in writing to the earlier issuance of an income withholding order, all maintenance payments shall be subject to income withholding, but only if (a) there is an arrearage in payment of maintenance in an amount equal to or greater than the amount of maintenance payable for two months, (b) the obligee spouse or ex-spouse is not living with a child of the obligor for whom an order of support is also being enforced, and (c) there has been compliance with K.S.A. 23-4,107(m) and amendments thereto.

10. Effective February 1, 1996, any final support order providing for the support of a child, issued by a judge presiding in a Court of the Eighteenth Judicial District, which is silent as to whether an income withholding order shall issue immediately and silent as to the existence of a written agreement among all interested parties providing for an alternative payment arrangement, shall be by this rule deemed to require immediate issuance of an income withholding order.

11. Pursuant to K.S.A. 23-4,118 and Administrative Order No 154 of the Supreme Court of the State of Kansas, the Kansas Payment Center shall receive and disburse payments for support and maintenance made after September 29, 2000. The official payment history for support payments made prior to that time shall continue to be maintained by the Clerk of the District Court. For payments made following September 29, 2000, the official payment history is that maintained by the Kansas Payment Center.

12. Pursuant to K.S.A. 60-1610(a)(1), except for good cause shown, every order requiring payment of child support or maintenance shall require that the support be paid through the Kansas Payment Center, P.O. Box 758599, Topeka, KS 66675-8599. Request pursuant to this statute for a good cause exemption from this rule shall be granted only after a motion is filed and a hearing is held before the Presiding Judge of the Family Law Department. If the case has been assigned to the Court Trustee, the Office of the Court Trustee shall be given notice of the hearing.

13. The Clerk of the District Court, Family Law Department, shall cooperate and coordinate her functions with the Office of the District Court Trustee to such an extent as is necessary to accomplish the improvement of the enforcement of duties of support, and to promote judicial efficiency and the effective administration of justice. The Clerk of the District Court, Family Law Department, will require that a party or attorney filing a "final" child support order also file a support information worksheet which will provide the Office of the Court Trustee with the current information necessary to perform its duties pursuant to this rule.

14. All amounts charged and collected to defray the expenses of the Office of the District Court Trustee shall be withheld from support payments made to the Kansas Payment Center and shall be paid to the Court Trustee Operations Fund of the Eighteenth Judicial District of Kansas.

15. Any action taken by the District Court Trustee to establish, enforce or modify a support order is undertaken on behalf of the Court and in the interest of the public to ensure that obligors meet their duty to their dependents and the public. There is no attorney-client relationship created between an obligee or obligor and the Office of the District Court Trustee or its staff.

16. Nothing in this rule shall be construed as a prohibition of the right of any party to employ private counsel, at their own expense, to enforce or modify orders of support. However, in every case which is monitored and enforced by the Office of the District Court Trustee, counsel shall furnish the Office of the District Court Trustee notice of all proceedings affecting support and copies of all motions, pleadings and orders affecting support.

#### **Rule 415**

#### **STANDARD LANGUAGE IN FAMILY LAW SUPPORT ORDERS**

Any new or modified final order for support shall comply with K.S.A. 23-4,107(b), as amended, and the following language shall be in all such orders:

All payments for support shall be delivered to the:

Kansas Payment Center  
P.O. Box 758599  
Topeka, KS 66675-8599

It shall be the responsibility of the payor and payee to so inform the Kansas Payment Center of their current address.

All such orders shall further have filed with them a child support information sheet.

#### **Rule 416**

#### **DISMISSAL OF FAMILY LAW CASES BY THE COURT**

All family law cases pending for three months or more where no trial or other setting has been obtained will be dismissed, except for good cause shown. The Clerk shall prepare a Notice of Intended Dismissal and a Journal Entry of Dismissal and mail a copy thereof to all attorneys of record or parties, if pro se, at least ten (10) days prior to the dismissal date shown thereon.

Family law cases dismissed under this rule will be reinstated if, within three months after dismissal upon approval of the Presiding Judge, a default judgment or an agreed journal entry after a hearing, is filed at the same time and not otherwise.

**Rule 417**  
**FAMILY LAW ALTERNATIVE DISPUTE RESOLUTION**

The Court may order alternative dispute resolution, including mediation, dispute resolution or case management, of any contested issue of child residency, parenting time or child support, property divisions or other issues at any time, upon the motion of a party or on the Court's own motion. A hearing officer in a proceeding pursuant to K.S.A. 23-701, as amended, may order alternative dispute resolution of a contested issue of parenting time or child support in such a proceeding (K.S.A. 23-602).

The Alternative Dispute Resolution Program will be administered according to written procedures maintained by the Family Law Department. Information about the program and procedures are available from the Dispute Resolution Coordinator in the Family Law Department.