



March 16, 2017

Testimony to Senate Judiciary Committee
Senator Rick Wilborn, Chairman

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

Re: Testimony in Support of HB 2054

Good Morning Mr. Chairman 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.

Under Kansas law (K.S.A. 20-169), the Judicial Administrator of the Supreme Court is authorized to contract for the collection of debts owed the courts. Debts owed to courts means any assessment of court costs, fines, fees money owed to the state in providing counsel and defense services to indigent defendants or other charges. To be eligible to be a collection contractor for the district courts, an individual or entity must apply and be approved by the Judicial Administrator.

Butler & Associates, PA is an approved contracting agent pursuant to K.S.A. 20-169. As a contracting agent for the courts Butler & Associates, PA has sought access to records maintained by the Kansas Department of Labor. This information at the Kansas Department of Labor is confidential. Access to these records is being sought in order to find employment for individuals who owe debts to the courts for enforcement purposes. This information is presently available to "**public employees**" to access and is accessed by child support trustees for enforcement purposes.

K.S.A. 44-714 governs the collection and management of information gathered under employment security laws by the Kansas Department of Labor. Generally, this law requires that employment information be held in confidence. There is an exception to the general rule in K.S.A. 44-714 (e) which allows **public employees** in the performance of their official duties to have access to an individual's or employing unit's identity (emphasis added).

To receive federal funds and tax credits, Kansas, through the Kansas Department of Labor, must meet the requirements of federal law for the protection of confidential employment information. However, federal laws and regulations allow for the disclosure of confidential employment information to **public officials or their agents or contractors** (see 20 C.F.R. 603.5) (emphasis added).

The Kansas Department of Labor interprets the provision of K.S.A. 44-714(e) to limit access to confidential information to "**public employees**" such as the Judicial Administrator but not their agents or contractors. HB 2054

amends Kansas law to be consistent with federal regulations. In adopting this amendment, the Legislature would be assisting the courts in the collections of debts in a manner that is consistent with federal regulations and not jeopardize federal funding.

During deliberations in the House Judiciary Committee questions were raised regarding “access” to confidential information and whether this bill would open private data for general review by other contractors not contemplated by the committee. There was concern that the law should contain significant protections and limitations to ensure privacy was protected. There was also concern that access to records should be very narrowly construed.

There are protections in place in the current law and additional provisions were added. Please recall that any party contracting for the collection of debts owed the courts, must meet the requirements of the Office of Judicial Administrator including compliance with protocols for confidentiality.

Another practical protection is embedded in the collection process. To access the information in the files of the Kansas Department of Labor (KDOL), a qualified party to receive the information makes a specific request to the KDOL. KDOL personnel access the information and report it to the requesting party. By federal law, such data must be held in confidential, protected data bases. A court selected contracting collection agent does NOT have direct access to the data bases. There can be no “fishing” of data for other purposes.

Under current law, a party who violates the provisions of KSA 44-714 may be fined not less than \$20 nor more than \$200 or imprisoned for no more than 90 days (see section (e) page 3, line 25-35). Violators could also lose their license to practice law.

We met with the Kansas Department of Labor, the House Judiciary Chair, and the ranking Democrat to negotiate provisions to further tighten access to this information. The House Committee of the Whole added the language on page 8 lines 20-27 which reads:

"Performance of official duties" means the administration or enforcement of law or the execution of the official responsibilities of a federal, state or local official, collection of debts owed to the courts or the enforcement of child support on behalf of a state or local official. Administration of law includes research related to the law administered by the public official. "Performance of official duties" does not include solicitation of contributions or expenditures to or on behalf of a candidate for public or political office or a political party."

This language mirrors federal regulations that allow access to the data for very specific purposes such as collection of debts owed the courts. Again, this bill will assist the courts in collection of debts and generate revenue for the state general fund.

We ask that you pass this bill without further amendment. Thank you for your time and consideration.