



**KANSAS BAR  
ASSOCIATION**

**TO: The Honorable Blaine Finch, Chair**  
And Members of the House Judiciary Committee

**FROM: Ronald Nelson**  
On behalf of the Kansas Bar Association

**RE: HB 2520 - Retroactive Child Support**

**DATE: February 6, 2018**

Chairman Finch and Members of the House Judiciary Committee,

I am Ronald Nelson and I provide this written testimony in **OPPOSITION** to HB 2520, Retroactive Child Support Guidelines.

I am a family law attorney in Johnson County. I've practiced family law for over 25 years. My practice is focused on complex issues in family law and high conflict child custody litigation. My practice frequently involves representing parents – and grandparents – in family law disputes at the trial court level and in the appellate courts. Over my now many years in family law, I've often wrestled with the difficult issues that arise when parents fight over their children's care and custody – both in court and out-of-court.

The KBA opposes HB 2520 for several reasons:

First, the bill would extend the time to file a request for retroactive child support to four years after a child reaches the age of majority (current law allows a parent to seek retroactive child support only until the child's majority, but allows the child to seek support until two-years after majority);

Second, the bill provides that the Kansas Child Support Guidelines "shall be used to guide the court in determining the amount of retroactive child support" (currently, the Kansas Child Support Guidelines must be used to determine support as mandated by federal law);

Third, requiring the use of the proposed obligor's "net resources of the obligor during the relevant time-period" to determine the support obligation is contrary to the Kansas Child Support Guidelines use of gross income (use of "resources" makes no sense in the context of

child support and is contrary to federal law, child support is determined by 'gross income' in Kansas in part because 'net income' is often manipulated and each person claims different deductions);

Fourth, the bill mandates that the court use generally inappropriate considerations for the determination of support for a child including whether (a) the obligee made any previous attempts to notify the obligor of the obligor's parentage or probable parentage; (b) the obligor had knowledge of the obligor's parentage or probable parentage; (c) the retroactive child support order would "impose an undue financial hardship on the obligor or the obligor's family" and (d) the obligor has provided actual support or other necessities before commencement of the action.

Kansas courts have historically ruled that the factors listed in this bill cannot be used to deprive a child of the rightful support from a parent. In those cases, courts fashioned a common law remedy in addition to the limited options granted by the previous statutes finding that the legislation inappropriately punished children. There are also likely problems with the intersection with federal laws regarding state obligations to award child support. It is for these reasons that KBA OPPOSES HB 2520.

On behalf of the Kansas Bar Association, thank you for your time

*About the Kansas Bar Association:*

The Kansas Bar Association (KBA) was founded in 1882 as a voluntary association for dedicated legal professionals. Its more than 7,200 members include lawyers, judges, law students, and paralegals. [www.ksbar.org](http://www.ksbar.org)