

39-7,150. Administrative levy on cash assets. (a) Upon determining that arrearages exist in a title IV-D case, the secretary may enforce the support order by an administrative levy upon the responsible parent's cash assets. Any retirement fund that may be revoked or terminated by the responsible parent and is composed of cash assets shall be subject to administrative levy under this section, notwithstanding any other provision of law unless the retirement fund has any primary beneficiary other than the responsible parent or the responsible parent's spouse.

(b) To initiate an administrative levy under this section, the secretary shall serve an order to restrict transfer upon the holder of any cash asset of the responsible parent. The secretary may include with the order to restrict transfer an order to verify information concerning the cash asset. Except as otherwise provided pursuant to subsection (i), the order to restrict transfer shall be served only by personal service or registered mail, return receipt requested.

(c) The order to restrict transfer shall attach, upon receipt by the holder, the interest of the responsible parent in any cash asset in the possession or control of the holder subject to any prior attachment or lien or any right of setoff that the holder may have against such assets. If the total value of all attachable cash assets is less than \$25 at that time, no interest shall be attached by the order to restrict transfer. Upon attachment, the holder shall not transfer any of the attached assets without the consent of the secretary until further order of the secretary.

(d) Any cash asset held by the responsible parent in joint tenancy with rights of survivorship shall be presumed to be owned entirely by the responsible parent. The burden of proving otherwise shall be upon any person asserting ownership of any attached cash asset. Neither the holder nor the secretary shall be liable to the joint owners if the ownership of the cash assets is later proven not to be the responsible parent's.

(e) The holder shall promptly notify any co-owner of the cash asset or account about the attachment if the co-owner's interest appears to be affected by the attachment.

(f) If an order to restrict transfer is issued, the secretary shall simultaneously send notice to the responsible parent by only personal service or registered mail, return receipt requested. The notice shall state when review is available and how to request review.

(g) If the secretary includes with the order to restrict transfer an order to verify information, the holder shall comply with the terms of the order to verify information within 14 days of receipt.

(h) If the time allowed to request an administrative hearing has elapsed and the proposed levy has not been challenged or the challenge has been resolved, in whole or in part, in favor of the secretary, the secretary shall issue an order to the holder to disburse the attached funds.

(i) If the holder is a financial institution that has entered into an agreement with the secretary, the agreement may provide for alternative methods of: (1) Notifying the financial institution to restrict transfer of cash assets or to disburse proceeds of the order; (2) resolving disputes between the financial institution and the secretary concerning an administrative levy; and (3) exchanging any data related to the IV-D program.

(j) The exemptions contained in article 23 of chapter 60 shall apply to any attachment under this section.

(k) The responsible parent, the holder or any co-owner may contest any order entered under this section that affects the person's rights or duties. The aggrieved person may request: (1) An administrative hearing pursuant to K.S.A. 75-3306, and amendments thereto, by complying with procedures established by the secretary within ten days after entry of the order being contested; or (2) a de novo court review pursuant to K.S.A. 39-7,139, and amendments thereto. If the order is served on the person by mail, the person's time for requesting review shall be extended by three days.

(l) Except as otherwise provided in this subsection, the effect of an order to restrict transfer may be stayed pending resolution of any administrative hearing only upon request and only if the person requesting the stay posts a cash or surety bond or provides other unencumbered security equal in value to the amount of the attached assets. Upon notice and opportunity for hearing, the presiding officer may stay or limit the effect of an order to restrict transfer if the request for stay is accompanied by a sworn statement that the responsible parent is not the owner of the attached assets.

The effect of an order to verify information or an order to disburse attached funds shall be stayed only at the discretion of the presiding officer.

(m) An order issued pursuant to this section whose effect has not been stayed may be enforced pursuant to the civil enforcement provisions of the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto, after the time for compliance with the order has expired. An order issued pursuant to this section shall not be enforceable more than two years after the date of entry shown on the face of the order.

History: L. 1997, ch. 182, § 19; L. 2010, ch. 17, § 57; July 1.