

DRAFT “VIRTUAL VISITATION” BILL

Amends Chapter 23, Article 7 – Domestic Relations, Chapter 38, Article 1 - Minors and Chapter 60, Article 16 – Divorce and Maintenance of the Kansas Family Code:

HOUSE BILL No. TBD

By Representatives

AN ACT concerning children; relating to electronic communication between children and their parents; amending K.S.A. 23-701, 38-129, 60-1607, 60-1610, 60-1616, 60-1620 and 60-1625.

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

Section. 1. K.S.A. 23-701 is hereby amended to read as follows:

23-701 (a) The purpose of this section is to enhance the enforcement of court ordered child visitation rights, ~~or~~ parenting time or any electronic communication by establishing a simplified, expedited procedure to provide justice without necessitating the assistance of legal counsel.

(b) A party who has been granted visitation rights, ~~or~~ parenting time or any electronic communication may file with the court a motion alleging denial or interference with those rights and enforcement of those rights. The district court shall provide a form on which such motion may be filed. Such expedited matters shall be heard by a district judge, court trustee, or magistrate, sitting as a hearing officer. The provisions of this section are in addition to those enforcement procedures provided in the uniform child custody jurisdiction and enforcement act, and amendments thereto, and other remedies provided by law.

(c) When a motion seeking expedited enforcement under subsection (b) is filed, the hearing officer shall immediately:

(1) Set a time and place for a hearing on the motion, which shall not be more than 21 days after the date on which the motion was filed; or

(2) if deemed appropriate, issue an ex parte order for mediation in accordance with K.S.A. 23-601 *et seq.*, and amendments thereto.

(d) If mediation ordered pursuant to subsection (c) is completed, the mediator shall submit a summary of the parties' understanding to the hearing officer within five days after it is signed by the parties. Upon receipt of the summary, the hearing officer shall enter an order in accordance with the parties' agreement or set a time and place for a hearing on the matter, which shall be not more than 10 days after the summary is received by the hearing officer.

(e) If mediation ordered pursuant to subsection (c) is terminated pursuant to K.S.A. 23-604 and amendments thereto, the mediator shall report the termination to the hearing officer within five days after the termination. Upon receipt of the report, the matter shall be set for hearing. Any such hearing shall be not more than 10 days after the mediator's report of termination is received by the hearing officer.

(f) Notice of the hearing date set by the hearing officer shall be given to all interested parties by certified mail, return receipt requested, or as the court may order.

(g) If, upon hearing the hearing officer finds that there has been an unreasonable interference with or denial of visitation or parenting time, the hearing officer shall enter an order providing for one or more of the following:

(1) A specific schedule for visitation, ~~or~~ parenting time or any electronic communication;

Section 2. K.S.A. 38-129 is hereby amended to read as follows:

38-129. Visitation rights of grandparents. (a) The district court may grant the grandparents of an unmarried minor child reasonable visitation including any electronic communication rights to the child during the child's minority upon a finding that the visitation rights would be in the child's best interests and when a substantial relationship between the child and the grandparent has been established.

(b) The district court may grant the parents of a deceased person visitation including any electronic communication rights, or may enforce visitation rights previously granted, pursuant to this section, even if the surviving parent has remarried and the surviving parent's spouse has adopted the child. Visitation rights may be granted pursuant to this subsection without regard to whether the adoption of the child occurred before or after the effective date of this act.

Section. 3. K.S.A. 60-1607 is hereby amended to read as follows:

60-1607 (a) *Permissible orders.* After a petition for divorce, annulment or separate maintenance has been filed, and during the pendency of the action prior to final judgment the judge assigned to hear the action may, without requiring bond, make and enforce by attachment, orders which:

(1) Jointly restrain the parties with regard to disposition of the property of the parties and provide for the use, occupancy, management and control of that property;

(2) restrain the parties from molesting or interfering with the privacy or rights of each other;

(3) provide for the legal custody and residency of and parenting time with the minor children and the support, if necessary, of either party and of the minor children during the pendency of the action;

(A) "Parenting Time", means in-person time spent between a child and their parent including any Electronic Communication;

(B) "Electronic communication" means time during which a parent and his or her child communicate by using communication tools such as the telephone, electronic mail, instant messaging, video conferencing or other wired or wireless technologies via the Internet, or another medium of communication.

Section. 4. K.S.A. 60-1610 is hereby amended to read as follows:

60-1610 (a)(3)(B) In determining the issue of child custody, residency and parenting time, the court shall consider all relevant factors, including but not limited to:

(i) The length of time that the child has been under the actual care and control of any person other than a parent and the circumstances relating thereto;

(ii) the desires of the child's parents as to custody or residency;

(iii) the desires of the child as to the child's custody or residency;

(iv) the interaction and interrelationship of the child with parents, siblings and any other person who may significantly affect the child's best interests;

(v) the child's adjustment to the child's home, school and community;

(vi) the willingness and ability of each parent to respect and appreciate the bond between the child and the other parent and to allow for a continuing relationship between the child and the other parent;

(vii) evidence of spousal abuse;

(viii) whether a parent is subject to the registration requirements of the Kansas offender registration act, K.S.A. 22-4901, et seq., and amendments thereto, or any similar act in any other state, or under military or federal law;

(ix) whether a parent has been convicted of abuse of a child, K.S.A. 21-3609, and amendments thereto;

(x) whether a parent is residing with an individual who is subject to registration requirements of the Kansas offender registration act, K.S.A. 22-4901, et seq., and amendments thereto, or any similar act in any other state, or under military or federal law; and

(xi) whether a parent is residing with an individual who has been convicted of abuse of a child, K.S.A. 21-3609, and amendments thereto.

(xii) **The court may grant a reasonable amount of Electronic Communication at reasonable hours to either or both parents when the child is not in the parent's physical custody if the equipment is reasonably available.**

(xiii) **Electronic Communication with the child may be used only to supplement a parent's periods of parenting time with the child. Electronic Communication may not be used as a replacement or as a substitute for custody or a parent's periods of parenting time with the child.**

(xiv) **The amount of time Electronic Communication is used shall not be a factor in the calculation of Child Support.**

Section. 5. K.S.A. 60-1616 is hereby amended to read as follows:

60-1616 (a) *Parents.* A parent is entitled to reasonable parenting time **including any electronic communication** unless the court finds, after a hearing, that the exercise of parenting time would seriously endanger the child's physical, mental, moral or emotional health.

(b) *Grandparents and stepparents.* Grandparents and stepparents may be granted visitation **including any electronic communication** rights.

Section. 6. K.S.A. 60-1620 is hereby amended to read as follows:

60-1620 (e) **The court may not use the availability of Electronic Communication as a factor to justify or in support of a relocation by the relocating individual out of the immediate area or state.**

Section. 7. K.S.A. 60-1625 is hereby amended to read as follows:

60-1625 (9)(c)(7) ~~telephone access;~~ **Electronic Communication**

References:

- www.InternetVisitation.org

Existing Laws:

- Utah Bill: HB 0082s01
- Wisconsin Bill - SB 244

Existing Bills:

- Missouri - Bill submitted by Rep Michael Brown
- Ohio - SB 341 submitted by Senator Marc Dunn
- South Carolina - Bill created SB1344 by Senator Mescher
- Illinois - Bill submitted HB5379 by Representative Ruth Munson
- Virginia - Bill submitted SB123 by Senator Jay O'Brien
- Michigan - Bill submitted HB6452 by Rep Tom Pearce