



March 16, 2017

Testimony to Senate Judiciary Committee
Senator Rick Wilborn, Chair

From: Allie Devine on behalf of Todd Butler of Butler & Associates, PA, Topeka, Kansas

Re: Testimony in Support of HB 2053

Good Morning Mr. Chair and Members of the Committee:

My name is Allie Devine. I'm here today representing Butler & Associates, PA, Topeka Kansas. Butler & Associates is a law firm specializing in collections. They are the entity requesting this bill.

K.S.A. 20-169 authorizes the Office of Judicial Administrator (OJA) to enter into contracts for the collection services for debts owed to courts or restitution owed under an order of restitution. (See Section 1 of K.S.A. 20-169 contained in HB 2053).

K.S.A. 20-169 (b)(4) defines "debts owed to the courts" as court costs, fines, fees, monies expended by the state in providing counsel and other defense services to indigent defendants plus other charges ordered by the court and any interest or penalties. Debts owed to the court may also include cost of collection services, or court costs, fines, fees or other charges arising from failure to comply with a traffic citation.

To represent the courts in collection actions, an individual or entity must apply and be approved by the Office of Judicial Administrator (OJA). Once approved, a qualified contractor may contract with the judicial districts to perform work. Butler & Associates, PA is an approved contractor.

In 2012 the Kansas Supreme Court's Blue Ribbon Commission made recommendations for improving the Kansas Judicial System. The report recommended that the Supreme Court encourage district courts to identify and vigorously pursue outstanding collectible court costs, fees, and fines. The report noted that collecting of money owed to be paid to the victims of crime as restitution and to the courts for fines, penalties, docket fees, and other court costs is an important function of the court system. The report cites to the National Center for State Courts. *Collection of Monetary Penalties*, (See www.courtools.org)

"Integrity and public trust in the dispute resolution process depends in part on how well court orders are observed and enforced in cases of noncompliance. In particular, restitution for crime victims and accountability for enforcement of monetary penalties imposed on offenders are issues of intense public interest and concern."

HB 2053 is a very simple bill that originally added the word “domestic” into the types of court costs that may be collected. Currently, K.S.A. 20-169 limits collection to “all criminal, traffic, and juvenile offender cases.” The original HB 2053 page 1 line 11 amended the first paragraph of K.S.A 20-169 to add the word “domestic”, to include court costs associated with domestic cases for collection.

Domestic case fees may include costs associated with (a) protection from abuse and protection from stalking orders; (b) paternity and reimbursement cases filed by the Department of Children and Families (DCF); (c) domestic cases filed under poverty affidavit; (d) other fees such as court-appointed attorney fees, conciliation fees, case management fees or parent coordinator fees. Currently, there is no system in place to enforce an order to pay costs and fees in domestic cases.

During deliberations in the House Judiciary committee legislators asked why domestic cases were excluded from the collections process. It seemed that prior interpretation of the statute did not prohibit the collection of domestic cases but did not specifically include them. (Paraphrased from Comments of Legislative Research and Revisor staff.) This discussion led to concerns that the term “defendant” may not be appropriate given that in domestic cases the parties are referred to as petitioner and respondent. The committee agreed to make noun changes to conform to the intent of the legislation. The committee struck “defendants” and inserted, “persons ordered to pay”.

Upon further review, we request an amendment to the bill as passed by the House to strike “persons ordered to pay” and insert “responsible party” on page 1 line 11. To conform to the current definitions, we also request an amendment to strike “amount ordered by the” and insert “debts owed to” and after “court” insert “or restitution” on page 1 line 13.

The section starting at the end of line 9 and continuing to the line 13 would then read: “On and after July 1, 1999, the cost of collection shall be paid by the responsible party as an additional court cost in all cases where such persons fails to pay any debts owed to court or restitution, and the court utilizes the services of a contracting agent pursuant to this section.”

This amendment clarifies the intent of the legislature to collect **all** cases as is stated. There are two types of traffic case dispositions-disposed and non-disposed. Disposed cases are those in which the court ordered a party to pay the costs and it is considered a final order. In certain traffic cases, the defendant may not appear. Since the party did not appear, the court enters an assessment for the defendant to pay, but it is not considered a final order. Since there is no final order, garnishment is not allowed. Unfortunately, the number of cases wherein the defendant does not appear is much greater than those where the defendant does appear. If not amended, the bill creates a loophole and rewards defendants for not appearing.

Finally, this bill generates money for the state. Please note that all funds collected go to the state general fund. The only exception is restitution funds which go to the victims of crime. Collection efforts over five years in Shawnee County resulted in over 3 million dollars delivered to the state. Butler and Associates were recently hired to collect funds for Sedgwick County. There are approximately 63,000 cases that have outstanding debts. Court collection agents were able to collect \$72,000 after one week of file review and contacts to responsible parties. This is money that is owed to victims or the state. The courts have an obligation to collect these funds and this bill aids in that process.

Thank you for your time and consideration. We ask that you favorably pass HB 2053 with the suggested amendment.

Proposed Amendments to HB 2053
Senate Judiciary
March 15, 2017
Prepared by: Jason Thompson
Office of Revisor of Statutes

As Amended by House Committee

Session of 2017

HOUSE BILL No. 2053

By Committee on Judiciary

1-12

1 AN ACT concerning courts; relating to collection of debts owed to the
2 courts; ~~domestic cases~~; amending K.S.A. 2016 Supp. 20-169 and
3 repealing the existing section.
4

Strike in line 2 and 12

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

6 Section 1. K.S.A. 2016 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 defendant
11 ~~person ordered to pay~~ as an additional court cost in all criminal, traffic,
12 ~~domestic and juvenile offender cases where the defendant such person~~
13 ~~fails to pay any amount ordered by the court~~ and the court utilizes the
14 services of a contracting agent pursuant to this section. The cost of
15 collection shall be deemed an administrative fee to pay the actual costs of
16 collection made necessary by the defendant's such person's failure to pay
17 court debt and restitution.

responsible party

cases where such party fails to pay any debts owed to courts or restitution owed under an order of restitution

party's

18 (b) As used in this section:

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

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

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

28 (4) "debts owed to courts" means any assessment of court costs, fines,
29 fees, moneys expended by the state in providing counsel and other defense
30 services to indigent defendants or other charges which a district court
31 judgment has ordered to be paid to the court, and which remain unpaid in
32 whole or in part, and includes any interest or penalties on such unpaid
33 amounts as provided for in the judgment or by law. "Debts owed to courts"
34 also includes: (A) The cost of collection when collection services of a
35 contracting agent hereunder are utilized; and (B) court costs, fines, fees or
36 other charges arising from failure to comply with a traffic citation within