

SESSION OF 2015

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2111**

As Agreed to March 31, 2015

Brief*

HB 2111 would amend the law governing courts, including district magistrate judge jurisdiction, county law libraries, items allowable as costs; judgment dormancy; and debts owed to courts.

District Magistrate Judge Jurisdiction

The bill would clarify the jurisdiction of district magistrate judges, by:

- Adding jurisdiction over wildlife, parks, and tourism violations;
- Reorganizing provisions within the statute related to jurisdiction in uncontested actions for divorce and jurisdiction in other civil cases and rewording to clarify these provisions;
- Rewording language related to reassignment of a petition or motion requesting termination of parental rights to match language in the Revised Kansas Code for Care of Children; and
- Adding a list of specific actions over which district magistrate judges would not have jurisdiction without consent of the parties, including:

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- Actions in which the amount in controversy exceeds \$10,000, with some exceptions;
- Actions for official misconduct;
- Actions for specific performance for real estate;
- Certain actions involving real estate;
- Actions to foreclose real estate mortgages or to establish and foreclose liens on real estate;
- Contested actions for divorce, separate maintenance, or custody of minor children; and
- *Habeas corpus*, receiverships, declaratory judgments, *mandamus* and *quo warranto*, injunctions, class actions, and actions for commitment of sexually violent predators.

County Law Libraries

The bill also would allow the Board of Trustees of a county law library to authorize the chief judge of the judicial district to use fees collected pursuant to the statute governing the establishment of county law libraries for the purpose of facilitating and enhancing functions of the district court of the county. Johnson and Sedgwick Counties, however, would not be included in these provisions. Further, judges would be prohibited from participating in any such decision to authorize the use of fees.

Items Allowable as Costs

The bill would amend the statute governing which items may be included in the taxation of court costs to include convenience fees and other administrative fees levied for the privilege of paying assessments, fees, costs, fines, or forfeitures by credit card or other means, including, but not limited to, fees for electronic filing of documents or pleadings with the court.

Dormancy of Judgments for Court Costs

The bill would amend law relating to dormant judgments to specify any judgment for court costs, fees, fines, or restitution not void as of July 1, 2015, would not be or become dormant for any purpose. If the judgment would have become dormant under certain conditions, then it would cease to operate as a lien on the real estate of the judgment debtor as of the date the judgment would have become dormant, but it would not be released.

Debts Owed to Courts

The bill would amend the statute governing the collection of restitution or debts owed to courts to add court costs, fines, fees, or other charges arising from failure to comply with a traffic citation within 30 days from the mailing of the notice to the definition of “debts owed to courts.” It also would add a provision requiring, when a contracting agent uses the state debt setoff procedures to recover a debt owed to the courts, that the agent’s cost of collection for debt recovered through that program be the contracted amount minus the collection assistance fee imposed by the Director of Accounts and Reports of the Department of Administration (Director). In this section, the bill would replace references to the Attorney General with references to the Judicial Administrator and would replace authorization for the Attorney General to adopt rules and regulations with authorization for the Supreme Court to adopt rules.

State Debt Setoff Program

The bill would amend statutes governing the state debt setoff program. The bill would add the following to the definition of “debt”: assessment of court costs, fines, fees, moneys expended by the state in providing counsel and other defense services to indigent defendants, or other unpaid charges ordered by a district court judgment be paid to the

court, including any interest or penalties and the cost of collection when the collection services of a contracting agent are used. The definition of “refund” would be amended to remove the term “Kansas.” The definition of “state agency” would be amended to include a contracting agent contracted by a district court to collect debts owed to the court, who could directly establish a debt setoff account with the Director for the sole purpose of collecting such debts.

The bill would amend a provision related to the Director’s assessment of a reasonable collection assistance fee to require the Director to add the collection assistance fee to the debt after the debt is submitted to the Director. Other debt setoff provisions would be amended to require the Director to add the cost of collection and the debt for a total amount subject to setoff against a debtor, and to allow the reasonable collection assistance fee to be recovered as part of the setoff. Debts being enforced by the Department for Children and Families (DCF) under Title IV-D of the federal Social Security Act would not have the cost of collection added to the debt owed and subject to setoff, and the cost would instead be paid by DCF.

Conference Committee Action

The Conference Committee agreed to the House version of HB 2111 and agreed to add the contents of SB 59, as amended by the House Committee, concerning magistrate jurisdiction; SB 183, as amended by the House Committee, concerning judgment dormancy and debts owed to courts; and HB 2112, concerning county law libraries.

Background

In the House Judiciary Committee, a representative of the Kansas Credit Attorney Association appeared in support of the bill, explaining the purpose of the bill is to clarify payment transaction fees of 4.0 percent charged to parties for

credit card payments of court fees are taxable as a cost. Representatives of Credit Management Services and the Kansas Bar Association also submitted written proponent testimony.

No neutral or opponent testimony was provided.

The same proponents offered testimony in support of the bill in the Senate Committee on Judiciary.

The Senate Committee amended the bill to make it effective on publication in the *Kansas Register*.

The fiscal note prepared by the Division of the Budget, indicates the bill, as introduced, would have no fiscal effect on the Judicial Branch.

SB 59

The bill was introduced by the Senate Committee on Judiciary at the request of Senator King.

In the Senate Committee, representatives of the Kansas District Magistrate Judges Association and Kansas Judicial Branch testified in support of the bill. A representative of the Kansas District Judges Association testified as an opponent to the bill with a suggested amendment. The conferees stated that 2014 Senate Sub. for HB 2065 was enacted to extend magistrate judge jurisdiction, but issues have arisen in implementing the bill's provisions.

The Senate Committee adopted an amendment presented as a compromise between the parties that reorganized some of the language and added a list of specific actions over which a district magistrate judge would not have jurisdiction without consent of the parties. (A similar list was removed from the statute by the 2014 bill.)

In the House Committee on Judiciary, representatives of the Kansas District Judges Association and Kansas District Magistrate Judges Association testified in favor of the bill. Written testimony supporting the bill was received from representatives of the Kansas Supreme Court and Kansas Bar Association.

The House Committee adopted an amendment clarifying wording related to wildlife, parks, and tourism violations.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration and Kansas Department of Wildlife, Parks and Tourism indicates the bill would have no fiscal effect.

SB 183

SB 183 was introduced by the Senate Committee on Judiciary at the request of the Kansas Supreme Court. As introduced, the bill contained provisions related to debts owed to courts and the state debt setoff program.

In the Senate Committee, representatives of the Kansas Judicial Branch Debt Collection Committee and the Kansas Association of District Court Clerks and Administrators (KADCCA) testified in favor of the bill. The Douglas County District Court Trustee and the Chief Deputy Attorney General presented testimony in support with a proposed amendment replacing references to the Attorney General. A representative of DCF presented neutral testimony with a proposed amendment exempting Title IV-D cases from the cost-of-collection changes.

The Senate Committee amended the bill with the Attorney General's and DCF's proposed amendments.

In the House Committee on Judiciary, representatives of the Kansas Judicial Branch Debt Collection Committee and the KADCCA testified in favor of the bill. Representatives of

the Attorney General and DCF submitted written testimony supporting the bill. There was no neutral or opponent testimony.

The House Committee amended the bill by adding the contents of SB 184, related to dormancy of court judgments. Further background information for SB 184 is provided below. The House Committee also adopted a technical amendment correcting references to the Judicial Administrator.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Administration indicates the bill would increase fee fund expenditures by \$15,000 in FY 2015 to modify the Kansas Debt Recovery System to accommodate the bill's provisions.

The Office of Judicial Administration indicates the bill would increase Judicial Branch revenues, but a precise estimate of the fiscal effect cannot be made until the courts have operated with the bill's provisions in place. Any fiscal effect is not reflected in *The FY 2016 Governor's Budget Report*.

SB 184

Under current law, any judgment for court costs, fees, fines, or restitution becomes dormant when a renewal affidavit is not filed or the judgment is not executed within ten years of the date of entry of such judgment.

SB 184 was introduced in the Senate Committee on Judiciary at the request of the Kansas Supreme Court. In the Senate Committee, a representative of the KADCCA testified in support of the bill stating passage of the bill would simplify the debt collection process and increase the likelihood of collecting on court costs and restitution. No neutral or opponent testimony was submitted.

In the House Committee on Judiciary, the same proponent testified and was the only conferee. As noted previously, the House Committee added the contents of SB 184 to SB 183.

According to the fiscal note prepared by the Division of the Budget on SB 184, the Office of Judicial Administration indicates the bill could have a fiscal impact because it would allow some judgments that would have otherwise gone dormant to remain alive and for current and future judgments to be collected. However, the specific fiscal effect is impossible to determine until the Judicial Branch has had an opportunity to operate under the provisions of the bill. Any fiscal effect associated with SB 184 is not reflected in *The FY 2016 Governor's Budget Report*.

HB 2112

In the House Judiciary Committee, representatives of the 8th Judicial District and Chase County offered testimony in support of the bill, which had been recommended by the House Judiciary Committee during the 2014 Legislative Session (HB 2651). A representative of the Johnson County Law Library appeared as an opponent. Representatives of the Sedgwick and Douglas county law libraries offered written neutral testimony.

The House Committee amended the bill to prohibit judges from participating in decisions to authorize the use of such fees and to exclude Johnson and Sedgwick Counties.

The fiscal note prepared by the Division of the Budget indicates passage of the bill would have no effect on county budgets, but would allow unused funding to assist district courts.

Courts; district magistrate judge jurisdiction; county law libraries; items allowable as costs; judgment dormancy; debts owed to courts

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