

## HOUSE BILL No. 2719

By Committee on Federal and State Affairs

2-19

1 AN ACT concerning courts; relating to district court trustees collecting  
2 debts owed to courts; amending K.S.A. 2019 Supp. 20-169, 20-376, 20-  
3 379 and 20-380 and repealing the existing sections.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2019 Supp. 20-169 is hereby amended to read as  
7 follows: 20-169. (a) The judicial administrator is authorized to enter into  
8 contracts in accordance with this section for collection services for debts  
9 owed to courts or restitution owed under an order of restitution. ~~On and~~  
10 ~~after July 1, 1999,~~ The cost of collection shall be paid by the responsible  
11 party as an additional court cost in all cases where such party fails to pay  
12 any debts owed to courts or restitution owed under an order of restitution  
13 and the court utilizes the services of a contracting agent pursuant to this  
14 section. The cost of collection shall be deemed an administrative fee to pay  
15 the actual costs of collection made necessary by such party's failure to pay  
16 court debt and restitution.

17 (b) As used in this section:

18 (1) "Beneficiary under an order of restitution" means the victim or  
19 victims of a crime to whom a district court has ordered restitution be paid;

20 (2) "contracting agent" means a person, firm, agency or other entity  
21 who contracts hereunder to provide collection services;

22 (3) "cost of collection" means the fee specified in contracts hereunder  
23 to be paid to or retained by a contracting agent for collection services.  
24 "Cost of collection" also includes any filing fee required under K.S.A. 60-  
25 4303, and amendments thereto, or administrative costs prescribed by rules  
26 of the supreme court; and

27 (4) "debts owed to courts" means any assessment of court costs, fines,  
28 fees, moneys expended by the state in providing counsel and other defense  
29 services to indigent defendants or other charges ~~which that~~ a district court  
30 judgment has ordered to be paid to the court, and ~~which that~~ remain  
31 unpaid in whole or in part, and includes any interest or penalties on such  
32 unpaid amounts as provided for in the judgment or by law. "Debts owed to  
33 courts" also includes: (A) The cost of collection when collection services  
34 of a contracting agent hereunder are utilized; ~~and~~ (B) *the cost of collection*  
35 *when collection services are performed by a district court trustee pursuant*  
36 *to K.S.A. 20-380(e), and amendments thereto; and (C) court costs, fines,*

1 fees or other charges arising from failure to comply with a traffic citation  
2 within 30 days from the date of the mailing of the notice pursuant to  
3 K.S.A. 8-2110(b)(1), and amendments thereto.

4 (c) (1) Contracts authorized by this section may be entered into with  
5 state or federal agencies or political subdivisions of the state of Kansas,  
6 including contracts for participation in the collection program authorized  
7 by K.S.A. 75-6201 et seq., and amendments thereto. Such contracts also  
8 may be entered into with private firms or individuals selected by a  
9 procurement negotiation committee in accordance with K.S.A. 75-37,102,  
10 and amendments thereto, except that the judicial administrator shall  
11 designate a representative to serve as the chief administrative officer  
12 member of such committee and that the other two members of such  
13 committee shall be designated by the director of purchases and the judicial  
14 administrator.

15 (2) Prior to negotiating any contract for collection services, ~~this~~ *such*  
16 procurement negotiation committee shall advertise for proposals, negotiate  
17 with firms and individuals submitting proposals and select among those  
18 submitting such proposals the party or parties to contract with for the  
19 purpose of collection services.

20 (3) The supreme court may adopt rules as deemed appropriate for the  
21 administration of this section, including procedures to be used in the  
22 negotiation and execution of contracts pursuant to this section and  
23 procedures to be followed by those who utilize collection services under  
24 such contracts.

25 (4) For purposes of this section, the agencies, firms or individuals  
26 with whom contracts are entered under this section shall be known as  
27 contracting agents. The judicial administrator shall publish a list of the  
28 contracting agents for use by courts or beneficiaries under orders of  
29 restitution who desire to utilize the collection services of such agents.

30 (5) Each contract entered *into* pursuant to this section shall provide  
31 for a fee to be paid to or retained by the contracting agent for collection  
32 services. Such fee shall be designated as the cost of collection hereunder,  
33 and shall not exceed 33% of the amount collected. The cost of collection  
34 shall be paid from the amount collected, but shall not be deducted from the  
35 debts owed to courts or restitution. If a contracting agent uses the debt  
36 setoff procedures pursuant to K.S.A. 75-6202 et seq., and amendments  
37 thereto, to recover debts owed to the courts, the contracting agent's cost of  
38 collection for debt recovered through that program shall be the amount  
39 established by contract minus the collection assistance fee imposed by the  
40 director of accounts and reports of the department of administration  
41 pursuant to K.S.A. 75-6210, and amendments thereto.

42 (d) Judicial districts of the state of Kansas are authorized to utilize the  
43 collection services of contracting agents pursuant to this section for the

1 purpose of collecting all outstanding debts owed to courts. Subject to rules  
2 and orders of the ~~Kansas~~ supreme court, each judicial district may  
3 establish by local rule guidelines for the compromise of court costs, fines,  
4 attorney fees and other charges assessed in district court cases.

5 (e) Any beneficiary under an order of restitution entered by a court  
6 after this section takes effect is authorized to utilize the collection services  
7 of contracting agents pursuant to this section for the purpose of collecting  
8 all outstanding amounts owed under such order of restitution.

9 (f) Contracts entered hereunder shall provide for the payment of any  
10 amounts collected to the clerk of the district court for the court in which  
11 the debt being collected originated, after first deducting the collection fee.  
12 In accounting for amounts collected from any person pursuant to this  
13 section, the district court clerk shall credit the person's amount owed in the  
14 amount of the net proceeds collected and shall not reduce the amount  
15 owed by any person by that portion of any payment which constitutes the  
16 cost of collection pursuant to this section.

17 (g) With the appropriate cost of collection paid to the contracting  
18 agent as agreed upon in the contract hereunder, the clerk shall then  
19 distribute amounts collected hereunder as follows:

20 (1) When collection services are utilized pursuant to subsection (d),  
21 all amounts shall be applied against the debts owed to the court as  
22 specified in the original judgment creating the debt;

23 (2) when collection services are utilized pursuant to subsection (e), all  
24 amounts shall be paid to the beneficiary under the order of restitution  
25 designated to receive such restitution, except where that beneficiary has  
26 received recovery from the Kansas crime victims compensation board and  
27 such board has subrogation rights pursuant to K.S.A. 74-7312, and  
28 amendments thereto, in which case all amounts shall be paid to the board  
29 until its subrogation lien is satisfied.

30 (h) Whenever collection services are being utilized against the same  
31 debtor pursuant to both subsections (d) and (e), any amounts collected by a  
32 contracting agent shall be first applied to satisfy subsection (e) debts, debts  
33 pursuant to an order of restitution. Upon satisfaction of all such debts,  
34 amounts received from the same debtor shall then be applied to satisfy  
35 subsection (d) debts, debts owed to courts.

36 Sec. 2. K.S.A. 2019 Supp. 20-376 is hereby amended to read as  
37 follows: 20-376. ~~(1)~~(a) "Court" means the district court of this state.

38 ~~(2)~~(b) "Duty of support" includes any duty of support imposed by any  
39 court order, decree or judgment, whether interlocutory or final, whether  
40 incidental to a proceeding for divorce, separate maintenance or otherwise.

41 ~~(3)~~(c) "Support" as used in this section and K.S.A. 2019 Supp. 20-  
42 378 ~~and 20-379~~ through 20-380, and amendments thereto, means child  
43 support, whether interlocutory or final, and maintenance.

1       ~~(4)~~(d) "Obligor" means any person owing a duty of support or  
2 restitution.

3       ~~(5)~~(e) "Obligee" means any person or entity to whom a duty of  
4 support or restitution is owed.

5       ~~(6)~~(f) "Duty of restitution" includes any duty of restitution imposed  
6 by any agreement, diversion agreement, court order, decree or judgment,  
7 whether interlocutory or final, pursuant to a criminal conviction, order of  
8 assignment to intensive supervised probation, order of probation or  
9 condition of parole.

10       ~~(7)~~(g) "Restitution" as used in this section and K.S.A. 2019 Supp. 20-  
11 378 ~~and 20-379~~ through 20-380, and amendments thereto, means  
12 monetary remuneration owed by an obligor to an obligee as compensation  
13 for loss incurred through criminal actions of the obligor which result in  
14 loss to the obligee. For the purposes of this act, "restitution" ~~shall include~~  
15 ~~court costs~~ *includes debts owed to courts, as defined in K.S.A. 20-169(b)*  
16 *(4), and amendments thereto.*

17       Sec. 3. K.S.A. 2019 Supp. 20-379 is hereby amended to read as  
18 follows: 20-379. (a) The court trustee shall be authorized and empowered  
19 to pursue all civil remedies which would be available to the obligee or  
20 obligor in establishing and enforcing payment of support or restitution.

21       (b) The court trustee may also file motions for an increase or a  
22 decrease of the amount of support on behalf of any child. Any such motion  
23 to modify the amount of support shall not be heard until notice has been  
24 given to the obligee, the obligor and their attorneys of record, if any.

25       (c) The court trustee shall have the following additional powers and  
26 duties upon approval of the chief judge:

27       (1) To issue summonses, administrative subpoenas and subpoenas  
28 duces tecum to obligors, obligees and other witnesses who possess  
29 knowledge or books and records relating to enforcement of support or  
30 restitution to appear in the office of the trustee or before the district court  
31 for examination;

32       (2) to administer oaths and take sworn testimony on the record or by  
33 affidavit;

34       (3) to appoint special process servers as required to carry out the  
35 court trustee's responsibilities under this section;

36       (4) to enter into stipulations, acknowledgments, agreements and  
37 journal entries, subject to approval of the court; and

38       (5) to enter into contracts pursuant to K.S.A. ~~75-719~~ 20-169, and  
39 amendments thereto, with the ~~attorney general~~ *judicial administrator* for  
40 the collection of debts owed to courts or restitution owed to obligees,  
41 *except that no court trustee shall be required to contract for collections in*  
42 *any judicial district where the court trustee is appointed pursuant to*  
43 *K.S.A. 20-377, and amendments thereto.*

1       Sec. 4. K.S.A. 2019 Supp. 20-380 is hereby amended to read as  
2 follows: 20-380. (a) Except as provided further, to defray the expenses of  
3 operation of the court trustee's office, the court trustee is authorized to  
4 charge an amount: (1) Whether fixed or sliding scale, based upon the  
5 scope of services provided or upon economic criteria, not to exceed 5% of  
6 the support collected from obligors through such office, as determined  
7 necessary by the chief judge as provided by this section; (2) based upon  
8 the hourly cost of office operations for the provision of services on an  
9 hourly or per service basis, with the written agreement of the obligee; ~~or~~  
10 (3) from restitution collected, not to exceed the fee authorized by the  
11 ~~attorney general~~ *judicial administrator* under any contract entered into  
12 pursuant to K.S.A. ~~75-719~~ *20-169*, and amendments thereto; *or (4) for*  
13 *collection of debts owed to courts described in subsection (e).*

14       (b) All such amounts shall be paid to the court trustee operations fund  
15 of the county where collected. There shall be created a court trustee  
16 operations fund in the county treasury of each county or district court of  
17 each county, in each judicial district that establishes the office of court  
18 trustee for the judicial district. The moneys budgeted to fund the operation  
19 of existing court trustee offices and to fund the start-up costs of new court  
20 trustee offices established on or after January 1, 1992, whether as a result  
21 of a rule adopted pursuant to K.S.A. 2019 Supp. 20-377, and amendments  
22 thereto, or because this act has created a court trustee operations fund,  
23 shall be transferred from the county general fund to the court trustee  
24 operations fund. The county commissioners of the county or group of  
25 counties, if the judicial district consists of more than one county, by a  
26 majority vote, shall decide whether the county or counties will have a  
27 court trustee operations fund in the county treasury or the district court of  
28 each county. Except as provided by subsection (d), all expenditures from  
29 the court trustee operations fund shall be made in accordance with the  
30 provisions of K.S.A. 2019 Supp. 20-375 et seq., and amendments thereto,  
31 to enforce duties of support. Authorized expenditures from the court  
32 trustee operations fund may include repayment of start-up costs,  
33 expansions and operations of the court trustee's office to the county  
34 general fund. The court trustee shall be paid compensation as determined  
35 by the chief judge. The board of county commissioners of each county to  
36 which this act may apply shall provide suitable quarters for the office of  
37 court trustee, furnish stationery and supplies, and such furniture and  
38 equipment as shall, in the discretion of the chief judge, be necessary for  
39 the use of the court trustee. The chief judge shall fix and determine the  
40 annual budget of the office of the court trustee and shall review and  
41 determine on an annual basis the amount necessary to be charged to defray  
42 the expense of start-up costs, expansions and operations of the office of  
43 court trustee. All payments made by the secretary for children and families

1 pursuant to K.S.A. 2019 Supp. 23-3113, and amendments thereto, or any  
2 grants or other monies received which are intended to further child support  
3 enforcement goals or restitution goals shall be deposited in the court  
4 trustee operations fund.

5 (c) The court trustee shall not charge or collect a fee for any support  
6 payment that is not paid through the central unit for collection and  
7 disbursements of support payments pursuant to K.S.A. 2019 Supp. 39-  
8 7,135, and amendments thereto.

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

12 (e) *The court trustee may require a fee to be paid to or retained by*  
13 *the court trustee for the cost of collection of debts owed to courts in the*  
14 *trustee's judicial district. Such fee shall be designated as the cost of*  
15 *collection and shall not exceed 33% of the amount collected. The cost of*  
16 *collection shall be paid from the amount collected but shall not be*  
17 *deducted from the debts owed to courts or restitution.*

18 Sec. 5. K.S.A. 2019 Supp. 20-169, 20-376, 20-379 and 20-380 are  
19 hereby repealed.

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