

As Amended by House Committee

Session of 2017

HOUSE BILL No. 2053

By Committee on Judiciary

1-12

1 AN ACT concerning courts; relating to collection of debts owed to the
2 courts; domestic cases; amending K.S.A. 2016 Supp. 20-169 and
3 repealing the existing section.
4

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

6 Section 1. K.S.A. 2016 Supp. 20-169 is hereby amended to read as
7 follows: 20-169. (a) The judicial administrator is authorized to enter into
8 contracts in accordance with this section for collection services for debts
9 owed to courts or restitution owed under an order of restitution. On and
10 after July 1, 1999, the cost of collection shall be paid by the ~~defendant~~
11 **person ordered to pay** as an additional court cost in all ~~criminal, traffic,~~
12 ~~domestic and juvenile offender~~ cases where ~~the defendant~~ **such person**
13 fails to pay any amount ordered by the court and the court utilizes the
14 services of a contracting agent pursuant to this section. The cost of
15 collection shall be deemed an administrative fee to pay the actual costs of
16 collection made necessary by ~~the defendant's~~ **such person's** failure to pay
17 court debt and restitution.

18 (b) As used in this section:

19 (1) "Beneficiary under an order of restitution" means the victim or
20 victims of a crime to whom a district court has ordered restitution be paid;

21 (2) "contracting agent" means a person, firm, agency or other entity
22 who contracts hereunder to provide collection services;

23 (3) "cost of collection" means the fee specified in contracts hereunder
24 to be paid to or retained by a contracting agent for collection services. Cost
25 of collection also includes any filing fee required under K.S.A. 60-4303,
26 and amendments thereto, or administrative costs prescribed by rules of the
27 supreme court; and

28 (4) "debts owed to courts" means any assessment of court costs, fines,
29 fees, moneys expended by the state in providing counsel and other defense
30 services to indigent defendants or other charges which a district court
31 judgment has ordered to be paid to the court, and which remain unpaid in
32 whole or in part, and includes any interest or penalties on such unpaid
33 amounts as provided for in the judgment or by law. "Debts owed to courts"
34 also includes: (A) The cost of collection when collection services of a
35 contracting agent hereunder are utilized; and (B) court costs, fines, fees or
36 other charges arising from failure to comply with a traffic citation within

1 30 days from the date of the mailing of the notice pursuant to K.S.A. 8-
2 2110(b)(1), and amendments thereto.

3 (c) (1) Contracts authorized by this section may be entered into with
4 state or federal agencies or political subdivisions of the state of Kansas,
5 including contracts for participation in the collection program authorized
6 by K.S.A. 75-6201 et seq., and amendments thereto. Such contracts also
7 may be entered into with private firms or individuals selected by a
8 procurement negotiation committee in accordance with K.S.A. 75-37,102,
9 and amendments thereto, except that the judicial administrator shall
10 designate a representative to serve as the chief administrative officer
11 member of such committee and that the other two members of such
12 committee shall be designated by the director of purchases and the judicial
13 administrator.

14 (2) Prior to negotiating any contract for collection services, this
15 procurement negotiation committee shall advertise for proposals, negotiate
16 with firms and individuals submitting proposals and select among those
17 submitting such proposals the party or parties to contract with for the
18 purpose of collection services.

19 (3) The supreme court may adopt rules as deemed appropriate for the
20 administration of this section, including procedures to be used in the
21 negotiation and execution of contracts pursuant to this section and
22 procedures to be followed by those who utilize collection services under
23 such contracts.

24 (4) For purposes of this section, the agencies, firms or individuals
25 with whom contracts are entered under this section shall be known as
26 contracting agents. The judicial administrator shall publish a list of the
27 contracting agents for use by courts or beneficiaries under orders of
28 restitution who desire to utilize the collection services of such agents.

29 (5) Each contract entered pursuant to this section shall provide for a
30 fee to be paid to or retained by the contracting agent for collection
31 services. Such fee shall be designated as the cost of collection hereunder,
32 and shall not exceed 33% of the amount collected. The cost of collection
33 shall be paid from the amount collected, but shall not be deducted from the
34 debts owed to courts or restitution. If a contracting agent uses the debt
35 setoff procedures pursuant to K.S.A. 75-6202 et seq., and amendments
36 thereto, to recover debts owed to the courts, the contracting agent's cost of
37 collection for debt recovered through that program shall be the amount
38 established by contract minus the collection assistance fee imposed by the
39 director of accounts and reports of the department of administration
40 pursuant to K.S.A. 75-6210, and amendments thereto.

41 (d) Judicial districts of the state of Kansas are authorized to utilize the
42 collection services of contracting agents pursuant to this section for the
43 purpose of collecting all outstanding debts owed to courts. Subject to rules

1 and orders of the Kansas supreme court, each judicial district may
2 establish by local rule guidelines for the compromise of court costs, fines,
3 attorney fees and other charges assessed in district court cases.

4 (e) Any beneficiary under an order of restitution entered by a court
5 after this section takes effect is authorized to utilize the collection services
6 of contracting agents pursuant to this section for the purpose of collecting
7 all outstanding amounts owed under such order of restitution.

8 (f) Contracts entered hereunder shall provide for the payment of any
9 amounts collected to the clerk of the district court for the court in which
10 the debt being collected originated, after first deducting the collection fee.
11 In accounting for amounts collected from any person pursuant to this
12 section, the district court clerk shall credit the person's amount owed in the
13 amount of the net proceeds collected and shall not reduce the amount
14 owed by any person by that portion of any payment which constitutes the
15 cost of collection pursuant to this section.

16 (g) With the appropriate cost of collection paid to the contracting
17 agent as agreed upon in the contract hereunder, the clerk shall then
18 distribute amounts collected hereunder as follows:

19 (1) When collection services are utilized pursuant to subsection (d),
20 all amounts shall be applied against the debts owed to the court as
21 specified in the original judgment creating the debt;

22 (2) when collection services are utilized pursuant to subsection (e), all
23 amounts shall be paid to the beneficiary under the order of restitution
24 designated to receive such restitution, except where that beneficiary has
25 received recovery from the Kansas crime victims compensation board and
26 such board has subrogation rights pursuant to K.S.A. 74-7312, and
27 amendments thereto, in which case all amounts shall be paid to the board
28 until its subrogation lien is satisfied.

29 (h) Whenever collection services are being utilized against the same
30 debtor pursuant to both subsections (d) and (e), any amounts collected by a
31 contracting agent shall be first applied to satisfy subsection (e) debts, debts
32 pursuant to an order of restitution. Upon satisfaction of all such debts,
33 amounts received from the same debtor shall then be applied to satisfy
34 subsection (d) debts, debts owed to courts.

35 Sec. 2. K.S.A. 2016 Supp. 20-169 is hereby repealed.

36 Sec. 3. This act shall take effect and be in force from and after its
37 publication in the statute book.