

SENATE BILL No. 322

By Committee on Federal and State Affairs

2-7

9 AN ACT concerning municipal courts; pertaining to the collection of
10 debts owed and restitution.

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

13 Section 1. (a) Cities are authorized to enter into contracts in accord-
14 ance with this section for collection services for debts owed to municipal
15 courts or restitution owed under an order of restitution. On and after July
16 1, 2007, the cost of collection shall be paid by the defendant as an addi-
17 tional court cost in all cases where the defendant fails to pay any amount
18 ordered by the court and the city utilizes the services of a contracting
19 agent pursuant to this section. The cost of collection shall be deemed an
20 administrative fee to pay the actual costs of collection made necessary by
21 the defendant's failure to pay debts owed to municipal courts and
22 restitution.

23 (b) As used in this section:

24 (1) "Beneficiary under an order of restitution" means the victim or
25 victims of a crime to whom a municipal court has ordered restitution be
26 paid.

27 (2) "Contracting agent" means a person, firm, agency or other entity
28 who contracts with a city to provide collection services hereunder.

29 (3) "Cost of collection" means the fee specified in contracts here-
30 under to be paid to or retained by a contracting agent for collection serv-
31 ices. Cost of collection also includes any filing fee required under K.S.A.
32 60-4303, and amendments thereto, and all expenses incurred to provide
33 the notice in subsection (i).

34 (4) "Debt owed to municipal courts" means any assessment of court
35 costs, fines, fees, moneys expended by the city in providing counsel and
36 other defense services to indigent defendants or other charges which a
37 municipal court judge has ordered to be paid to the court, and which
38 remain unpaid in whole or in part, and includes any interest or penalties
39 on such unpaid amounts as provided for in the judgment or by law. "Debt
40 owed to municipal courts" also includes the cost of collection when col-
41 lection services of a contracting agent hereunder are utilized.

42 (c) Any beneficiary under an order of restitution entered by a mu-
43 nicipal court after this section takes effect is authorized to utilize the

- 1 collection services of a city's contracting agents pursuant to this section
2 for the purpose of collecting all outstanding amounts owed under such
3 order of restitution issued from that court.
- 4 (d) Contracts entered hereunder shall provide for the payment of any
5 amounts collected to the clerk of the municipal court for the court in
6 which the debt being collected originated, after first deducting the col-
7 lection fee. In accounting for amounts collected from any person pursuant
8 to this section, the municipal court clerk shall credit the person's amount
9 owed in the amount of the net proceeds collected and shall not reduce
10 the amount owed by any person by that portion of any payment which
11 constitutes the cost of collection.
- 12 (e) With the appropriate cost of collection paid to the contracting
13 agent as agreed upon in the contract hereunder, the municipal court clerk
14 shall then distribute amounts collected hereunder as follows:
- 15 (1) When collection services are utilized pursuant to subsection (c),
16 all net amounts shall be applied against the debts owed to the municipal
17 court as specified in the original judgment creating the debt; or
- 18 (2) When collection services are utilized pursuant to subsection (d),
19 all net amounts shall be paid to the beneficiary under the order of resti-
20 tution designated to receive such restitution, except where that benefi-
21 ciary has received recovery from the Kansas crime victims compensation
22 board and such board has subrogation rights pursuant to K.S.A. 74-7312
23 and amendments thereto, in which case all amounts shall be paid to the
24 board until its subrogation lien is satisfied.
- 25 (f) Whenever collection services are being utilized against the same
26 debtor pursuant to both subsections (c) and (d), any net amounts collected
27 by a contracting agent shall be first applied to satisfy debts pursuant to
28 an order of restitution. Upon satisfaction of all such debts, any net
29 amounts received from the same debtor shall then be applied to satisfy
30 debts owed to municipal courts.
- 31 (g) For any defendant convicted in municipal court, all debts owed
32 to the municipal court shall be assessed against the defendant and shall
33 be a judgment against the defendant that may be enforced in the district
34 court serving the jurisdiction in which the city is located. This judgment
35 is enforceable in the district court as a civil judgment under chapter 61
36 of the Kansas Statutes Annotated, and amendments thereto, for payment
37 of money upon filing the municipal court judgment, affidavit and certifi-
38 cate of mailing as indicated in subsection (i).
- 39 (h) Jury fees are not court costs and shall be paid by the city in all
40 municipal cases appealed for a trial de novo before the district court.
- 41 (i) A copy of any municipal judgment certified by the municipal court
42 in which the judgment was rendered, may be filed in the office of the
43 clerk of any district court of this state. Such copy must be filed by an

1 attorney licensed to practice law in the state of Kansas. The clerk of the
2 district court shall treat the municipal judgment so filed in the same
3 manner as a judgment of the district court of this state. A judgment filed
4 as provided by this section has the same effect and is subject to the same
5 procedures, defenses and proceedings as a judgment of a district court
6 of this state and may be enforced or satisfied in like manner.

7 (1) At the time of the filing of the municipal judgment, the city mu-
8 nicipal court clerk shall make and file with the clerk of the district court
9 an affidavit setting forth the name and last known post office address of
10 the judgment debtor who was assessed a debt owed to the municipal
11 court.

12 (2) Promptly upon the filing of the municipal judgment and the af-
13 fidavit, the clerk of the municipal court shall mail notice of the filing of
14 the municipal judgment to the judgment debtor at the address given and
15 shall file a certificate of the mailing with the district court. The notice
16 shall include the name and post office address of the city's contracting
17 agent and the attorney prosecuting the judgment collection for the city.
18 In addition, a judgment creditor owed restitution under the municipal
19 judgment may mail a notice of the filing of the judgment to the judgment
20 debtor and may file a certificate of mailing with the clerk of the district
21 court. Lack of mailing notice of filing by the clerk of the municipal court
22 shall not affect the enforcement proceedings if a certificate of mailing by
23 the judgment creditor has been filed.

24 (j) If the judgment debtor shows the district court:

25 (1) That an appeal from the municipal judgment is pending or will
26 be taken, or that a stay of execution has been granted, the district court
27 shall stay enforcement of the municipal judgment until the appeal is con-
28 cluded, the time for appeal expires, or the stay of execution expires or is
29 vacated, but only upon proof that the judgment debtor has furnished the
30 security for the satisfaction of the judgment required by the city in which
31 it was rendered.

32 (2) Any ground upon which enforcement of a judgment of any district
33 court of this state would be stayed, the district court shall stay enforce-
34 ment of the municipal judgment for an appropriate period, upon requir-
35 ing the same security for satisfaction of the judgment which is required
36 in this state subject to the provisions of subsection (d) of K.S.A. 60-2103,
37 and amendments thereto.

38 (k) The payment of court costs for the filing of municipal court judg-
39 ments shall be governed by K.S.A. 2006 Supp. 60-2001 and 60-2005, and
40 amendments thereto.

41 Sec. 2. This act shall take effect and be in force from and after its
42 publication in the statute book.