

ENGROSSED SENATE  
BILL NO. 1087

By: Smith of the Senate

and

Steidley of the House

An Act relating to probation fees; amending 22 O.S. 1991, Sections 305.2 and 991d, as amended by Section 7, Chapter 286, O.S.L. 1995 (22 O.S. Supp. 1995, Section 991d), which relate to deferred prosecution and probation fees; making probation fees the same for persons under deferred prosecution agreement and Interstate Compact Agreement as state offenders; and declaring an emergency.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 305.2, is amended to read as follows:

Section 305.2 If an accused qualifies for the deferred prosecution program, the accused and the State of Oklahoma may execute an agreement whereby the accused agrees to waive any rights to a speedy accusation, a speedy trial, and any statute of limitations, and agrees to fulfill such conditions as the accused and the State of Oklahoma may agree including, but not limited to, restitution and community services.

The accused person, as consideration for entering a deferred prosecution agreement, consents and agrees to a full and complete

photographic record of property which was to be used as evidence. Such photographic record shall be competent evidence of such property and admissible in any criminal action or proceeding as the best evidence.

Return of property after the photographic record is made shall be as follows:

1. Property, except that which is prohibited by law, shall be returned to its owner after proper verification of title;
2. The return to the owner shall be without prejudice to the state or to any person who may have a claim against the property; and
3. When a return is made to the owner, the owner shall sign, under penalty of perjury, a declaration of ownership, which shall be retained by the person in charge of the property at the police department or sheriff's office.

As additional consideration for the agreement, the State of Oklahoma shall agree not to file an information if the accused satisfactorily completes the conditions of the agreement.

The agreement may include provisions whereby the accused agrees to supervision by the Probation and Parole Division of the Department of Corrections. If the accused is required to be supervised by the Department of Corrections, ~~he~~ the person shall be required to pay a fee of ~~Ten Dollars (\$10.00)~~ Forty Dollars (\$40.00) per month unless such fee would impose an unnecessary hardship on the accused. The fee shall be paid to the Probation and Parole Fund of the Department of Corrections. The Department of Corrections shall supervise and perform such other services as required by the district attorney to effectuate the agreement of the parties. The Probation and Parole Division shall report at least monthly to the district attorney on the progress of the accused, and shall report immediately if the accused fails to report or participate in any program.

The agreement between the parties may require the accused to participate or consult with social service agencies, including any programs offered by the Department of Human Services, the Department of Mental Health and Substance Abuse Services, the Employment Security Commission, the Department of Corrections, federal services agencies, other state agencies, colleges, universities and vocational-technical schools and private or charitable service organizations. Any state agency called upon for assistance in a deferred prosecution program by any district attorney shall render such services and assistance as available, and shall bear the costs of any such services and assistance. If the accused has sufficient means, the accused may be required to reimburse all or a part of the cost of the services as a condition of participation in the deferred prosecution program.

The agreement between the parties may require the accused to pay a victim compensation assessment pursuant to the provisions of Section 142.18 of Title 21 of the Oklahoma Statutes. The amount of such assessment shall be agreed to by the parties and shall be within the amounts specified in Section 142.18 of Title 21 of the Oklahoma Statutes for the offense charged.

SECTION 2. AMENDATORY 22 O.S. 1991, Section 991d, as amended by Section 7, Chapter 286, O.S.L. 1995 (22 O.S. Supp. 1995, Section 991d), is amended to read as follows:

Section 991d. A. 1. A court granting probation shall fix a fee of Forty Dollars (\$40.00) per month to be paid by the probationer to the Department of Corrections during the probationary period, provided, however, that this mandatory fee will not pertain if, in the judgment of the court, the fee would impose an unnecessary hardship on the probationer. In hardship cases, the court shall expressly waive all or part of the fee. The court shall make payment of the fee a condition of granting or continuing the probation which shall be imposed whether the probation is incident

to the suspending of execution of a sentence, incident to the suspending of imposition of a sentence, or incident to the deferral of proceedings after a verdict or plea of guilty, but such condition shall not be imposed unless probationary services are made available to the defendant.

2. If restitution is ordered by the court, the probation fee will be paid in addition to the restitution ordered. In addition to the restitution payment and probation fee, a fee of One Dollar (\$1.00) per payment is to be paid to the Department of Corrections to cover the expenses of administration of the restitution.

B. The Pardon and Parole Board shall fix a fee of Forty Dollars (\$40.00) per month to be paid by the parolee as a condition of parole which shall be paid to the Department of Corrections. The condition of the fee may not be imposed unless parole services are made available to the parolee. Provided, however, that this mandatory fee will not pertain if, in the judgment of the Pardon and Parole Board, the fee would impose an unnecessary hardship on the parolee. In such hardship cases the Pardon and Parole Board shall expressly waive all or part of the fee.

C. Upon Department of Corrections acceptance of an offender whose probation or parole supervision was transferred to Oklahoma through the Interstate Compact Agreement, a fee shall be assessed of ~~Fifty Dollars (\$50.00)~~ Forty Dollars (\$40.00) per month to be paid by the offender to the Department of Corrections. If, in the judgment of the Department of Corrections, such a fee would impose an unnecessary hardship on the offender, the fee shall be waived.

D. Except as provided in this subsection, all fees collected pursuant to this section shall be deposited in the Department of Corrections Revolving Fund created pursuant to Section 557 of Title 57 of the Oklahoma Statutes. For the fiscal year ending June 30, 1996, fifty percent (50%) of all collections received from offenders placed on probation or parole after July 1, 1995, shall be

transferred to the credit of the General Revenue Fund of the State Treasury until such time as total transfers equal Three Million Three Hundred Thousand Dollars (\$3,300,000.00).

SECTION 3. 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.

Passed the Senate the 27th day of February, 1996.

President of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_, 1996.

Speaker of the House of Representatives