

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 1250

By: Steidley of the House

and

Smith of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to fees; amending 20 O.S. 1991, Section 15, which relates to costs for cases filed with the Supreme Court; modifying amount of deposit; amending 20 O.S. 1991, Section 1301, which relates to deposits of fees, fines and forfeitures in the Court Fund; providing that certain costs shall be deposited in the Court Fund; amending 20 O.S. 1991, Section 1304, as amended by Section 1, Chapter 282, O.S.L. 1992 (20 O.S. Supp. 1992, Section 1304), which relates to claims allowable for the Court Fund; modifying criteria for payment of witness fees; amending 20 O.S. 1991, Section 1306, which relates to transfer of funds from Court Fund to General Fund; modifying amount of transfer; amending 22 O.S. 1991, Section 718, which relates to witness fees; clarifying authorization for payment of fees to certain witnesses; amending 28 O.S. 1991, Section 82, as amended by Section 2, Chapter 282, O.S.L. 1992 (28 O.S. Supp. 1992, Section 82), which relates to witness fees; providing sources of payment for certain witnesses; requiring certain reports; amending 28 O.S. 1991, Section 153, as last amended by Section 11, Chapter 357, O.S.L. 1992 (28 O.S. Supp. 1992, Section 153), which relates to court costs; modifying amount of certain costs; providing for deposit of certain costs to certain fund; modifying right of persons to make certain payments to the court clerk by credit card; ratifying payment of certain fees and costs to certain fund; providing for noncodification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 20 O.S. 1991, Section 15, is amended to read as follows:

Section 15. In each case filed in the Supreme Court, and at the time of filing same, there shall be deposited with the Clerk as costs in said cause ~~One Hundred Dollars (\$100.00)~~ Two Hundred

Dollars (\$200.00) of which no rebate of any part thereof shall be made; provided, the Supreme Court may prescribe by rules the procedure for affording access to that Court, without the deposit of costs, to those indigent persons who are deemed by it entitled thereto.

SECTION 2. AMENDATORY 20 O.S. 1991, Section 1301, is amended to read as follows:

Section 1301. All fees, fines, costs and forfeitures shall, when collected by the court clerk, be deposited ~~by him~~ in a fund in the county treasury designated "The Court Fund", and shall be used, from year to year, in defraying the expenses of holding court in said county. The county treasurer shall act as an agent of the state in the care and handling of the Court Fund, but ~~his~~ the treasurer's bond shall cover ~~his~~ the treasurer's obligations in regard to this fund.

SECTION 3. AMENDATORY 20 O.S. 1991, Section 1304, as amended by Section 1, Chapter 282, O.S.L. 1992 (20 O.S. Supp. 1992, Section 1304), is amended to read as follows:

Section 1304. A. Claims against the court fund shall include only such expenses as may be lawfully incurred for the operation of the court in the county. Payment of the expenses may be made after the claim therefor is approved by the district judge who is a member of the governing board of the court fund and either the local court clerk or the local associate district judge who is a member of said governing board. No expenditures falling into any category listed in paragraphs 2, 5 and 6 of subsection B of this section, may be made without prior written approval of the Chief Justice of the Supreme Court. The Supreme Court may provide by rule the manner in which expenditures in the restricted categories shall be submitted for approval. When allowing the expenditures in paragraphs 5 and 6 of subsection B of this section, the Chief Justice shall direct that resort first be had to the surplus funds in the court fund in the county involved.

B. The term "expenses" shall include the following items and none others:

1. Principal and interest on bonds issued prior to January 1, 1968, Title 19 of the Oklahoma Statutes, Sections 771 through 778;

2. Compensation of bailiffs and part-time help;

3. Juror fees and mileage, as well as overnight accommodation and food expense for jurors kept together as set out in Title 28 of the Oklahoma Statutes, Section 81 et seq.;

4. Witness fees and mileage for witnesses subpoenaed by ~~county indigent defenders pursuant to Section 138.1 et seq. of Title 19 of the Oklahoma Statutes~~ the defense as set out in Section 81 et seq. of Title 28 of the Oklahoma Statutes, except expert witnesses for county indigent defenders shall be paid a reasonable fee for their services;

5. Office supplies, books for records, postage and printing;

6. Furniture, fixtures and equipment;

7. Renovating, remodeling and maintenance of courtrooms, judge's chambers, clerk's offices and other areas primarily used for judicial functions;

8. Judicial robes;

9. Attorney's fees for indigents in the trial court and on appeal;

10. Compensation or reimbursement for services provided in connection with an adult guardianship proceeding as provided by Section 4-403 of Title 30 of the Oklahoma Statutes. Compensation from the court fund for attorneys appointed pursuant to the Oklahoma Guardianship Act, Section 1-102 et seq. of Title 30 of the Oklahoma Statutes, shall be substantially the same as for attorneys appointed in juvenile proceedings pursuant to Title 10 of the Oklahoma Statutes. The compensation, if any, for guardians ad litem appointed pursuant to the Oklahoma Guardianship Act shall not exceed One Hundred Dollars (\$100.00);

11. Transcripts ordered by the court;

12. Necessary telephone expenses, gas, water and electrical utilities for the part of the county courthouse occupied by the court;

13. The cost of publication notice in juvenile proceedings as provided in Section 1105 of Title 10 of the Oklahoma Statutes and

in termination of parental rights proceedings brought by the state as provided in Section 1131 of Title 10 of the Oklahoma Statutes;

14. Interpreter fees; and

15. Any other expenses now or hereafter expressly authorized by statute.

C. No county courthouse building commission shall be created after March 1, 1968, and no disbursements shall be permitted from any court fund under the provisions of Title 19 of the Oklahoma Statutes, Sections 771 through 778, except by county courthouse commissions created prior to March 1, 1968, provided, nothing in Section 1301 et seq. of this title shall prevent the construction of additional courtrooms within existing courthouse facilities, from funds other than the court fund.

D. Items of equipment, furniture, fixtures, printing or supplies that are available in the quantities desired from a contract vendor's list for order or purchase by the court fund through the facilities of the Central Purchasing Office of the State of Oklahoma may not be purchased by any court fund at prices higher than those approved by the Central Purchasing Office.

SECTION 4. AMENDATORY 20 O.S. 1991, Section 1306, is amended to read as follows:

Section 1306. Beginning on ~~January 31, 1969~~ July 1, 1993, and monthly thereafter, the court clerk of each county shall transfer from the court fund to the general fund of the county a sum that is equal to ~~one-twelfth (1/12th)~~ one-twenty-fourth (1/24th) of the amount received by the county general fund from fees, fines, and forfeitures for the fiscal years 1965-1966 or 1966-1967, less all salaries and Justice of Peace expenses and other expenses paid that fiscal year out of the county general fund for the operation of courts within the county, and which, commencing January 13, 1969, are assumed and paid by the State of Oklahoma. The fiscal year to be used shall be that which nets the county general fund the largest sum of money.

SECTION 5. AMENDATORY 22 O.S. 1991, Section 718, is amended to read as follows:

Section 718. A. Except as otherwise ~~specified~~ provided by ~~law~~ Section 82 of Title 28 of the Oklahoma Statutes, all witnesses in a criminal action who appear pursuant to a subpoena shall be paid out of the court fund the fees and mileage prescribed by law. Upon conviction of the defendant, said fees and mileage shall be taxed as costs ~~and,~~ collected and deposited as other costs in the case.

B. ~~A~~ Except as otherwise provided by Section 82 of Title 28 of the Oklahoma Statutes, a witness who appears from another state to testify in this state in a criminal case or proceeding pursuant to a subpoena issued in accordance with the provisions of the Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings shall be reimbursed from the court fund of the court where prosecution is pending for travel and expenses at rates not to exceed those prescribed by law for reimbursement of state employees traveling interstate. Upon conviction, such fees and mileage shall be taxed as costs ~~and,~~ collected and deposited as other costs in the case.

~~C. A witness who appears from a county other than the county in which a criminal case or proceeding is being conducted pursuant to a subpoena shall be reimbursed from the court fund of the court where the prosecution is pending for travel and expenses at a rate not to exceed the rate of reimbursement specified in the State Travel Reimbursement Act for state employees. Upon conviction of the defendant, said fees and mileage shall be taxed as costs and collected as other costs in the case.~~

SECTION 6. AMENDATORY 28 O.S. 1991, Section 82, as amended by Section 2, Chapter 282, O.S.L. 1992 (28 O.S. Supp. 1992, Section 82), is amended to read as follows:

Section 82. ~~All witnesses~~ A. Any witness on behalf of the state appearing in obedience to a subpoena or order at any stage of a criminal case or proceeding and in any civil case or proceeding brought by the State of Oklahoma directly or on relation of the district attorney, or by the board of county commissioners on behalf of the county, shall be paid from any monies available for the operations of the district attorney

office in such county the fees and mileage at the rate prescribed by law.

B. Except as otherwise provided by Section 1355.4 of Title 22 of the Oklahoma Statutes, any witness on behalf of an indigent defendant appearing in obedience to a subpoena or order at any stage of a criminal case or proceeding brought by the State of Oklahoma directly or on relation of the district attorney shall be paid from the court fund. The court clerk shall report the amount of witness fees paid pursuant to this subsection in conjunction with the quarterly report required by Section 1307 of Title 20 of the Oklahoma Statutes.

C. Upon conviction, such fees and mileage shall be taxed as costs in the case, and collected and deposited as other costs in the case. The court clerk shall report the total amount of monies collected pursuant to this subsection and Section 718 of Title 22 of the Oklahoma Statutes in conjunction with the quarterly report required by Section 1307 of Title 20 of the Oklahoma Statutes.

SECTION 7. AMENDATORY 28 O.S. 1991, Section 153, as last amended by Section 11, Chapter 357, O.S.L. 1992 (28 O.S. Supp. 1992, 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 exceeding the speed limit by at least one (1) mile per hour but not more than ten (10) miles per hour, whether charged individually or conjointly with others \$57.00
2. For each defendant convicted of misdemeanor, including violation of any traffic law, other than for driving under the influence of alcohol or other intoxicating substance or an offense provided for in paragraph 1 of this

subsection, whether charged individually or conjointly with others ~~\$70.00~~ \$73.00

3. 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 ~~\$90.00~~ \$93.00
4. 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 ~~\$170.00~~ \$173.00
5. 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 ~~\$170.00~~ \$173.00
6. For the services of a court reporter at each trial held in the case \$20.00
7. For each time a jury is requested..... \$30.00
8. 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 2 through 5 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. 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 153.2 of this title, when collected, shall be transferred to the Sheriff's Service Fee Account, created pursuant Req. No. 7303Page 7

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.

~~C.~~ D. Forty-six Dollars and fifty cents (\$46.50) of the fee collected for every traffic case for each offense of which the defendant is convicted, irrespective of whether or not the sentence is deferred, shall be transmitted to the State Treasurer for deposit into the General Revenue Fund.

~~D.~~ E. Costs required to be collected pursuant to this section shall not be dismissed or waived.

~~E.~~ F. As used in this section, "convicted" means any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere or otherwise, and any deferred judgment or suspended sentence.

~~F.~~ G. ~~Payment for any fee for violation of any traffic law may be made by~~ A court clerk may accept in payment for any fee, fine or cost for violation of any traffic law a nationally recognized credit card issued to the applicant. The court clerk may add an amount equal to the amount of the service charge incurred, not to exceed four percent (4%) of the amount of such payment as a service charge for the acceptance of such credit card. For purposes of this paragraph, "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining goods, services or anything else of value and which is accepted by over one thousand (1,000) merchants in this state. The court clerk shall determine which nationally recognized credit cards will be accepted as payment for fees; provided, the court clerk must ensure that no loss of state revenue will occur by the use of such card.

SECTION 8. Any payments of funds pursuant to subsection B of Section 3, Chapter 109, O.S.L. 1990, made prior to the effective date of this act are hereby ratified and approved.

SECTION 9. NONCODIFICATION Section 7 of this act shall not be codified in the Oklahoma Statutes.

SECTION 10. This act shall become effective July 1, 1993.

SECTION 11. 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.

44-1-7303

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