

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1747

BY: STEIDLEY

AS INTRODUCED

AN ACT RELATING TO THE STATE JUDICIAL FUND; AMENDING 20 O.S. 1981, SECTIONS 72, 73.5, AS AMENDED BY SECTION 1, CHAPTER 3, O.S.L. 1987, 103.1, 1224, 1307, 1308, 1309, 1311, 1507, AS AMENDED BY SECTION 3, CHAPTER 204, O.S.L. 1989 AND 1660 (20 O.S. SUPP. 1990, SECTIONS 73.5 AND 1507), WHICH RELATE TO COURTS; AMENDING 21 O.S. 1981, SECTION 701.14, AS AMENDED BY SECTION 1, CHAPTER 105, O.S.L. 1985 (21 O.S. SUPP. 1990, SECTION 701.14), WHICH RELATES TO PAYMENT FOR CERTAIN DEFENSE COSTS; AMENDING 22 O.S. 1981, SECTION 464, AS AMENDED BY SECTION 1, CHAPTER 232, O.S.L. 1985 AND 562 AND SECTION 2, CHAPTER 232, O.S.L. 1985 (22 O.S. SUPP. 1990, SECTIONS 464 AND 1176), WHICH RELATE TO CRIMINAL PROCEDURE; CLOSING THE STATE JUDICIAL FUND AND TRANSFERRING THE UNENCUMBERED BALANCE TO THE GENERAL REVENUE FUND; REPEALING 20 O.S. 1981, SECTION 1310, AS AMENDED BY SECTION 133, CHAPTER 203, O.S.L. 1987 (20 O.S. SUPP. 1990, SECTION 1310), WHICH RELATES TO THE STATE JUDICIAL FUND; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1310.1 of Title 20, unless there is created a duplication in numbering, reads as follows:

On June 30, 1991, the State Judicial Fund shall be closed and the unencumbered balance shall be transferred by the Director of State Finance to the General Revenue Fund of this state.

SECTION 2. AMENDATORY 20 O.S. 1981, Section 72, is amended to read as follows:

Section 72. The Clerk of the Supreme Court shall, on the first Monday of January, April, July and October of each year, make out and present to the Administrative Director an itemized and verified report of all fees earned and collected by him during the preceding quarter, and shall transfer all monies so earned to the State Treasurer for deposit in the State ~~Judicial~~ General Revenue Fund.

SECTION 3. AMENDATORY 20 O.S. 1981, Section 73.5, as amended by Section 1, Chapter 3, O.S.L. 1987 (20 O.S. Supp. 1990, Section 73.5), is amended to read as follows:

Section 73.5 From and after the effective date of this act the new opinions of the Supreme Court, the Court of Criminal Appeals and the Court of Appeals shall be promptly furnished, at a cost of twenty-five cents (\$0.25) per page, to any person, firm or corporation who shall request same in writing to the Clerk of the Supreme Court for the purpose of publishing, editing and binding said opinions. For any other purpose, other persons, firms or corporations shall be furnished, upon request in writing to the Clerk of the Supreme Court, copies of said opinions at that fee mandated by Section 31 of Title 28 of the Oklahoma Statutes, for the copying of any instrument of record or on file. Provided however,

said opinions shall be furnished free of cost to the litigants involved, and to the Oklahoma Bar Association for any official publication of said Association.

All monies collected by the Clerk of the Supreme Court for said opinions shall be by said Clerk deposited monthly to the credit of the State ~~Judicial~~ General Revenue Fund of the State of Oklahoma.

SECTION 4. AMENDATORY 20 O.S. 1981, Section 103.1, is amended to read as follows:

Section 103.1 A. Any judge of the district court designated by the Chief Justice to hold a term of court in another district, or appointed by the Chief Justice to hold court in another district when the public business shall require, or any judge pro tempore agreed upon by the parties or elected by the members of the bar of the district or designated by the chief judge of the district court and approved by the Chief Justice, shall have continuing authority, without further assignment, to make final disposition of any matter regularly submitted or tried before him during the term or period of time of his designation, appointment or election, including motions and petitions for new trial and for judgment notwithstanding the verdict, and of all applications and proceedings pertaining to the making, serving, amendment, settlement, signing, correcting, extending time and completing of case made, transcript, or original record for appeal, notwithstanding the term or period of time for which he was designated or appointed has expired; and when necessary for him to return to the district for the purpose of acting on such matters, his necessary travel expense shall be paid as provided by Section 105.1 of this title. Judges pro tempore designated by the chief judge of a district court, shall receive per diem and expenses as approved by the Chief Justice to be paid from the State ~~Judicial~~ General Revenue Fund on claims filed with and approved by the Administrative Director of the Courts.

B. When any judge of the district court has been lawfully designated or appointed and be sitting in any county of his own district, he may make any order of a nature not requiring notice and hearing in any cause theretofore heard, or being heard, by him in a district to which he has been properly designated or appointed; and he may sign the journal entry of any order, judgment or decree theretofore made by him, as such designated or appointed judge, if such journal entry be approved as to form by all parties affected thereby, or by their attorneys; and he may extend the time for the completion, serving, settling and signing of cases made, transcripts, or original record for appeal, and he may sign and settle any case made, transcript or original record for appeal, under the foregoing circumstances, if the parties affected thereby or their attorneys have stipulated that he may do so. If any action is taken under the foregoing circumstances, the judge shall make a minute of his action and forthwith transmit said minute to the court clerk of the county in which the action is pending.

SECTION 5. AMENDATORY 20 O.S. 1981, Section 1224, is amended to read as follows:

Section 1224. On August 1 each year the board of trustees shall transmit to the Supreme Court for deposit in the State ~~Judicial~~ General Revenue Fund all funds on deposit in the law library fund in excess of twenty-five percent (25%) of the income to such fund during the preceding fiscal year, the existing surplus on hand on the effective date of this act being excluded.

SECTION 6. AMENDATORY 20 O.S. 1981, Section 1307, is amended to read as follows:

Section 1307. a. Within thirty (30) days after the end of each quarter of every calendar year, the court clerk of each county shall report to the Supreme Court, in such manner as prescribed by the Supreme Court, the receipts that have been deposited in the court fund and the disbursements therefrom for the preceding quarter of

the year and the total amount in the fund at the end of the quarter. Ten percent (10%) of the amount collected in the court fund shall be transferred to the State Judicial Retirement Fund at the end of each quarter.

b. In the report for the last quarter of every fiscal year, the court clerk shall, in addition to other information required, submit the following data: (1) the gross receipts to the court fund during the entire last fiscal year, (2) the total amount of expenses paid during the entire last fiscal year, including bond and interest expense as well as payments to the county general fund and (3) the total amount of money transferred, and to be transferred, to the State ~~Judicial~~ General Revenue Fund and the State Judicial Retirement Fund for the entire last fiscal year as set forth in Section 1308 of this title.

SECTION 7. AMENDATORY 20 O.S. 1981, Section 1308, is amended to read as follows:

Section 1308. At the time the quarterly report required by Section 1307 of this title is made, the court clerk must transmit to the Supreme Court for deposit in the State Judicial Retirement Fund, ten percent (10%) of the amount collected in the court fund for the quarter and must also transmit for deposit in the State ~~Judicial~~ General Revenue Fund the amount by which the receipts deposited in the court fund for the quarter, including the interest earned on said court fund, exceeds the expenses for said quarter, provided the court clerk shall retain from said excess amount a sum equal to twenty percent (20%) of the expenses for said quarter. Payments made to the county general fund and State Judicial Retirement Fund shall be counted in computing said percentage. The percentage of the expenses retained, as herein provided, shall be regarded as an item of receipt to the court fund during the quarter in which it was retained. Within thirty (30) days of the end of each fiscal year, the court clerk, in addition to the other amounts due hereunder,

shall transmit to the Supreme Court for deposit in the State ~~Judicial~~ General Revenue Fund an amount equal to the gross receipts for the entire past fiscal year less the total amount of expenses, as defined in subsection b of Section 1307 of this title, and less the four quarterly transfers made for the past fiscal year.

SECTION 8. AMENDATORY 20 O.S. 1981, Section 1309, is amended to read as follows:

Section 1309. All remittances transmitted to the Supreme Court for deposit to the State ~~Judicial~~ General Revenue Fund and to the State Judicial Retirement Fund shall be placed by the Administrative Director of the Courts in a clearing account and thence transferred to the proper fund after refunds directed by State Auditor and Inspector have been effected or ninety (90) days of receipt, whichever is the shorter period of time.

SECTION 9. AMENDATORY 20 O.S. 1981, Section 1311, is amended to read as follows:

Section 1311. When the court fund in any county becomes so exhausted that it appears that a party cannot procure an immediate trial by jury, the ~~Administrative Director of the Courts~~ State Treasurer upon the request of the presiding judge of the judicial administrative district and upon the approval by the Chief Justice of the Supreme Court, shall transfer from the State ~~Judicial~~ General Revenue Fund to the court fund of said county an amount that will be sufficient to permit an immediate jury trial of all cases that are triable by a jury and that are ready for trial.

SECTION 10. AMENDATORY 20 O.S. 1981, Section 1507, as amended by Section 3, Chapter 204, O.S.L. 1989 (20 O.S. Supp. 1990, Section 1507), is amended to read as follows:

Section 1507. All fees authorized to be charged shall be paid to the Clerk of the Supreme Court who shall deposit them in the State ~~Judicial~~ General Revenue Fund. The Chief Justice shall be authorized to draw against this fund for such amounts as are

lawfully claimed by the Board for its necessary supplies and expenses. When performing essential duties each Board member shall be entitled to his actual expenses and shall receive, in addition thereto, the sum of Fifty Dollars (\$50.00) for each full day of service or a fraction thereof for less than a day's service. ~~On the effective date of this act the Clerk of the Supreme Court shall transfer and deposit to the State Judicial Fund all monies which he presently holds in the Certified Reporters Fund under the provisions of Section 962 of Title 59 of the Oklahoma Statutes.~~

SECTION 11. AMENDATORY 20 O.S. 1981, Section 1660, is amended to read as follows:

Section 1660. All expenses incurred under the provisions of this act shall be paid out of the State ~~Judicial~~ General Revenue Fund upon a claim approved by the Administrative Director of the Courts.

SECTION 12. AMENDATORY 21 O.S. 1981, Section 701.14, as amended by Section 1, Chapter 105, O.S.L. 1985 (21 O.S. Supp. 1990, Section 701.14), is amended to read as follows:

Section 701.14 In all cases, wherein the defendant is subject to the death penalty triable in the State of Oklahoma, where it is satisfactorily shown to the trial court that the defendant has no means and is unable to employ counsel, the court shall, in all such cases, where counsel is appointed and assigned for defense, allow and direct to be paid from the State ~~Judicial~~ General Revenue Fund, a reasonable and just compensation to the attorney so assigned for such services as they may render such compensation being allowable in any court of record. Provided, however, that such attorney shall not be paid a sum to exceed the following amounts:

For services rendered prior to and in
preparation for preliminary hearing \$200.00
For services rendered at preliminary hearing \$500.00
For services rendered from the time the

defendant is bound over on the charge
of murder in the first degree through
final disposition in the trial court \$2,500.00

No application for compensation shall be heard by the trial court prior to final trial disposition, unless the appointed attorney has been allowed for good cause to permanently withdraw from the case by order of the court. An application for compensation shall be accompanied by an affidavit of the appointed attorney which shall state that any amount which may be awarded by the trial court will be the sole source of compensation for the services provided, or if not, the affidavit shall state the other sources of compensation and the amounts thereof.

SECTION 13. AMENDATORY 22 O.S. 1981, Section 464, as amended by Section 1, Chapter 232, O.S.L. 1985 (22 O.S. Supp. 1990, Section 464), is amended to read as follows:

Section 464. A. If the defendant appear for arraignment, without counsel, he must be informed by the court that it is his right to have counsel before being arraigned, and must be asked if he desires the aid of counsel. If he desires and is financially unable to employ counsel, the court must assign counsel to defend him. The attorney so appointed shall represent said person in the examining magistrate court until he is discharged or bound over by said court and shall receive such compensation as is ordered by the court, not to exceed One Hundred Dollars (\$100.00) as approved by a judge of the district court. Provided, that in all counties of the state having a city therein of over one hundred thousand (100,000) and less than two hundred twenty-five thousand (225,000) population, according to the last preceding regular Federal Decennial Census, a majority of the district judges, sitting regularly in said county, shall appoint not to exceed two duly qualified and practicing attorneys to act as counsel in all such cases, who shall serve in such capacity during the tenure of the judges making such

appointment, or until sooner termination thereof by a majority vote of said district judges. Each of the attorneys so appointed shall receive for such services the sum of Two Hundred Dollars (\$200.00) per month, One Hundred Dollars (\$100.00) thereof to be paid by the county in which said appointment is made, and One Hundred Dollars (\$100.00) thereof to be paid out of the court fund of said county, together with an amount not to exceed Fifty Dollars (\$50.00) each per month, out of the court fund, in payment of expenses incurred for transportation, communications, investigations, transcripts and secretarial hire, and shall be precluded from appearing as counsel in any and all other criminal actions.

B. When a person is charged with a criminal offense where such person faces the possibility of a death sentence, the court may, upon application of the defendant demonstrating that an expert witness is necessary to prepare the defense and that the defendant is financially unable to pay for such services, provide access to such witnesses and other services as are reasonably necessary to permit the defendant to adequately prepare and present his defense at trial and at any subsequent proceeding by authorizing counsel to obtain such services. The court will rule on the reasonableness of the request for expert witnesses and other services by the defendant. Compensation for such expert witnesses and other services shall be paid from the State ~~Judicial~~ General Revenue Fund in a sum not to exceed Seven Hundred Fifty Dollars (\$750.00) per defendant, the specific amount to be determined by the trial judge, subject to the approval of the Chief Justice. Extraordinary expenses in excess of Seven Hundred Fifty Dollars (\$750.00) per defendant may be compensated upon application to and approval by the Chief Justice according to rules promulgated by the Supreme Court. No application for compensation of such expert witnesses and other services shall be heard by the trial court prior to final trial disposition. An application for compensation must include an itemized statement of

the services provided and shall be accompanied by an affidavit of the person who provided the services which shall state that any amount which may be awarded by the trial court will be the sole source of compensation for the services provided, or if not, the affidavit shall state the other sources of compensation and the amounts thereof.

SECTION 14. AMENDATORY 22 O.S. 1981, Section 562, is amended to read as follows:

Section 562. The order of removal from the county must be entered upon the minutes and the court clerk must thereupon make out, and within ten (10) days transmit to the county to which the action is removed, a certified copy of the order of removal and the record, and shall transmit the pleadings including the undertaking for the appearance of the defendant, and of the witnesses, and the cause must be docketed and stand for trial within six (6) months from the date the cause was ordered removed. The State ~~Judicial~~ General Revenue Fund shall be liable for the expense and charge of removing, delivering and keeping the prisoner, and the fees of jurors and witnesses in attendance during the trial, court reporter's fees, all fees and mileage of the sheriff, and the per diem of bailiffs during the time said cause is on trial, and such other expenses as may be lawfully incurred incident to the trial, which costs and expenses shall be approved by the Court Administrator of the Supreme Court of the State of Oklahoma and certified by the clerk of the court to which the action was transferred to the court clerk of the county from which the cause was removed and shall show the name of each person and the amount due to him. On receipt of such certificate, the clerk of the court from which the action was transferred shall draw his warrants on the State ~~Judicial~~ General Revenue Fund for the total amount of costs allowed by the transferee court, payable to the order of the court fund of the transferee court subject to the order of the person

entitled thereto, and forward the same to the clerk of the court where the cause was tried, who shall deposit it in the court fund. All fees not claimed two (2) years after having been received by the clerk of the transferee court, shall by him be returned to the clerk of the transferor court to be held in the court fund for the benefit of the owner for a period of one (1) year, and, if not claimed within that time, such fees shall become the property of the court fund of the county.

SECTION 15. AMENDATORY Section 2, Chapter 232, O.S.L. 1985 (22 O.S. Supp. 1990, Section 1176), is amended to read as follows:

Section 1176. A. If the defendant intends to raise the question of mental illness or insanity at the time of the offense, the defendant shall file an application with the court at least twenty (20) days before trial. The procedure to be followed for review of such an application will be the same as provided in Section 1175.3 of Title 22 of the Oklahoma Statutes.

B. If the court finds that the defendant's sanity at the time of the offense is to be a significant factor in his defense at trial and that the defendant is financially unable to obtain the services of a psychiatrist, the court shall provide the defendant with access to a psychiatrist by authorizing counsel to obtain the services of a psychiatrist to conduct an appropriate examination and assist in evaluation, preparation and presentation of the defense. Compensation for such services shall be paid from the State ~~Judicial~~ General Revenue Fund as provided in subsection B of Section 464 of Title 22 of the Oklahoma Statutes.

SECTION 16. REPEALER 20 O.S. 1981, Section 1310, as amended by Section 133, Chapter 203, O.S.L. 1987 (20 O.S. Supp. 1990, Section 1310), is hereby repealed.

SECTION 17. This act shall become effective July 1, 1991.

SECTION 18. 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.

43-1-5450

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