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Kansas bill aims to fix 'presumed father' quandary

By DAVID KLEPPER

The Star's Topeka correspondent

TOPEKA | Wife has an affair, gets pregnant and gives birth to a boy. Husband and wife divorce. Tests show the husband isn't the father, but a court orders him to pay child support anyway.

It is a story of what happens when the birds and the bees get entangled with the letter of the law, and on Wednesday, it had Kansas lawmakers scratching their heads.

Master Sgt. Christopher Sprowson is a 19-year Army veteran now on his third tour in Iraq. His wife, Karey, and three children live near Fort Riley, where she stays home to raise the children.

In 1995, Sprowson's first wife had an affair and got pregnant. The couple divorced when the child was still a baby, and Sprowson has never had a relationship with the boy. Genetic tests prove the boy, now 13, is not his.

But a judge decided it didn't matter. According to Kansas law, a husband is the "presumed father" of his wife's children — even if the children were fathered by another man. Because the boy's mother could not tell the court who the father was, the judge ruled Sprowson had to pay.

The boy's mother never sought child support and offered to forgo the money, Karey Sprowson said. But the state required the payments because the mother once received welfare. The state automatically seeks child support for any parent receiving state assistance.

On Wednesday, Karey Sprowson urged legislators to change the law so that nonbiological fathers can use genetic tests to avoid paying child support. She said her family can't afford the more than \$10,000 the court wants.

She said the state plans to garnishee her husband's Army paycheck and keep the family's tax refund.

"It's not fair that my three children should have to suffer because of this," she said, adding that such a remedy already was the law in such states as Ohio, Colorado and Florida.

Members of the Senate Judiciary Committee said they wanted to help, but they also said they were worried that changing the law could have unintended consequences.

The state Department of Social and Rehabilitation Services and the Kansas Bar Association said many children could lose child-support payments if the law is changed. One concern is that a stepfather could get out of paying support after a divorce — no matter how long he had lived with his children.

Ronald Nelson, a Johnson County lawyer who specializes in family law, told legislators that the law recognizes that fatherhood is more than biology. Nelson said legislation designed to help the Sprowsons would be "a broad brushstroke that will affect hundreds, thousands of other children."

State Sen. Tim Owens, an Overland Park Republican, said the committee will try to pass the bill without creating new problems.

"We have to be very careful about fixing the entire law because of one case," Owens said.

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To reach David Klepper, call 785-354-1388 or send e-mail to dklepper@kcstar.com.

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