

20-169. Collection of debts owed to courts or restitution; duties of judicial administrator; contracts for collection. (a) The judicial administrator is authorized to enter into contracts in accordance with this section for collection services for debts owed to courts or restitution owed under an order of restitution. On and after July 1, 1999, the cost of collection shall be paid by the defendant as an additional court cost in all criminal, traffic and juvenile offender cases where the defendant fails to pay any amount ordered by the court and the court utilizes the services of a contracting agent pursuant to this section. The cost of collection shall be deemed an administrative fee to pay the actual costs of collection made necessary by the defendant's failure to pay court debt and restitution.

(b) As used in this section:

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

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

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

(4) "debts owed to courts" means any assessment of court costs, fines, fees, moneys expended by the state in providing counsel and other defense services to indigent defendants or other charges which a district court judgment has ordered to be paid to the court, and which remain unpaid in whole or in part, and includes any interest or penalties on such unpaid amounts as provided for in the judgment or by law. "Debts owed to courts" also includes: (A) The cost of collection when collection services of a contracting agent hereunder are utilized; and (B) court costs, fines, fees or other charges arising from failure to comply with a traffic citation within 30 days from the date of the mailing of the notice pursuant to K.S.A. 8-2110(b)(1), and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

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

History: L. 1996, ch. 195, § 1; L. 1997, ch. 181, § 25; L. 1999, ch. 131, § 16; L. 2015, ch. 53, § 5; July 1.