

HOUSE BILL No. 2775

By Committee on Federal and State Affairs

3-6

Technical Amendments
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1 AN ACT concerning lotteries; dealing with debt setoff for child support;
2 amending K.S.A. 2011 Supp. 75-3306 and 75-6202 and repealing the
3 existing sections.
4

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

6 New Section 1. (a) The secretary of social and rehabilitation services
7 shall create and maintain or contract with a public or private entity to
8 create and maintain a registry that lists child support debtors to be
9 accessed by any lottery gaming facility manager as defined by K.S.A. 74-
10 8702, and amendments thereto, and any facility owner licensee as defined
11 by K.S.A. 74-8802, and amendments thereto, for the purpose of offsetting
12 any prize as defined by K.S.A. 74-8702, and amendments thereto, or
13 winnings from parimutuel wagering as defined by K.S.A. 74-8802, and
14 amendments thereto.

the Kansas lottery,

15 (b) Except as provided in section 2, and amendments thereto, the
16 Kansas lottery and all lottery facility managers and facility owner
17 licensees shall conduct searches of the child support debtor's registry to
18 ensure that an offset of past due child support is made against the winnings
19 of any person who wins a prize or wager valued at \$1,200 or more.

20 (c) Pursuant to an agreement made under subsection (a), the secretary
21 of social and rehabilitation services may disclose information about any
22 individual who owes past due support in a title IV-D case if the support
23 debtor owes at least \$25 in past due support. "Title IV-D" means part D of
24 the title IV of the federal social security act, 42 U.S.C. § 651 *et seq.*

25 (d) To the extent feasible, the secretary of social and rehabilitation
26 services shall require or provide secure electronic processes for disclosing
27 information about child support debtors to any lottery gaming facility
28 manager or a facility owner licensee conducting matches pursuant to this
29 section.

the Kansas lottery,

30 (e) The secretary of social and rehabilitation services shall have the
31 authority to adopt such rules and regulations as may be necessary to
32 administer the provisions of this act.

33 New Sec. 2. The Kansas lottery and any lottery gaming facility
34 manager as defined by K.S.A. 74-8702, and amendments thereto, and any
35 facility owner licensee as defined by K.S.A. 74-8802, and amendments
36 thereto, may utilize the provisions of K.S.A. 75-6201 *et seq.*, and

1 amendments thereto, to insure child support debtors who win any prize or
2 winning from parimutuel wagering valued at \$1,200 or more shall be
3 subject to setoff of such child support debt.

4 Sec. 3. K.S.A. 2011 Supp. 75-3306 is hereby amended to read as
5 follows: 75-3306. (a) The secretary of social and rehabilitation services,
6 except as set forth in the Kansas administrative procedure act and
7 subsections (f), (g), (h) and (i), shall provide a fair hearing for any person
8 who is an applicant, client, inmate, other interested person or taxpayer who
9 appeals from the decision or final action of any agent or employee of the
10 secretary. The hearing shall be conducted in accordance with the
11 provisions of the Kansas administrative procedure act.

12 It shall be the duty of the secretary of social and rehabilitation services
13 to have available in all intake offices, during all office hours, forms for
14 filing complaints for hearings, and appeal forms with which to appeal from
15 the decision of the agent or employee of the secretary. The forms shall be
16 prescribed by the secretary of social and rehabilitation services and shall
17 have printed on or as a part of them the basic procedure for hearings and
18 appeals prescribed by state law and the secretary of social and
19 rehabilitation services.

20 (b) The secretary of social and rehabilitation services shall have
21 authority to investigate (1) any claims and vouchers and persons or
22 businesses who provide services to the secretary of social and
23 rehabilitation services or to welfare recipients, (2) the eligibility of persons
24 to receive assistance and (3) the eligibility of providers of services.

25 (c) The secretary of social and rehabilitation services shall have
26 authority, when conducting investigations as provided for in this section,
27 to issue subpoenas; compel the attendance of witnesses at the place
28 designated in this state; compel the production of any records, books,
29 papers or other documents considered necessary; administer oaths; take
30 testimony; and render decisions. If a person refuses to comply with any
31 subpoena issued under this section or to testify to any matter regarding
32 which the person may lawfully be questioned, the district court of any
33 county, on application of the secretary, may issue an order requiring the
34 person to comply with the subpoena and to testify, and any failure to obey
35 the order of the court may be punished by the court as a contempt of court.
36 Unless incapacitated, the person placing a claim or defending a privilege
37 before the secretary shall appear in person or by authorized representative
38 and may not be excused from answering questions and supplying
39 information, except in accordance with the person's constitutional rights
40 and lawful privileges.

41 (d) The presiding officer may close any portion of a hearing
42 conducted under the Kansas administrative procedure act when matters
43 made confidential, pursuant to federal or state law or regulation are under

1 consideration.

2 (e) Except as provided in subsection (d) of K.S.A. 77-511, and
3 amendments thereto, and notwithstanding the other provisions of the
4 Kansas administrative procedure act, the secretary may enforce any order
5 prior to the disposition of a person's application for an adjudicative
6 proceeding unless prohibited from such action by federal or state statute,
7 regulation or court order.

8 (f) Except as provided in this subsection, decisions and final actions
9 relating to the administration of the support enforcement program set forth
10 in K.S.A. 39-753 *et seq.*, and amendments thereto, shall be exempt from
11 the provisions of the Kansas administrative procedure act and subsection
12 (a). Decisions and final actions relating to the support enforcement
13 program may be reviewed pursuant to this section ~~and pursuant to this act,~~
14 ~~and amendments thereto,~~ if the decision or final action relates directly to
15 federal debt set-off activities or the person is specifically permitted by
16 statute to request a fair hearing under this section.

sections 1 and 2

17 (g) Decisions relating to administrative disqualification hearings shall
18 be exempt from the provisions of the Kansas administrative procedure act
19 and subsection (a).

20 (h) The department of social and rehabilitation services shall not have
21 jurisdiction to determine the facial validity of a state or federal statute. An
22 administrative law judge from the office of administrative hearings shall
23 not have jurisdiction to determine the facial validity of an agency rule and
24 regulation.

25 (i) The department of social and rehabilitation services shall not be
26 required to provide a hearing if: (1) The department of social and
27 rehabilitation services lacks jurisdiction of the subject matter; (2)
28 resolution of the matter does not require the department of social and
29 rehabilitation services to issue an order that determines the applicant's
30 legal rights, duties, privileges, immunities or other legal interests; (3) the
31 matter was not timely submitted to the department of social and
32 rehabilitation services pursuant to regulation or other provision of law; or
33 (4) the matter was not submitted in a form substantially complying with
34 any applicable provision of law.

35 Sec. 4. K.S.A. 2011 Supp. 75-6202 is hereby amended to read as
36 follows: 75-6202. As used in this act:

- 37 (a) "Debtor" means any person who:
 - 38 (1) Owes a debt to the state of Kansas or any state agency or any
39 municipality;
 - 40 (2) owes support to an individual, or an agency of another state, who
41 is receiving assistance in collecting that support under K.S.A. 39-756, and
42 amendments thereto, or under part D of title IV of the federal social
43 security act, (42 U.S.C. § 651 *et seq.*), as amended; or

- 1 (3) owes a debt to a foreign state agency.
- 2 (b) "Debt" means:
- 3 (1) Any liquidated sum due and owing to the state of Kansas, or any
4 state agency, municipality or foreign state agency which has accrued
5 through contract, subrogation, tort, operation of law, or any other legal
6 theory regardless of whether there is an outstanding judgment for that sum.
7 A debt shall not include special assessments except when the owner of the
8 property assessed petitioned for the improvement and any successor in
9 interest of such owner of property; or
- 10 (2) any amount of support due and owing an individual, or an agency
11 of another state, who is receiving assistance in collecting that support
12 under K.S.A. 39-756, and amendments thereto, or under part D of title IV
13 of the federal social security act, (42 U.S.C. § 651 *et seq.*), as amended,
14 which amount shall be considered a debt due and owing the district court
15 trustee or the department of social and rehabilitation services for the
16 purposes of this act.
- 17 (c) "Refund" means any amount of Kansas income tax refund due to
18 any person as a result of an overpayment of tax, and for this purpose, a
19 refund due to a husband and wife resulting from a joint return shall be
20 considered to be separately owned by each individual in the proportion of
21 each such spouse's contribution to income, as the term "contribution to
22 income" is defined by rules and regulations of the secretary of revenue.
- 23 (d) "Net proceeds collected" means gross proceeds collected through
24 final setoff against a debtor's earnings, refund or other payment due from
25 the state or any state agency minus any collection assistance fee charged
26 by the director of accounts and reports of the department of administration.
- 27 (e) "State agency" means any state office, officer, department, board,
28 commission, institution, bureau, agency or authority or any division or unit
29 thereof *including the Kansas lottery, any lottery gaming facility manager*
30 *as defined by K.S.A. 74-8702, and amendments thereto, and any facility*
31 *owner licensee as defined by K.S.A. 74-8802, and amendments thereto,*
32 and any judicial district of this state or the clerk or clerks thereof. "State
33 agency" also shall include any district court utilizing collection services
34 pursuant to K.S.A. 75-719, and amendments thereto, to collect debts owed
35 to such court.
- 36 (f) "Person" means an individual, proprietorship, partnership, limited
37 partnership, association, trust, estate, business trust, corporation, other
38 entity or a governmental agency, unit or subdivision.
- 39 (g) "Director" means the director of accounts and reports of the
40 department of administration.
- 41 (h) "Municipality" means any municipality as defined by K.S.A. 75-
42 1117, and amendments thereto.
- 43 (i) "Payor agency" means any state agency which holds money for, or

1 owes money to, a debtor.

2 (j) "Foreign state or foreign state agency" means the states of
3 Colorado, Missouri, Nebraska or Oklahoma or any agency of such states
4 which has entered into a reciprocal agreement pursuant to K.S.A. 75-6215,
5 and amendments thereto.

6 Sec. 5. K.S.A. 2011 Supp. 75-3306 and 75-6202 are hereby repealed.

7 Sec. 6. This act shall take effect and be in force from and after its
8 publication in the statute book.

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