

**SENATE BILL No. 288**

By Committee on Judiciary

1-22

1 AN ACT concerning courts; relating to restitution or collection of debts  
2 owed to the courts; amending K.S.A. 60-2419 and 60-4303 and K.S.A.  
3 2013 Supp. 28-178, 61-3604 and 75-719 and repealing the existing  
4 sections.

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

7 Section 1. K.S.A. 2013 Supp. 28-178 is hereby amended to read as  
8 follows: 28-178. (a) *(1) Except as provided by subsection (a)(2), in*  
9 *addition to any other fees specifically prescribed by law, on and after July*  
10 *1, 2013, through July 1, 2015, the supreme court may impose a charge, not*  
11 *to exceed \$12.50 per fee, to fund the costs of non-judicial personnel, on*  
12 *the following:*

13 ~~(+)~~ *(A) A person who requests an order or writ of execution pursuant*  
14 *to K.S.A. 60-2401 or 61-3602, and amendments thereto.*

15 ~~(-)~~ *(B) Persons who request a hearing in aid of execution pursuant to*  
16 *K.S.A. 60-2419, and amendments thereto.*

17 ~~(-)~~ *(C) A person requesting an order for garnishment pursuant to*  
18 *article 7 of chapter 60 of the Kansas Statutes Annotated, and amendments*  
19 *thereto, or article 35 of chapter 61 of the Kansas Statutes Annotated, and*  
20 *amendments thereto.*

21 ~~(+)~~ *(D) Persons who request a writ or order of sale pursuant to K.S.A.*  
22 *60-2401 or 61-3602, and amendments thereto.*

23 ~~(-)~~ *(E) A person who requests a hearing in aid of execution pursuant*  
24 *to K.S.A. 61-3604, and amendments thereto.*

25 ~~(-)~~ *(F) A person who requests an attachment against the property of a*  
26 *defendant or any one or more of several defendants pursuant to K.S.A. 60-*  
27 *701 or 61-3501, and amendments thereto.*

28 *(2) On and after July 1, 2014, through July 1, 2015, any charge*  
29 *imposed by the supreme court to fund the costs of non-judicial personnel*  
30 *pursuant to subsection (a)(1)(B) or (a)(1)(E) shall be waived for a:*

31 *(A) Contracting agent acting under a contract pursuant to K.S.A. 75-*  
32 *719, and amendments thereto, to provide collection services for debts*  
33 *owed to a court or restitution owed under an order of restitution; and*

34 *(B) contracting attorney acting under a contract pursuant to section*  
35 *6, and amendments thereto, to provide collection services for debts owed*  
36 *to a court or restitution owed under an order of restitution.*

1 (b) The clerk of the district court shall remit all revenues received  
2 from the fees imposed pursuant to subsection (a) to the state treasurer, in  
3 accordance with the provisions of K.S.A. 75-4215, and amendments  
4 thereto. Upon receipt of each such remittance, the state treasurer shall  
5 deposit the entire amount in the state treasury to the credit of the judicial  
6 branch surcharge fund.

7 (c) The fees established in this section shall be the only fee collected  
8 or moneys in the nature of a fee collected for such court procedures. Such  
9 fee shall only be established by an act of the legislature and no other  
10 authority is established by law or otherwise to collect a fee.

11 Sec. 2. K.S.A. 60-2419 is hereby amended to read as follows: 60-  
12 2419. (a) When an execution against the judgment debtor or one of several  
13 debtors in the same judgment issued to the sheriff of the county where the  
14 debtor resides or, if the debtor does not reside in the state, to the sheriff of  
15 the county where judgment was rendered or a transcript of the judgment  
16 has been filed, is returned unsatisfied in whole or in part, the judgment  
17 creditor is entitled to have an order for a hearing in aid of execution by the  
18 district court of the county to which the execution was issued. If a  
19 judgment creditor, without having attempted execution, alleges that the  
20 judgment creditor is without sufficient knowledge of the debtor's assets to  
21 advise the sheriff where and on what to levy execution, the judgment  
22 creditor shall be entitled to have an order for a hearing in aid of execution  
23 by the district court of the county where the debtor resides and a transcript  
24 of the judgment has been filed or, if the debtor does not reside in the state,  
25 where judgment was rendered or a transcript of the judgment has been  
26 filed. An order for a hearing in aid of execution shall require the judgment  
27 debtor to appear and answer concerning the debtor's property and income,  
28 before the judge, or a referee appointed by the judge, at a time and place  
29 specified in the order, within the county where the court is located.  
30 Witnesses may also be subpoenaed to testify at the hearing. If, on proper  
31 application by the judgment creditor, the court finds that it will not cause  
32 undue hardship on the judgment debtor, the court may order a debtor  
33 residing in another county in this state to appear before the court for such a  
34 hearing.

35 (b) If any person fails, neglects or refuses to appear and answer  
36 concerning the person's property and income at the time and place  
37 specified in an order for a hearing in aid of execution or, if any person  
38 subpoenaed to appear as a witness at the hearing fails, neglects or refuses  
39 to appear or to testify concerning anything about which the person can  
40 lawfully be interrogated, the person shall be guilty of contempt of court,  
41 and the court shall issue a citation requiring the person, at an early date  
42 specified in the citation, to appear before the court and show cause, if any,  
43 why the person should not be punished for contempt. If, after proper

1 service of the citation by any officer or other person, the person does not  
2 appear before the court on the specified day or if it appears to the court  
3 that the person is hiding to avoid the process of the court or is about to  
4 leave the county for that purpose, the court may issue an attachment or  
5 bench warrant commanding the officer to whom it is directed to bring the  
6 person before the court to answer for contempt. If the court determines that  
7 any such person is guilty of contempt, the person shall be punished as the  
8 court directs.

9 (c) At a hearing in aid of execution, when the existence of any  
10 nonexempt property of the judgment debtor is disclosed, the court shall  
11 order the debtor to deliver the property to the sheriff and shall also order  
12 the sheriff to accept its delivery. Upon receipt of the property, the sheriff  
13 shall give a receipt for it. If the property is other than currency, the sheriff  
14 shall sell the property, in the same manner as other property taken under  
15 execution is sold and the proceeds from the sale shall be applied to the  
16 judgment and costs.

17 (d) If upon the hearing, it appears that the debtor may have income or  
18 property which the debtor will have in the future or refuses to disclose or  
19 apply to the judgment, the debtor may be ordered to return to the court  
20 from time to time, to appear before the court as the judge directs. Any  
21 debtor who fails to appear before the court as so ordered is guilty of  
22 contempt. The same procedure as provided above may be invoked at any  
23 time nonexempt property of the debtor is disclosed.

24 (e) *The docket fee prescribed by K.S.A. 60-2001, and amendments*  
25 *thereto, shall be waived for a:*

26 (1) *Contracting agent acting under a contract pursuant to K.S.A. 75-*  
27 *719, and amendments thereto, to provide collection services for debts*  
28 *owed to a court or restitution owed under an order of restitution; and*

29 (2) *contracting attorney acting under a contract pursuant to section*  
30 *6, and amendments thereto, to provide collection services for debts owed*  
31 *to a court or restitution owed under an order of restitution.*

32 Sec. 3. K.S.A. 60-4303 is hereby amended to read as follows: 60-  
33 4303. *Except as provided by subsection (b), any person filing a judgment*  
34 *of restitution shall pay to the clerk of the district court a docket fee as*  
35 *prescribed by ~~subpart 2~~ of subsection (a) of K.S.A. 28-170, and*  
36 *amendments thereto. Any additional fees or charges not specifically*  
37 *covered by the docket fee shall be assessed as additional court costs in the*  
38 *same manner and to the same extent as if the action had been originally*  
39 *commenced in the court where the judgment is filed.*

40 (b) *The docket fee prescribed by subsection (a) of K.S.A. 28-170, and*  
41 *amendments thereto, shall be waived for a:*

42 (1) *Contracting agent acting under a contract pursuant to K.S.A. 75-*  
43 *719, and amendments thereto, to provide collection services for debts*

1 *owed to a court or restitution owed under an order of restitution; and*  
2 *(2) contracting attorney acting under a contract pursuant to section*  
3 *6, and amendments thereto, to provide collection services for debts owed*  
4 *to a court or restitution owed under an order of restitution.*

5 Sec. 4. K.S.A. 2013 Supp. 61-3604 is hereby amended to read as  
6 follows: 61-3604. (a) As an aid to the collection of a judgment, the  
7 judgment creditor is entitled to have an order for a hearing in aid of  
8 execution issued by the court at any time after 14 days after judgment.  
9 There is no requirement that an execution first be issued and returned  
10 unsatisfied. No application for such order needs to be filed except as  
11 specially required in this section.

12 (b) An order for a hearing in aid of execution may be issued at the  
13 request of a judgment creditor in an individual case or by a master request  
14 covering more than one case, and shall require the judgment debtor to  
15 either: (1) Contact the judgment creditor or attorney prior to the date set  
16 for the hearing to furnish information under oath or penalty of perjury  
17 concerning the judgment debtor's property and income; or (2) appear and  
18 furnish information under oath or penalty of perjury when required by the  
19 court concerning the debtor's property and income before the court at a  
20 time and place specified in the order within the county where the court is  
21 situated. The court may cancel the hearing if the judgment debtor has  
22 furnished to the judgment creditor satisfactory information concerning the  
23 debtor's property and income prior to the date and time for the hearing.  
24 Witnesses may also be subpoenaed to testify at the hearing.

25 (c) If the judgment debtor resides in another county in this state or  
26 outside of this state, the court can order such judgment debtor to appear if  
27 the court finds that it will not cause undue hardship on the judgment debtor  
28 to appear.

29 (d) It shall be the duty of the judge to assist in the enforcement of the  
30 judgments of the court. To this end, at any hearing in aid of execution,  
31 when the existence of any nonexempt property of the judgment debtor is  
32 disclosed, the court shall order the judgment debtor to deliver the property  
33 to the sheriff or a duly appointed process server. If the property is other  
34 than currency, the property shall be sold in the same manner as other  
35 property taken under execution is sold and the proceeds from the sale shall  
36 be applied to the judgment and costs.

37 (e) *The docket fee prescribed by K.S.A. 61-4001, and amendments*  
38 *thereto, shall be waived for a:*

39 *(1) Contracting agent acting under a contract pursuant to K.S.A. 75-*  
40 *719, and amendments thereto, to provide collection services for debts*  
41 *owed to a court or restitution owed under an order of restitution; and*

42 *(2) contracting attorney acting under a contract pursuant to section*  
43 *6, and amendments thereto, to provide collection services for debts owed*

1 *to a court or restitution owed under an order of restitution.*

2 Sec. 5. K.S.A. 2013 Supp. 75-719 is hereby amended to read as  
3 follows: 75-719. (a) The attorney general is authorized to enter into  
4 contracts in accordance with this section for collection services for debts  
5 owed to courts or restitution owed under an order of restitution. On and  
6 after July 1, 1999, the cost of collection shall be paid by the defendant as  
7 an additional court cost in all criminal, traffic and juvenile offender cases  
8 where the defendant fails to pay any amount ordered by the court and the  
9 court utilizes the services of a contracting agent pursuant to this section.  
10 The cost of collection shall be deemed an administrative fee to pay the  
11 actual costs of collection made necessary by the defendant's failure to pay  
12 court debt and restitution.

13 (b) As used in this section:

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

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

18 (3) "cost of collection" means the fee specified in contracts hereunder  
19 to be paid to or retained by a contracting agent for collection services.  
20 Cost of collection also includes any filing fee required under K.S.A. 60-  
21 4303, and amendments thereto, or administrative costs prescribed by the  
22 attorney general pursuant to rules and regulations; and

23 (4) "debts owed to courts" means any assessment of court costs, fines,  
24 fees, moneys expended by the state in providing counsel and other defense  
25 services to indigent defendants or other charges which a district court  
26 judgment has ordered to be paid to the court, and which remain unpaid in  
27 whole or in part, and includes any interest or penalties on such unpaid  
28 amounts as provided for in the judgment or by law. Debts owed to courts  
29 also includes the cost of collection when collection services of a  
30 contracting agent hereunder are utilized.

31 (c) (1) Contracts authorized by this section may be entered into with  
32 state or federal agencies or political subdivisions of the state of Kansas,  
33 including contracts for participation in the collection program authorized  
34 by K.S.A. 75-6201 et seq., and amendments thereto. Such contracts also  
35 may be entered into with private firms or individuals selected by a  
36 procurement negotiation committee in accordance with K.S.A. 75-37,102,  
37 and amendments thereto, except that the attorney general shall designate a  
38 representative to serve as the chief administrative officer member of such  
39 committee and that the other two members of such committee shall be  
40 designated by the director of purchases and the judicial administrator.

41 (2) Prior to negotiating any contract for collection services, this  
42 procurement negotiation committee shall advertise for proposals, negotiate  
43 with firms and individuals submitting proposals and select among those

1 submitting such proposals the party or parties to contract with for the  
2 purpose of collection services.

3 (3) The attorney general may adopt rules and regulations as deemed  
4 appropriate for the administration of this section, including procedures to  
5 be used in the negotiation and execution of contracts pursuant to this  
6 section and procedures to be followed by those who utilize collection  
7 services under such contracts.

8 (4) For purposes of this section, the agencies, firms or individuals  
9 with whom contracts are entered under this section shall be known as  
10 contracting agents. The attorney general shall publish a list of the  
11 contracting agents for use by courts or beneficiaries under orders of  
12 restitution who desire to utilize the collection services of such agents.

13 (5) Each contract entered pursuant to this section shall provide for a  
14 fee to be paid to or retained by the contracting agent for collection  
15 services. Such fee shall be designated as the cost of collection hereunder,  
16 and shall not exceed 33% of the amount collected. The cost of collection  
17 shall be paid from the amount collected, but shall not be deducted from the  
18 debts owed to courts or restitution.

19 (d) Judicial districts of the state of Kansas are authorized to utilize the  
20 collection services of contracting agents pursuant to this section *or*  
21 *contracting attorneys pursuant to section 6, and amendments thereto*, for  
22 the purpose of collecting all outstanding debts owed to courts. Subject to  
23 rules and orders of the Kansas supreme court, each judicial district may  
24 establish by local rule guidelines for the compromise of court costs, fines,  
25 attorney fees and other charges assessed in district court cases.

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

30 (f) Contracts entered hereunder shall provide for the payment of any  
31 amounts collected to the clerk of the district court for the court in which  
32 the debt being collected originated, after first deducting the collection fee.  
33 In accounting for amounts collected from any person pursuant to this  
34 section, the district court clerk shall credit the person's amount owed in the  
35 amount of the net proceeds collected and shall not reduce the amount  
36 owed by any person by that portion of any payment which constitutes the  
37 cost of collection pursuant to this section.

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

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

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

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

14 New Sec. 6. (a) The chief judge of a judicial district may contract with  
15 any licensed attorney for collection services for debts owed to courts or  
16 restitution owed under an order of restitution. On and after July 1, 2014,  
17 the cost of collection shall be paid by the defendant as an additional court  
18 cost in all criminal, traffic and juvenile offender cases where the defendant  
19 fails to pay any amount ordered by the court and the court utilizes the  
20 services of a contracting attorney pursuant to this section. The cost of  
21 collection shall be deemed an administrative fee to pay the actual costs of  
22 collection made necessary by the defendant's failure to pay court debt and  
23 restitution.

24 (b) As used in this section:

25 (1) "Beneficiary under an order of restitution" shall mean the same as  
26 in K.S.A. 75-719, and amendments thereto;

27 (2) "contracting attorney" means a licensed attorney who contracts  
28 hereunder to provide collection services;

29 (3) "cost of collection" means the fee specified in contracts hereunder  
30 to be paid to or retained by a contracting attorney for collection services;  
31 and

32 (4) "debts owed to the courts" shall mean the same as in K.S.A. 75-  
33 719, and amendments thereto. Debts owed to courts also includes the cost  
34 of collection when collection services of a contracting attorney hereunder  
35 are utilized.

36 (c) Subject to rules and orders of the Kansas supreme court, the chief  
37 judge of a judicial district may provide for a fee to be paid to or retained  
38 by the contracting attorney for collection services. The cost of collection  
39 shall be paid from the amount collected, but shall not be deducted from the  
40 debts owed to courts or restitution.

41 (d) Judicial districts of the state of Kansas are authorized to utilize the  
42 collection services of contracting attorneys pursuant to this section or  
43 contracting agents pursuant to K.S.A. 75-719, and amendments thereto, for

1 the purpose of collecting all outstanding debts owed to courts. Subject to  
2 rules 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 July 1, 2014, is authorized to utilize the collection services of  
7 contracting attorneys 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 a contracting  
18 attorney under this section, as agreed upon in the contract, the clerk shall  
19 then distribute amounts collected as follows:

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

23 (2) when collection services are utilized to collect restitution, 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 to collect debts owed to the court and to collect restitution, any  
32 amounts collected by a contracting attorney under this section shall be first  
33 applied to satisfy debts pursuant to an order of restitution. Upon  
34 satisfaction of all such debts, amounts received from the same debtor shall  
35 then be applied to satisfy debts owed to courts.

36 Sec. 7. K.S.A. 60-2419 and 60-4303 and K.S.A. 2013 Supp. 28-178,  
37 61-3604 and 75-719 are hereby repealed.

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