

Senate Bill 184

Criminal Court Costs, Fees, Fines and Restitution

TESTIMONY

By: Pam Moses, Clerk of the District Court

Reno County District Court

Twenty-Seventh Judicial District of Kansas

March 17 2015

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today on behalf of the Kansas Association of District Court Clerks and Administrators regarding Senate Bill 184.

This bill seeks to exempt court costs, fees, fines, and restitution from inclusion within the provisions of the dormancy statute, K.S.A. 60-2403. In 2012, the Kansas Court of Appeals issued a decision (*State of Kansas v. Douglas*, 47 Kan.App.2d 734, 279 P.3d 133 (2012)) which said that, under a plain reading of the statute, criminal court costs are subject to the dormancy and release rules contained in K.S.A. 60-2403. The court observed that the Legislature had provided special terms in the statute for the treatment of restitution, but had not done the same for criminal court costs. The court also determined that, for purposes of criminal court costs, calculation of the five-year dormancy period begins on the date the judgment is entered, even when the defendant is incarcerated. In order to keep judgments for criminal court costs “alive,” a renewal affidavit must be filed or execution commenced before the expiration of the five-year period, as measured from the date of judgment. If five years pass without either action, the judgment can only be revived upon the filing of a motion for revivor within the following two years. If seven years pass without either of those actions occurring, the judgment is effectively void and a judge must release it, upon request. Restitution judgments are currently subject to a different rule which prescribes a ten-year dormancy period and two-year revival timeframe.

District court clerks regularly deal with debt collection activities through a variety of channels. However, clerks are not in a position to renew or revive judgments for court costs or restitution. The sheer volume of cases involved makes this duty prohibitive, and the varying timeframes related to the treatment of judgments for court costs and restitution further complicate the process. In Reno County alone, there are approximately 2,363 outstanding judgments that are between five and seven years old, and at least 4,217 outstanding judgments that surpass the seven-year mark. Judgments for restitution and court costs that exceed five years in age amount to more than \$8 million dollars. It would greatly simplify the debt collection process and increase the likelihood of collecting on court debts if court costs and restitution are clearly and uniformly exempted from the dormancy statute.

This bill was placed on the consent calendar and passed with a vote of 40 to 0 in the Senate.

Thank you for the opportunity to appear in support of SB 184. I would be happy to stand for any questions.