

ENGROSSED SENATE
BILL NO. 1293

By: Brown of the Senate

and

Steidley of the House

[fees - filing fees for civil actions - creating
revolving fund - audit - effective date -
emergency]

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

SECTION 1. AMENDATORY 28 O.S. 1991, Section 152, as amended by Section 9, Chapter 286, O.S.L. 1995 (28 O.S. Supp. 1995, 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 ~~\$72.00~~
\$82.00
2. Any ancillary proceeding to modify
or vacate a divorce decree
providing for custody or support ~~\$30.00~~
\$40.00
3. Probate and guardianship ~~\$72.00~~
\$82.00

4. Annual guardianship report	\$20.00
	<u>\$30.00</u>
5. Any proceeding for sale or lease of real or personal property or mineral interest in probate or guardianship	\$30.00
	<u>\$40.00</u>
6. Any proceeding to revoke the probate of a will	\$30.00
	<u>\$40.00</u>
7. Judicial determination of death	\$45.00
	<u>\$55.00</u>
8. Adoption	\$72.00
	<u>\$82.00</u>
9. Civil actions and condemnation	\$72.00
	<u>\$82.00</u>
10. Garnishment	\$10.00
	<u>\$20.00</u>
11. Continuing wage garnishment	\$50.00
	<u>\$60.00</u>
12. Any other proceeding after judgment	\$20.00
	<u>\$30.00</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	\$72.00

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

~~C. In any case in which a litigant claims to have a just cause of action and that, by reason of poverty, the litigant is unable to pay the fees and costs provided for in this section and is financially unable to employ counsel, upon the filing of an affidavit in forma pauperis executed before any officer authorized by law to administer oaths to that effect and upon satisfactory showing to the court that the 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 file with the court clerk of the court having jurisdiction of the cause an affidavit similarly executed contradicting the allegation of poverty. In all such cases, the court shall promptly set for hearing the determination of eligibility to litigate without payment of fees or costs. Until a final order is entered determining that the affiant is ineligible, the clerk shall permit the affiant to litigate without payment of fees or costs. Any litigant executing a false affidavit or counter affidavit pursuant to the provisions of this section shall be guilty of perjury Of the amounts collected pursuant to subsection A of this section, the sum of Ten Dollars (\$10.00) shall be deposited with the State Treasurer for credit to the "Oklahoma Civil Access to Justice Revolving Fund" created in subsection D of this section.~~

D. There is hereby created in the State Treasury a revolving fund to be designated the "Oklahoma Civil Access to Justice Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies deposited pursuant to subsection C of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Administrative Director of the Courts as provided in subsection E of this section. Expenditures from the fund shall be made upon warrants issued by the State Treasurer

against claims filed as prescribed by law with the Director of State Finance for approval and payment.

E. Monies in the Oklahoma Civil Access to Justice Revolving Fund shall be allocated annually to provide legal representation to indigent persons in this state in civil legal matters. The Administrative Director of the Courts shall be responsible for allocating these funds to regional or statewide not-for-profit corporations which ordinarily render or finance legal services to indigent persons and presently receive or in the past have received funds from the Federal Legal Services Corporation. The funds shall be allocated for the benefit of indigent clients in all 77 counties of Oklahoma on a pro rata basis, utilizing an allocation formula that distributes funds according to the number of residents whose incomes are less than the official United States federal poverty guidelines, based on the United States census data, as a percentage of the total number of these residents in this state.

F. Any rules for allocation of monies in the Oklahoma Civil Access to Justice Revolving Fund shall be approved by the Supreme Court prior to adoption by the Administrative Director of the Courts.

G. The Administrative Director of the Courts shall prepare annually and distribute to the Judiciary committees of the Senate and the House of Representatives, the Legal Services Committee of the Oklahoma Bar Association, and the Supreme Court a report detailing expenditures of monies from the Oklahoma Civil Access to Justice Revolving Fund, and a copy of any rules or policies adopted governing the expenditure and application of funds in the Oklahoma Civil Access to Justice Revolving Fund.

H. Each recipient of legal services surcharge funds shall maintain books and records in accordance with generally accepted accounting principles. The books and records shall account for the receipt and expenditure of all funds appropriated from the

surcharge. Books and records shall be maintained for a period of five (5) years from the close of the fiscal year in question. The State Auditor and Inspector shall audit each recipient of funds no less than once every three (3) years. The necessary expense of each audit, including, but not limited to, the cost of typing, printing, and binding, shall be paid from funds of the Oklahoma Civil Access to Justice Revolving Fund.

I. No funds from the Oklahoma Civil Access to Justice Revolving Fund shall be used for any of the following activities:

1. Provision of legal services in a fee-generating case unless appropriate private representation is not available;
2. Provision of legal services in any criminal proceeding;
3. Provision of legal services collaterally attacking the validity of a criminal conviction;
4. Provision of legal services which seek to procure an abortion;
5. Provision of legal representation relating to the desegregation of any school or school system;
6. Provision of legal services involving any proceeding derived from the Military Selective Service Act;
7. Provision of legal services to advocate for or oppose any altering of a legislative, judicial, or elective district at any level of government; and
8. Provision of legal services to challenge a census of the United States of America.

J. In any case in which a litigant claims to have a just cause of action and that, by reason of poverty, the litigant is unable to pay the fees and costs provided for in this section and is financially unable to employ counsel, upon the filing of an affidavit in forma pauperis executed before any officer authorized by law to administer oaths to that effect and upon satisfactory showing to the court that the 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 file with the court clerk of the court having jurisdiction of the cause an affidavit similarly executed contradicting the allegation of poverty. In all such cases, the court shall promptly set for hearing the determination of eligibility to litigate without payment of fees or costs. Until a final order is entered determining that the affiant is ineligible, the clerk shall permit the affiant to litigate without payment of 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. This act shall become effective July 1, 1996.

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 5th day of March, 1996.

President of the Senate

Passed the House of Representatives the ____ day of

_____, 1996.

Speaker of the House of Representatives