

**House Judiciary Committee
Representative John Barker, Chair
Representative Charles Macheers, Vice Chair**

**Testimony in Support of SB 183
Collection of Debts Owed to the Courts**

March 16, 2015

Chief Judge Merlin Wheeler, 5th Judicial District (Chase and Lyon Counties)

Thank you for the opportunity to appear in support of SB 183. This bill is the work product of the Kansas Judicial Branch Debt Collection Committee, which was appointed by the Supreme Court in an effort to enhance its collection of court-ordered debt.

Kansas Judicial Branch Debt Collection Committee – Background

Improving compliance with court orders, including orders to pay monetary fines, docket fees, and restitution, is an important function of the Judicial Branch. As noted by the National Center for State Courts (NCSC), “the ability of courts to effectively compel compliance goes directly to the perception of trust and confidence in the judiciary by the public, as well as by the legislatures that provide funding, and executive branch agencies that do business with the courts.” National Center for State Courts, *Process Review of Court-Ordered Monetary Sanctions for the Kansas Judicial Branch*, p. 3. “In particular, restitution for crime victims and accountability for enforcement of monetary penalties imposed on offenders are issues of intense public interest and concern.” National Center for State Courts, *Collection of Monetary Penalties*, www.courtools.org.

Kansas’ most recent efforts to enhance its collection of court-ordered debt began in 2011 with a review of debt collection activities by the Supreme Court’s Blue Ribbon Commission (BRC). Senator King served as a member of the commission and as chairman of the Finances and Courts work group. Committee members studied current collection efforts and ways to enhance those efforts. One recommendation made by commission members was that the Office of Judicial Administration should explore some of the debt collection methods used by other states.

To implement this BRC recommendation, the Judicial Branch applied for and received a State Justice Institute (SJI) grant for an NCSC study of current collections practices. Kansas Judicial Branch personnel, including the Kansas Judicial Branch Debt Collection Committee, worked with NCSC consultants, who issued a report including 33 recommendations for policies, operational changes, and statutory amendments aimed at improving the enforcement of court-ordered financial obligations.

The Judicial Branch Debt Collection Committee reviewed each of those 33 recommendations. After discussing each recommendation, committee members assigned them a ranking based upon the recommendation’s importance in the debt collection process, the

collections potential, the amount of staff workload increase, and the manner in which the item would promote the administration of justice and the public's faith and confidence in the court system. It was believed that all of the 33 recommendations, while important, could not be implemented immediately or at one time, mainly because of the workload implications for Judicial Branch staff. Several recommendations are dependent upon the purchase and implementation of a centralized case management system. As staffing and other resources permit, the committee believes that all of the recommendations should be implemented or that some related action should be taken in each of the areas noted by the consultants.

Debt Collections Committee members agree that they are motivated to take the steps necessary to increase the Judicial Branch's collection efforts and believe that other Judicial Branch employees share that same motivation. Simply put, compliance with court orders is important. It should be noted, however, that there are few, if any, recommendations that would not require at least some amount of additional time and effort from judges and court staff. In fact, a majority of these recommendations would require a significant commitment of time and effort.

SB 183 – Collection of Debts Owed to the Courts

SB 183 includes two provisions that are anticipated to provide significant assistance in collecting debts owed to the courts. 23rd Judicial District Clerk of the District Court Amanda Truan will address those provisions regarding debt setoff, and I will address the provision in Section 1(b)(4)(B) which would add "court costs, fines, fees or other charges arising from failure to comply with a traffic citation within 30 days from the date of the mailing of the notice pursuant to K.S.A. 8-2110(b)(1), and amendments thereto" to the definition of those "debts owed to the courts" that may sent to debt collections. Pursuant to K.S.A. 2014 Supp. 75-719, the Attorney General is authorized to enter into contracts for the collection of debts owed to the courts and restitution, and judicial districts are authorized to use these collection services. These services have proven to be a significant part of the court collections process.

This amendment was a high priority of the Judicial Branch Debt Collection Committee and would provide a simple fix to what is essentially a loophole in current law. While "debts owed to court" includes "any assessment of court costs, fines, fees, moneys expended by the state in providing counsel and other defense services to indigent defendants or other charges **which a district court judgment has ordered to be paid to the court**, and which remain unpaid in whole or in part," there is no judgment when a person receives a traffic ticket, does not pay it, and does not appear before the court. In other words, judgment is avoided by the person's failure to appear. This amendment would provide specific authority to send unpaid, "no appearance" traffic tickets to collections.

Persons who have received a traffic citation are provided with notice of their obligation to pay through the ticket and the 30-day letter sent by the courts pursuant to K.S.A. 8-2110(b)(1).

Testimony on SB 183
March 16, 2015
Page 3

Although not required by law, some judicial districts send another follow-up notice if compliance is not had after the 30-day letter.

The passage of SB 183 is anticipated to result in increased collections of these unpaid, “no appearance” traffic tickets. The amount of any increase in revenue cannot be estimated with any certainty until the Judicial Branch has had an opportunity to operate under the provisions of SB 183.

The Senate committee amended the bill at the request of the Attorney General to move debt collection contract oversight to the Office of Judicial Administration. They further amended the bill at the request of the Department of Children and Families to exempt Title IV-D collections from the provisions of this bill. The Senate passed the bill with a vote of 38 to 2.

Thank you for your consideration of SB 183. I would be happy to stand for any questions you might have.