

HOUSE BILL No. 2651

By Committee on Federal and State Affairs

2-4

9 AN ACT concerning lotteries; dealing with debt setoff for child support;
10 amending K.S.A. 2009 Supp. 75-3306 and 75-6202 and repealing the
11 existing sections.
12

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

14 New Section 1. (a) The secretary of social and rehabilitation services
15 shall create and maintain or contract with a public or private entity to
16 create and maintain a registry that lists child support debtors to be ac-
17 cessed by any lottery gaming facility manager as defined by K.S.A. 74-
18 8702, and amendments thereto, and any facility owner licensee as defined
19 by K.S.A. 74-8802, and amendments thereto, for the purpose of offsetting
20 any prize as defined by K.S.A. 74-8702, and amendments thereto, or
21 winnings from parimutuel wagering as defined by K.S.A. 74-8802, and
22 amendments thereto.

23 (b) Except as provided in section 2, and amendments thereto, all
24 lottery facility managers and facility owner licensees shall conduct
25 searches of the child support debtor's registry to ensure that an offset of
26 past due child support is made against the winnings of any person who
27 wins a prize or wager valued at \$1,200 or more.

28 (c) Pursuant to an agreement made under subsection (a), the secre-
29 tary of social and rehabilitation services may disclose information about
30 any individual who owes past due support in a title IV-D case if the
31 support debtor owes at least \$25 in past due support. "Title IV-D" means
32 part D of title IV of the federal social security act (42 U.S.C. § 651 et
33 seq.).

34 (d) To the extent feasible, the secretary of social and rehabilitation
35 services shall require or provide secure electronic processes for disclosing
36 information about child support debtors to any lottery gaming facility
37 manager or a facility owner licensee conducting matches pursuant to this
38 section.

39 (e) The secretary of social and rehabilitation services shall have the
40 authority to adopt such rules and regulations as may be necessary to ad-
41 minister the provisions of this act.

42 New Sec. 2. Any lottery gaming facility manager as defined by K.S.A.
43 74-8702, and amendments thereto, and any facility owner licensee as

1 defined by K.S.A. 74-8802, and amendments thereto, may utilize the pro-
2 visions of K.S.A. 75-6201 et seq., and amendments thereto, to insure child
3 support debtors who win any prize or winning from parimutuel wagering
4 valued at \$1,200 or more shall be subject to setoff of such child support
5 debt.

6 Sec. 3. K.S.A. 2009 Supp. 75-3306 is hereby amended to read as
7 follows: 75-3306. (a) The secretary of social and rehabilitation services,
8 except as set forth in the Kansas administrative procedure act and sub-
9 sections (f), (g), (h) and (i), shall provide a fair hearing for any person
10 who is an applicant, client, inmate, other interested person or taxpayer
11 who appeals from the decision or final action of any agent or employee
12 of the secretary. The hearing shall be conducted in accordance with the
13 provisions of the Kansas administrative procedure act.

14 It shall be the duty of the secretary of social and rehabilitation services
15 to have available in all intake offices, during all office hours, forms for
16 filing complaints for hearings, and appeal forms with which to appeal from
17 the decision of the agent or employee of the secretary. The forms shall
18 be prescribed by the secretary of social and rehabilitation services and
19 shall have printed on or as a part of them the basic procedure for hearings
20 and appeals prescribed by state law and the secretary of social and re-
21 habilitation services.

22 (b) The secretary of social and rehabilitation services shall have au-
23 thority to investigate (1) any claims and vouchers and persons or busi-
24 nesses who provide services to the secretary of social and rehabilitation
25 services or to welfare recipients, (2) the eligibility of persons to receive
26 assistance and (3) the eligibility of providers of services.

27 (c) The secretary of social and rehabilitation services shall have au-
28 thority, when conducting investigations as provided for in this section, to
29 issue subpoenas; compel the attendance of witnesses at the place desig-
30 nated in this state; compel the production of any records, books, papers
31 or other documents considered necessary; administer oaths; take testi-
32 mony; and render decisions. If a person refuses to comply with any sub-
33 poena issued under this section or to testify to any matter regarding which
34 the person may lawfully be questioned, the district court of any county,
35 on application of the secretary, may issue an order requiring the person
36 to comply with the subpoena and to testify, and any failure to obey the
37 order of the court may be punished by the court as a contempt of court.
38 Unless incapacitated, the person placing a claim or defending a privilege
39 before the secretary shall appear in person or by authorized representa-
40 tive and may not be excused from answering questions and supplying
41 information, except in accordance with the person's constitutional rights
42 and lawful privileges.

43 (d) The presiding officer may close any portion of a hearing con-

1 ducted under the Kansas administrative procedure act when matters
2 made confidential, pursuant to federal or state law or regulation are under
3 consideration.

4 (e) Except as provided in subsection (d) of K.S.A. 77-511 and amend-
5 ments thereto and notwithstanding the other provisions of the Kansas
6 administrative procedure act, the secretary may enforce any order prior
7 to the disposition of a person's application for an adjudicative proceeding
8 unless prohibited from such action by federal or state statute, regulation
9 or court order.

10 (f) Except as provided in this subsection, decisions and final actions
11 relating to the administration of the support enforcement program set
12 forth in K.S.A. 39-753 et seq. and amendments thereto shall be exempt
13 from the provisions of the Kansas administrative procedure act and sub-
14 section (a). Decisions and final actions relating to the support enforce-
15 ment program may be reviewed pursuant to this section *and pursuant to*
16 *this act, and amendments thereto*, if the decision or final action relates
17 directly to federal debt set-off activities or the person is specifically per-
18 mitted by statute to request a fair hearing under this section.

19 (g) Decisions relating to administrative disqualification hearings shall
20 be exempt from the provisions of the Kansas administrative procedure
21 act and subsection (a).

22 (h) The department of social and rehabilitation services shall not have
23 jurisdiction to determine the facial validity of a state or federal statute.
24 An administrative law judge from the office of administrative hearings
25 shall not have jurisdiction to determine the facial validity of an agency
26 rule and regulation.

27 (i) The department of social and rehabilitation services shall not be
28 required to provide a hearing if: (1) The department of social and reha-
29 bilitation services lacks jurisdiction of the subject matter; (2) resolution
30 of the matter does not require the department of social and rehabilitation
31 services to issue an order that determines the applicant's legal rights,
32 duties, privileges, immunities or other legal interests; (3) the matter was
33 not timely submitted to the department of social and rehabilitation serv-
34 ices pursuant to regulation or other provision of law; or (4) the matter
35 was not submitted in a form substantially complying with any applicable
36 provision of law.

37 Sec. 4. K.S.A. 2009 Supp. 75-6202 is hereby amended to read as
38 follows: 75-6202. As used in this act:

39 (a) "Debtor" means any person who:

40 (1) Owes a debt to the state of Kansas or any state agency or any
41 municipality;

42 (2) owes support to an individual, or an agency of another state, who
43 is receiving assistance in collecting that support under K.S.A. 39-756 and

- 1 amendments thereto or under part D of title IV of the federal social
2 security act (42 U.S.C. § 651 *et seq.*), as amended; or
- 3 (3) owes a debt to a foreign state agency.
- 4 (b) “Debt” means:
- 5 (1) Any liquidated sum due and owing to the state of Kansas, or any
6 state agency, municipality or foreign state agency which has accrued
7 through contract, subrogation, tort, operation of law, or any other legal
8 theory regardless of whether there is an outstanding judgment for that
9 sum. A debt shall not include special assessments except when the owner
10 of the property assessed petitioned for the improvement and any succes-
11 sor in interest of such owner of property; or
- 12 (2) any amount of support due and owing an individual, or an agency
13 of another state, who is receiving assistance in collecting that support
14 under K.S.A. 39-756 and amendments thereto or under part D of title
15 IV of the federal social security act (42 U.S.C. § 651 *et seq.*), as amended,
16 which amount shall be considered a debt due and owing the district court
17 trustee or the department of social and rehabilitation services for the
18 purposes of this act.
- 19 (c) “Refund” means any amount of Kansas income tax refund due to
20 any person as a result of an overpayment of tax, and for this purpose, a
21 refund due to a husband and wife resulting from a joint return shall be
22 considered to be separately owned by each individual in the proportion
23 of each such spouse’s contribution to income, as the term “contribution
24 to income” is defined by rules and regulations of the secretary of revenue.
- 25 (d) “Net proceeds collected” means gross proceeds collected through
26 final setoff against a debtor’s earnings, refund or other payment due from
27 the state or any state agency minus any collection assistance fee charged
28 by the director of accounts and reports of the department of
29 administration.
- 30 (e) “State agency” means any state office, officer, department, board,
31 commission, institution, bureau, agency or authority or any division or
32 unit thereof *including any lottery gaming facility manager as defined by*
33 *K.S.A. 74-8702, and amendments thereto, and any facility owner licensee*
34 *as defined by K.S.A. 74-8802, and amendments thereto*, and any judicial
35 district of this state or the clerk or clerks thereof. “State agency” also shall
36 include any district court utilizing collection services pursuant to K.S.A.
37 75-719, and amendments thereto, to collect debts owed to such court.
- 38 (f) “Person” means an individual, proprietorship, partnership, limited
39 partnership, association, trust, estate, business trust, corporation, other
40 entity or a governmental agency, unit or subdivision.
- 41 (g) “Director” means the director of accounts and reports of the de-
42 partment of administration.
- 43 (h) “Municipality” means any municipality as defined by K.S.A. 75-

- 1 1117, and amendments thereto.
- 2 (i) "Payor agency" means any state agency which holds money for, or
- 3 owes money to, a debtor.
- 4 (j) "Foreign state or foreign state agency" means the states of Colo-
- 5 rado, Missouri, Nebraska or Oklahoma or any agency of such states which
- 6 has entered into a reciprocal agreement pursuant to K.S.A. 75-6215, and
- 7 amendments thereto.
- 8 Sec. 5. K.S.A. 2009 Supp. 75-3306 and 75-6202 are hereby repealed.
- 9 Sec. 6. This act shall take effect and be in force from and after its
- 10 publication in the statute book.