

HOUSE BILL No. 2731

By Representatives Lloyd and Nichols

1-29

AN ACT concerning protection from abuse; relating to funding for programs; amending K.S.A. 2001 Supp. 20-362, 20-367, 60-1621, 60-2001 and 74-7325 and repealing the existing sections.

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

Section 1. K.S.A. 2001 Supp. 20-362 is hereby amended to read as follows: 20-362. The clerk of the district court shall remit all revenues received from docket fees as follows:

(a) At least monthly to the county treasurer, for deposit in the county treasury and credit to the county general fund:

(1) A sum equal to \$10 for each docket fee paid pursuant to K.S.A. 60-2001 and 60-3005, and amendments thereto, during the preceding calendar month;

(2) a sum equal to \$10 for each \$36.50 or \$61.50 docket fee paid pursuant to K.S.A. 2001 Supp. 61-4001, or K.S.A. 61-2704 or 61-2709, and amendments thereto; and

(3) a sum equal to \$5 for each \$19.50 docket fee paid pursuant to K.S.A. 2001 Supp. 61-4001 or K.S.A. 61-2704, and amendments thereto, during the preceding calendar month.

(b) At least monthly to the board of trustees of the county law library fund, for deposit in the fund, a sum equal to the library fees paid during the preceding calendar month for cases filed in the county.

(c) At least monthly to the county treasurer, for deposit in the county treasury and credit to the prosecuting attorneys' training fund, a sum equal to \$1 for each docket fee paid pursuant to K.S.A. 28-172a, and amendments thereto, during the preceding calendar month for cases filed in the county and for each fee paid pursuant to subsection (c) of K.S.A. 28-170, and amendments thereto, during the preceding calendar month for cases filed in the county.

(d) To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and credit to the indigents' defense services fund, a sum equal to \$.50 for each docket fee paid pursuant to K.S.A. 28-172a and subsection (d) of K.S.A. 28-170, and amendments thereto, during the preceding calendar month.

1 (e) To the state treasurer, in accordance with the provisions of K.S.A.
2 75-4215, and amendments thereto, for deposit in the state treasury and
3 credit to the law enforcement training center fund, during the period
4 commencing July 1, 1998, and ending June 30, 2002, a sum equal to \$9,
5 and on and after July 1, 2002, a sum equal to \$8 for each docket fee paid
6 pursuant to K.S.A. 28-172a, and amendments thereto, during the pre-
7 ceding calendar month.

8 (f) *To the state treasurer in accordance with the provisions of K.S.A.*
9 *75-4215, and amendments thereto, for deposit in the state treasury and*
10 *credit to the protection from abuse fund, a sum equal to \$1 for each docket*
11 *fee paid pursuant to K.S.A. 60-2001 and 60-3005, and amendments*
12 *thereto, during the proceeding calendar month.*

13 (g) To the state treasurer, in accordance with the provisions of K.S.A.
14 75-4215, and amendments thereto, for deposit in the state treasury and
15 distribution according to K.S.A. 20-367, and amendments thereto, a sum
16 equal to the balance which remains from all docket fees paid during the
17 preceding calendar month after deduction of the amounts specified in
18 subsections (a), (b), (c), (d) ~~and~~ (e) and (f).

19 Sec. 2. K.S.A. 2001 Supp. 20-367 is hereby amended to read as fol-
20 lows: 20-367. Of the remittance of the balance of docket fees received by
21 the state treasurer from clerks of the district court pursuant to subsection
22 ~~(f)~~ (g) of K.S.A. 20-362, and amendments thereto, the state treasurer shall
23 deposit and credit to the access to justice fund, a sum equal to 6.05% of
24 the remittances of docket fees; to the juvenile detention facilities fund, a
25 sum equal to 3.36% of the remittances of docket fees; to the judicial
26 branch education fund, the state treasurer shall deposit and credit a sum
27 equal to 2.58% of the remittances of docket fees; to the crime victims
28 assistance fund, the state treasurer shall deposit and credit a sum equal
29 to .69% of the remittances of the docket fees; to the protection from
30 abuse fund, the state treasurer shall deposit and credit a sum equal to
31 2.07% of the remittances of the docket fees; to the judiciary technology
32 fund, the state treasurer shall deposit and credit a sum equal to 5.23% of
33 the remittances of docket fees; to the dispute resolution fund, the state
34 treasurer shall deposit and credit a sum equal to .43% of the remittances
35 of docket fees; to the Kansas juvenile delinquency prevention trust fund,
36 the state treasurer shall deposit and credit a sum equal to 1.53% of the
37 remittances of docket fees; to the permanent families account in the fam-
38 ily and children investment fund, the state treasurer shall deposit and
39 credit a sum equal to .25% of the remittances of docket fees; to the trauma
40 fund, a sum equal to 1.81% of the remittance of docket fees; and to the
41 judicial branch nonjudicial salary initiative fund, the state treasurer shall
42 deposit and credit a sum equal to 21.97% of the remittance of docket
43 fees. The balance remaining of the remittances of docket fees shall be

1 deposited and credited to the state general fund.

2 Sec. 3. K.S.A. 2001 Supp. 60-1621 is hereby amended to read as
3 follows: 60-1621. (a) No post-decree motion petitioning for a change in
4 legal custody, residency, visitation rights or parenting time, or for a mod-
5 ification of child support shall be filed or docketed in the district court
6 without payment of a docket fee in the amount of \$20 to the clerk of the
7 district court.

8 (b) A poverty affidavit may be filed in lieu of a docket fee as estab-
9 lished in K.S.A. 60-2001, and amendments thereto.

10 (c) The docket fee shall be the only costs assessed in each case for
11 services of the clerk of the district court and the sheriff. The docket fee
12 shall be disbursed in accordance with subsection ~~(f)~~ (g) of K.S.A. 20-362,
13 and amendments thereto.

14 Sec. 4. K.S.A. 2001 Supp. 60-2001 is hereby amended to read as
15 follows: 60-2001. (a) *Docket fee*. Except as otherwise provided by law, no
16 case shall be filed or docketed in the district court, whether original or
17 appealed, without payment of a docket fee in the amount of ~~\$101~~ \$102
18 to the clerk of the district court.

19 (b) *Poverty affidavit in lieu of docket fee. (1) Effect*. In any case where
20 a plaintiff by reason of poverty is unable to pay a docket fee, and an
21 affidavit so stating is filed, no fee will be required. An inmate in the
22 custody of the secretary of corrections may file a poverty affidavit only if
23 the inmate attaches a statement disclosing the average account balance,
24 or the total deposits, whichever is less, in the inmate's trust fund for each
25 month in (A) the six-month period preceding the filing of the action; or
26 (B) the current period of incarceration, whichever is shorter. Such state-
27 ment shall be certified by the secretary. On receipt of the affidavit and
28 attached statement, the court shall determine the initial fee to be assessed
29 for filing the action and in no event shall the court require an inmate to
30 pay less than \$3. The secretary of corrections is hereby authorized to
31 disburse money from the inmate's account to pay the costs as determined
32 by the court. If the inmate has a zero balance in such inmate's account,
33 the secretary shall debit such account in the amount of \$3 per filing fee
34 as established by the court until money is credited to the account to pay
35 such docket fee. Any initial filing fees assessed pursuant to this subsection
36 shall not prevent the court, pursuant to subsection (d), from taxing that
37 individual for the remainder of the amount required under subsection (a)
38 or this subsection.

39 (2) *Form of affidavit*. The affidavit provided for in this subsection
40 shall be in the following form and attached to the petition:

41 State of Kansas, _____ County.

42 In the district court of the county: I do solemnly swear that the claim set forth in the
43 petition herein is just, and I do further swear that, by reason of my poverty, I am unable to

1 pay a docket fee.

2 (c) *Disposition of docket fee.* The docket fee shall be the only costs
3 assessed in each case for services of the clerk of the district court and the
4 sheriff. The docket fee shall be disbursed in accordance with K.S.A. 20-
5 362 and amendments thereto.

6 (d) *Additional court costs.* Other fees and expenses to be assessed as
7 additional court costs shall be approved by the court, unless specifically
8 fixed by statute. Other fees shall include, but not be limited to, witness
9 fees, appraiser fees, fees for service of process outside the state, fees for
10 depositions, alternative dispute resolution fees, transcripts and publica-
11 tion, attorney fees, court costs from other courts and any other fees and
12 expenses required by statute. All additional court costs shall be taxed and
13 billed against the parties as directed by the court. No sheriff in this state
14 shall charge any district court in this state a fee or mileage for serving any
15 paper or process.

16 Sec. 5. K.S.A. 2001 Supp. 74-7325 is hereby amended to read as
17 follows: 74-7325. (a) There is hereby created in the state treasury the
18 protection from abuse fund. All moneys credited to the fund shall be used
19 solely for the purpose of making grants to programs providing: (1) Tem-
20 porary emergency shelter for *adult* victims of domestic abuse *or sexual*
21 *assault* and their dependent children; (2) counseling and assistance to
22 those victims and their children; or (3) educational services directed at
23 reducing the incidence of domestic abuse *or sexual assault* and diminish-
24 ing its impact on the victims. All moneys credited to the fund pursuant
25 to K.S.A. 20-367, and amendments thereto, shall be used only for on-
26 going operating expenses of ~~such~~ *domestic violence* programs. *All moneys*
27 *credited to the fund pursuant to subsection (f) of K.S.A. 20-362, and*
28 *amendments thereto, shall not be awarded to programs until July 1, 2003,*
29 *and shall be used for ongoing operating expenses of domestic violence or*
30 *sexual assault programs*

31 (b) All expenditures from the protection from abuse fund shall be
32 made in accordance with appropriation acts upon warrants of the director
33 of accounts and reports issued pursuant to vouchers approved by the
34 attorney general or by a person or persons designated by the attorney
35 general.

36 (c) ~~The crime victims compensation board~~ *attorney general* may ap-
37 ply for, receive and accept moneys from any source for the purposes for
38 which moneys in the protection from abuse fund may be expended. Upon
39 receipt of any such moneys, the attorney general shall remit the entire
40 amount to the state treasurer in accordance with the provisions of K.S.A.
41 75-4215, and amendments thereto. Upon receipt of each such remittance,
42 the state treasurer shall deposit the entire amount in the state treasury
43 to the credit of the protection from abuse fund.

1 (d) Grants made to programs pursuant to this section shall be based
2 on the numbers of persons served by the program and shall be made only
3 to the city of Wichita or to agencies which are engaged, as their primary
4 function, in programs aimed at preventing domestic violence *or sexual*
5 *assault* or providing residential services or facilities to family or household
6 members who are victims of domestic violence *or sexual assault*. In order
7 for programs to qualify for funding under this section, they must:

8 (1) Meet the requirements of section 501(c) of the internal revenue
9 code of 1986;

10 (2) be registered and in good standing as a nonprofit corporation;

11 (3) meet normally accepted standards for nonprofit organizations;

12 (4) have trustees who represent the racial, ethnic and socioeconomic
13 diversity of the county or counties served;

14 (5) have received 50% or more of their funds from sources other than
15 funds distributed through the fund, which other sources may be public
16 or private and may include contributions of goods or services, including
17 materials, commodities, transportation, office space or other types of fa-
18 cilities or personal services;

19 (6) demonstrate ability to successfully administer programs;

20 (7) make available an independent certified audit of the previous
21 year's financial records;

22 (8) have obtained appropriate licensing or certification, or both;

23 (9) serve a significant number of residents of the county or counties
24 served;

25 (10) not unnecessarily duplicate services already adequately provided
26 to county residents; and

27 (11) agree to comply with reporting requirements of the ~~crime-vic-~~
28 ~~tims compensation board attorney general~~.

29 The ~~crime-victims compensation board attorney general~~ may adopt
30 rules and regulations establishing additional standards for eligibility and
31 accountability for grants made pursuant to this section.

32 (e) As used in this section, ~~domestic~~:

33 (1) "Domestic abuse" means abuse as defined by the protection from
34 abuse act (K.S.A. 60-3101 *et seq.*, and amendments thereto).

35 (2) "Sexual assault" means acts defined in article 35 of chapter 21 of
36 the Kansas Statutes Annotated, and amendments thereto.

37 (f) On or before the 10th day of each month, the director of accounts
38 and reports shall transfer from the state general fund to the protection
39 from abuse fund interest earnings based on:

40 (1) The average daily balance of moneys in the protection from abuse
41 fund for the preceding month; and

42 (2) the net earnings rate for the pooled money investment portfolio
43 for the preceding month.

1 Sec. 6. K.S.A. 2001 Supp. 20-362, 20-367, 60-1621, 60-2001 and 74-
2 7325 are hereby repealed.

3 Sec. 7. This act shall take effect and be in force from and after its
4 publication in the statute book.

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