

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1349

BY: CROCKER

AS INTRODUCED

AN ACT RELATING TO FEES AND SCHOOLS; AMENDING 28 O.S. 1981, SECTION 152, AS LAST AMENDED BY SECTION 2, CHAPTER 109, O.S.L. 1990 (28 O.S. SUPP. 1990, SECTION 152), WHICH RELATES TO THE COLLECTION OF CERTAIN FLAT FEES IN CIVIL CASES; MODIFYING SUCH FEES; AUTHORIZING THE TRANSFER OF CERTAIN MONIES TO THE STATE LAW CENTER LIBRARY FUND; AMENDING 28 O.S. 1981, SECTION 153, AS LAST AMENDED BY SECTION 1, CHAPTER 151, O.S.L. 1990 (28 O.S. SUPP. 1990, SECTION 153), WHICH RELATES TO THE COLLECTION OF CERTAIN COSTS IN CRIMINAL CASES; MODIFYING THE FLAT CHARGES; AUTHORIZING THE TRANSFER OF CERTAIN MONIES TO THE STATE LAW CENTER LIBRARY FUND AND TO THE COUNTY LAW LIBRARY FUND; ESTABLISHING A LAW LIBRARY AT THE UNIVERSITY OF OKLAHOMA LAW CENTER TO BE DESIGNATED AS THE STATE LAW CENTER LIBRARY; STATING PURPOSE; AUTHORIZING CERTAIN SERVICE AGREEMENTS; PROVIDING FOR THE USE OF CERTAIN FUNDS; AUTHORIZING THE PLEDGING OF CERTAIN FUNDS FOR THE ISSUANCE OF REVENUE BONDS; STATING PURPOSE; PROVIDING FOR THE RETIREMENT OF CERTAIN BONDS; REPEALING SECTION 3, CHAPTER 109, O.S.L. 1990 (28 O.S. SUPP. 1990, SECTION 153), WHICH IS A DUPLICATE SECTION RELATING TO THE COLLECTION OF CERTAIN COSTS IN CRIMINAL

CASES; PROVIDING FOR CODIFICATION; PROVIDING AN
EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 28 O.S. 1981, Section 152, as last amended by Section 2, Chapter 109, O.S.L. 1990 (28 O.S. Supp. 1990, Section 152), is amended to read as follows:

Section 152. A. In any civil case filed in district court, the court clerk shall collect, at the time of filing, the following flat fees, none of which shall ever be refundable, and which shall be the only charge for court costs, except as is otherwise specifically provided for by law:

1. Actions for divorce, alimony without divorce, separate maintenance, custody or support.....	\$62.00	<u>\$65.00</u>
2. Any ancillary proceeding to modify or vacate divorce decree or prior order providing for custody or support.....	\$30.00	<u>\$33.00</u>
3. Probate and guardianship.....	\$62.00	<u>\$65.00</u>
4. Annual guardianship report	\$20.00	<u>\$23.00</u>
5. Any proceeding for sale or lease of real or personal property or mineral interest in probate or guardianship	\$30.00	<u>\$33.00</u>
6. Any proceeding to revoke the probate of a will	\$30.00	<u>\$33.00</u>
7. Judicial determination of death	\$35.00	<u>\$38.00</u>
8. Adoption	\$62.00	<u>\$65.00</u>

9.	Civil actions and condemnation	\$62.00	<u>\$65.00</u>
10.	Garnishment	\$10.00	<u>\$13.00</u>
11.	Continuing wage garnishment	\$50.00	<u>\$53.00</u>
12.	Any other proceeding after judgment ...	\$20.00	<u>\$23.00</u>
13.	All others, including but not limited to actions for forcible entry and detainer, judgments from all other courts, including the Workers' Compensation Court	\$62.00	<u>\$65.00</u>

B. Of the amount collected pursuant to subsection A of this section, the sum of Three Dollars (\$3.00) shall be deposited to the credit of the county Law Library Fund pursuant to Section 1201 et seq. of Title 20 of the Oklahoma Statutes.

C. Of the amount collected pursuant to subsection A of this section, the sum of Three Dollars (\$3.00) shall be transferred to the Oklahoma State Regents for Higher Education pursuant to Section 3 of this act for the purpose of funding the State Law Center Library Fund at the University of Oklahoma. This transfer of funds to the Oklahoma State Regents for Higher Education shall be made each month.

D. In any case where the litigant claims he has a just cause of action, and that, by reason of poverty, he is unable to pay the fees and costs provided for in this section and financially unable to employ counsel, upon the filing of an affidavit in forma pauperis executed before any officer authorized by law to administer oaths by such litigant in such action to that effect and upon satisfactory showing to the court that said litigant has no means and is, therefore, unable to pay the applicable fees and costs and to employ counsel, no fees or costs shall be required. The opposing party or parties may in any event file with the court clerk of the court having jurisdiction of the cause an affidavit similarly executed contradicting the allegation of such poverty. In all such cases,

the court shall promptly set for hearing the determination of the eligibility of the original affiant to litigate without payment of fees or costs. Until a final order determining the ineligibility of such affiant has been entered, the clerk shall permit such affiant to litigate without payment for fees or costs. Any litigant executing a false affidavit or counter affidavit pursuant to the provisions of this section shall be guilty of perjury.

SECTION 2. AMENDATORY 28 O.S. 1981, Section 153, as last amended by Section 1, Chapter 151, O.S.L. 1990 (28 O.S. Supp. 1990, Section 153), is amended to read as follows:

Section 153. A. The clerks of the courts shall collect as costs in every criminal case for each offense of which the defendant is convicted, irrespective of whether or not the sentence is deferred, the following flat charges and no more, except for charges otherwise provided for by law, which fee shall cover docketing of the case, filing of all papers, issuance of process, warrants, orders, and other services to date of judgment:

1. For each defendant convicted of
a misdemeanor, including
violation of any traffic
law, other than for driving
under the influence of alcohol
or other intoxicating substance,
whether charged
individually or conjointly
with others ~~\$57.00~~ \$63.00

2. For each defendant convicted of
a felony, other than for driving
under the influence of alcohol or
other intoxicating substance,
whether charged
individually or conjointly

with others ~~\$77.00~~ \$83.00

3. For each defendant convicted of
the misdemeanor of driving under
the influence of alcohol or other
intoxicating substance, whether
charged individually or
conjointly with others ~~\$157.00~~ \$163.00

4. For each defendant convicted of the
felony of driving under the influence
of alcohol or other intoxicating
substance, whether charged individually
or conjointly with others ~~\$157.00~~ \$163.00

5. For the services of a court reporter at
each trial held in the case \$20.00

6. For each time a jury is requested \$30.00

7. A sheriff's fee for serving or
endeavoring to serve each
writ, warrant, order,
process, command, or
notice or pursuing any
fugitive from justice \$20.00 or
mileage as established
by the Oklahoma
Statutes, whichever
is greater.

B. Of the amount collected pursuant to paragraphs 1 through 4
of subsection A of this section, the sum of Three Dollars (\$3.00)
shall be deposited to the credit of the county Law Library Fund
pursuant to Section 1201 et seq. of Title 20 of the Oklahoma
Statutes.

C. Of the amount collected pursuant to paragraphs 1 through 4
of subsection A of this section, the sum of Three Dollars (\$3.00)

shall be transferred to the Oklahoma State Regents for Higher Education pursuant to Section 3 of this act for the purpose of funding the State Law Center Library Fund at the University of Oklahoma. This transfer of funds to the Oklahoma State Regents for Higher Education shall be made each month.

D. Prior to conviction, parties in criminal cases shall not be required to pay, advance, or post security for the issuance or service of process to obtain compulsory attendance of witnesses. These fees shall be deposited into the court fund except that the sheriff's fee provided for in this section and the amount provided for in Section ~~2~~ 153.2 of this ~~act~~ title, when collected, shall be transferred to the Sheriff's Service Fee Account, created pursuant to the provisions of Section 514.1 of Title 19 of the Oklahoma Statutes, of the sheriff in the county in which service is made or attempted.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3315 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. There shall be established at the University of Oklahoma Law Center a law library for the State of Oklahoma to be designated as the State Law Center Library. This library shall be maintained in such a manner as to provide a library collection necessary for the legal education needs of the students at the University of Oklahoma, and the needs of the attorneys and general public in Oklahoma. The library shall make its collection available to the attorneys and general public of this state by on-site use of the library facility, and by all other appropriate means. The University of Oklahoma may enter into agreements with other law libraries in Oklahoma to provide these services in locations remote from the University of Oklahoma campus and to provide equipment at those sites.

B. Regents of the University of Oklahoma may use the funds generated by the court costs provided for in subsections A and C of

Section 1 of this act and subsections A and C of Section 2 of this act for purchasing library materials, employing librarians and other necessary staff, purchase of equipment, and the construction, expansion and remodeling of facilities at the University of Oklahoma Law Center, contracting with other law libraries to provide library services and all other necessary lawful purposes to carry out the intent of this section.

C. The Regents of the University of Oklahoma are authorized to pledge the funds to be generated from the court fees for the purpose of issuing revenue bonds pursuant to the provisions of Sections 4001 through 4017 of Title 70 of the Oklahoma Statutes to construct, expand or remodel the facilities at the University of Oklahoma Law Center and that the fees so generated shall be considered to be income and revenue of the University of Oklahoma Law Center for the purposes of Sections 4001 and 4002 of Title 70 of the Oklahoma Statutes. The bonds issued pursuant to the statute shall not be an obligation or debt of the State of Oklahoma and shall be retired solely through the fees provided for in subsections A and C of Section 1 of this act and subsections A and C of Section 2 of this act.

SECTION 4. REPEALER 28 O.S. 1981, Section 3, Chapter 109, O.S.L. 1990 (28 O.S. Supp. 1990, Section 153), is hereby repealed.

SECTION 5. This act shall become effective July 1, 1991.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-1-6024 MCD