

20-375. Purpose of act. The purpose of this act* is to improve the enforcement of duties of support and restitution.

20-376. Definitions.

- (1) "Court" means the district court of this state.
- (2) "Duty of support" includes any duty of support imposed by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, separate maintenance or otherwise.
- (3) "Support" as used in this section and K.S.A. 2020 Supp. [20-378](#) and [20-379](#), and amendments thereto, means child support, whether interlocutory or final, and maintenance.
- (4) "Obligor" means any person owing a duty of support or restitution.
- (5) "Obligee" means any person or entity to whom a duty of support or restitution is owed.
- (6) "Duty of restitution" includes any duty of restitution imposed by any agreement, diversion agreement, court order, decree or judgment, whether interlocutory or final, pursuant to a criminal conviction, order of assignment to intensive supervised probation, order of probation or condition of parole.
- (7) "Restitution" as used in this section and K.S.A. 2020 Supp. [20-378](#) and [20-379](#), and amendments thereto, means monetary remuneration owed by an obligor to an obligee as compensation for loss incurred through criminal actions of the obligor which result in loss to the obligee. For the purposes of this act, restitution shall include court costs

20-377. Court trustee; appointment. The court may provide by rule adopted by the judge or judges of each of the judicial districts of Kansas for the establishment of the office of court trustee for the judicial district. The court trustee shall be a person licensed to practice law in the state of Kansas and shall be appointed by and serve at the pleasure of the chief judge of the judicial district.

20-378. Same; duties. The court trustee shall have the responsibility:

- (a) For collection of support or restitution from the obligor upon the written request of the obligee or upon the order of the court; and
- (b) to compile a list of individuals who owe arrearages under a support order or have failed, after appropriate notice, to comply with a subpoena issued pursuant to a duty of support. The court trustee shall deliver such list to the secretary for children and families on a quarterly basis or more frequently as requested by the secretary.

20-379. Same; powers.

- (a) The court trustee shall be authorized and empowered to pursue all civil remedies which would be available to the obligee or obligor in establishing and enforcing payment of support or restitution.
- (b) The court trustee may also file motions for an increase or a decrease of the amount of support on behalf of any child. Any such motion to modify the amount of support shall not be heard until notice has been given to the obligee, the obligor and their attorneys of record, if any.
- (c) The court trustee shall have the following additional powers and duties upon approval of the chief judge:
 - (1) To issue summonses, administrative subpoenas and subpoenas duces tecum to obligors, Obligees and other witnesses who possess knowledge or books and records relating to enforcement of support or restitution to appear in the office of the trustee or before the district court for examination;
 - (2) to administer oaths and take sworn testimony on the record or by affidavit;
 - (3) to appoint special process servers as required to carry out the court trustee's responsibilities under this section;
 - (4) to enter into stipulations, acknowledgments, agreements and journal entries, subject to approval of the court; and
 - (5) to enter into contracts pursuant to K.S.A. [75-719](#), and amendments thereto, with the attorney general for the collection of debts owed to courts or restitution owed to Obligees.

20-380. Same; expenses; compensation; court trustee operations fund, purposes and expenditures.

- (a) Except as provided further, to defray the expenses of operation of the court trustee's office, the court trustee is authorized to charge an amount: (1) Whether fixed or sliding scale, based upon the scope of services provided or upon economic criteria, not to exceed 5% of the support collected from obligors through such office, as determined necessary by the chief judge as provided by this section; (2) based upon the hourly cost of office operations for the provision of services on an hourly or per service basis, with the written agreement of the obligee; or (3) from

restitution collected, not to exceed the fee authorized by the attorney general under any contract entered into pursuant to K.S.A. [75-719](#), and amendments thereto.

(b) All such amounts shall be paid to the court trustee operations fund of the county where collected. There shall be created a court trustee operations fund in the county treasury of each county or district court of each county, in each judicial district that establishes the office of court trustee for the judicial district. The moneys budgeted to fund the operation of existing court trustee offices and to fund the start-up costs of new court trustee offices established on or after January 1, 1992, whether as a result of a rule adopted pursuant to K.S.A. 2020 Supp. [20-377](#), and amendments thereto, or because this act has created a court trustee operations fund, shall be transferred from the county general fund to the court trustee operations fund. The county commissioners of the county or group of counties, if the judicial district consists of more than one county, by a majority vote, shall decide whether the county or counties will have a court trustee operations fund in the county treasury or the district court of each county. Except as provided by subsection (d), all expenditures from the court trustee operations fund shall be made in accordance with the provisions of K.S.A. 2020 Supp. [20-375](#) et seq., and amendments thereto, to enforce duties of support. Authorized expenditures from the court trustee operations fund may include repayment of start-up costs, expansions and operations of the court trustee's office to the county general fund. The court trustee shall be paid compensation as determined by the chief judge. The board of county commissioners of each county to which this act may apply shall provide suitable quarters for the office of court trustee, furnish stationery and supplies, and such furniture and equipment as shall, in the discretion of the chief judge, be necessary for the use of the court trustee. The chief judge shall fix and determine the annual budget of the office of the court trustee and shall review and determine on an annual basis the amount necessary to be charged to defray the expense of start-up costs, expansions and operations of the office of court trustee. All payments made by the secretary for children and families pursuant to K.S.A. 2020 Supp. [23-3113](#), and amendments thereto, or any grants or other monies received which are intended to further child support enforcement goals or restitution goals shall be deposited in the court trustee operations fund.

(c) The court trustee shall not charge or collect a fee for any support payment that is not paid through the central unit for collection and disbursements of support payments pursuant to K.S.A. 2020 Supp. [39-7,135](#), and amendments thereto.

(d) In a judicial district where the office of court trustee has ceased to exist, the chief judge may authorize expenditures from the court trustee operations fund for district court operations.

20-381. Payment of authorized expenditures.

(a) All expenditures provided for in this act shall be paid as follows:

(1) In each judicial district consisting of a single county such expenditure shall be paid by the board of county commissioners or chief judge from the court trustees operations fund as provided in K.S.A. 2020 Supp. [20-380](#), and amendments thereto.

(2) In each judicial district consisting of more than one county which has a single court trustee operation serving all the counties in that district, such expenditure shall be paid by the:

(A) Board of county commissioners of the county having the greatest amount of support or restitution money collected by the court trustee's office in such district from the court trustees operations fund of such county, and such board of county commissioners shall send a statement to the board of county commissioners of each of the other counties in such district for a proportional amount of such annual expenditures with such proportion to be based upon the respective amounts of support and restitution money collected by the court trustee's office of each county within such judicial district. Each board of county commissioners receiving a statement pursuant to this section shall make payment of the same from the court trustees operations fund of the county; or

(B) chief judge of such judicial district. Such judge shall pay such annual expenditures from the court trustee operations fund in the district court of each county based upon the respective amounts of support and restitution money collected by the court trustee's office of each county within such judicial district. The chief judge shall promptly reimburse the county general fund for expenditures made for salary, compensation and fringe benefits made on behalf of the court trustee's office pursuant to K.S.A. [20-162](#), [20-358](#) and [20-359](#), and amendments thereto.

(3) The expenditure for a court trustee office in a multicounty district which does not operate in all counties of the district shall be paid proportionately, as in subsection (2), from the court trustee operations fund of each county served by the court trustee.

(b) The chief judge and the board of county commissioners may agree on a reimbursement amount to the county general fund in an amount less than the total expenses of the court trustee's office, but such reimbursement amount shall not exceed the total expenses of the court trustee's office.

20-382. Authorized expenditures, when paid. The expenditure for salaries, compensation and necessary expenses of the office of court trustee provided for in this act may be paid during any budget year, even though the same was not included in the budget expenditures for such budget year, until such time as the office shall become self-supporting, as determined by the chief judge.

20-383. Court rules to implement act; review of requests for exemption.

(a) The district court shall provide by court rule for such other matters as are necessary to carry out the purpose of this act, including, but not limited to, the appointment of deputy trustees and other staff and a procedure to review written requests of the obligee or obligor for exemption from the office of court trustee's responsibility for collection of support or restitution as provided in subsection (b).

(b) (1) In reviewing the written request for exemption provided in subsection (a), the presiding judge shall make a determination on whether the claimant's request is a good cause claim based on all relevant factors.

(2) The presiding judge's determination shall be based upon the totality of the circumstances and no one factor shall be determinative as to the outcome of the claimant's request for such good cause claim for exemption.