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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: February 2, 2023
Subject: Bill Brief for SB 74

Senate Bill 74 provides for joint liability for costs and sanctions in third-party funded litigation, requires certain discovery disclosures and requires payment of certain costs for nonparty subpoenas.

The bill adds a new section of law to the Kansas code of civil procedure to provide that any person, other than an attorney permitted to charge a contingent fee representing a party, who has a right to receive compensation that is contingent on and sourced from any proceeds of that civil action is jointly liable for costs assessed and monetary sanctions imposed on the party with whom such person has such an agreement.

Section 2 amends K.S.A. 60-226, the Kansas code of civil procedure statute concerning discovery. The bill adds a new subsection (b)(3)(B) for discovery of third-party agreements. It provides that, except as otherwise stipulated or ordered by the court, a party shall provide to the other parties any agreement under which any person, other than an attorney permitted to charge a contingent fee representing a party, has a right to receive compensation that is contingent on and sourced from any proceeds of the civil action, by settlement, judgment or otherwise.

Finally, Section 3 amends K.S.A. 60-245, the Kansas code of civil procedure statute concerning subpoenas. The bill adds a new subsection (c)(4) concerning nonparty subpoenas in third-party funded actions. It provides that a party that has entered into an agreement subject to K.S.A. 60-226(b)(3)(B) shall reasonably compensate a person who is neither a party nor a party's officer the cost of responding to a subpoena to produce designated documents, electronically stored information or tangible things, to permit the inspection of premises or to appear at a deposition.