

SHORT TITLE: Fees; allowing certain charge for acceptance of certain check as payment of fee; raising fees; effective date.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1263

By: Smith

AS INTRODUCED

An Act relating to fees; amending 28 O.S. 1991, Sections 151, as amended by Section 10, Chapter 357, O.S.L. 1992, 152.1, 153, as last amended by Section 10, Chapter 286, O.S.L. 1995, 155.1, as amended by Section 3, Chapter 134, O.S.L. 1992, and 162, as last amended by Section 4, Chapter 10, O.S.L. 1993 (28 O.S. Supp. 1995, Sections 151, 153, 155.1, and 162), which relate to court costs and filing fees; clarifying statutory reference; expanding purposes for certain changes; deleting duty of court clerk with regard to certain losses; requiring State Auditor and Inspector to adopt certain procedures with approval and directions by the Administrative Office of the Courts; authorizing certain charges for acceptance of certain checks and limiting amount of charge; increasing certain fees; providing exception for collection of certain fees; and providing an effective date.

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

SECTION 1. AMENDATORY 28 O.S. 1991, Section 151, as amended by Section 10, Chapter 357, O.S.L. 1992 (28 O.S. Supp. 1995, Section 151), is amended to read as follows:

Section 151. A. It shall be the duty of the clerks of the district court and other trial courts of record of this state to charge and collect the fees ~~as herein provided~~ imposed by this title, and none others, in all cases, except those ~~wherein~~ in which the defendant is charged with a misdemeanor or traffic violation, and except cases ~~coming within the purview of~~ under the Small Claims Procedure Act, Section 1751 et seq. of Title 12 of the Oklahoma Statutes.

B. 1. Payment for any fee herein provided may be made by 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~~ the payment as a service charge for the acceptance and verification of ~~such~~ the credit card. For purposes of this ~~paragraph~~ subsection, "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 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.~~

2. Written procedures for acceptance or rejection of credit cards shall be established by the Office of the State Auditor and Inspector with approval and direction to court clerks to be issued by the Administrative Office of the Courts.

C. Payment for any fee herein provided may be made by a personal or business check. The court clerk, at the court clerk's discretion, may:

1. Add an amount equal to the amount of the service charge incurred, not to exceed three percent (3%) of the amount of the check as a service charge for the acceptance and verification of the check; or

2. Add an amount of no more than Five Dollars (\$5.00) as a service charge for the acceptance and verification of a check. For purposes of this subsection, "personal or business check" shall not mean a money order, cashier's check, or bank certified check.

SECTION 2. AMENDATORY 28 O.S. 1991, Section 152.1, is amended to read as follows:

Section 152.1 In civil cases other than those in the small claims division, the court clerk shall collect and deposit in the court fund the following charges in addition to the flat fee:

1. For posting notices and filing certificates required by statute \$20.00
2. For mailing by any type of mail writs, warrants, orders, process, command, or notice for each person ~~\$5.00~~ \$7.00  
~~except ordinary mailing of first-class mail in probate cases, for each case \$5.00~~
3. For the actual cost of all postage in each case in excess of ~~\$5.00~~ \$7.00
4. For serving or endeavoring to serve each writ, warrant, order, process, command, or notice for each person in one or more counties \$20.00  
provided that if more than one person is served at the same address, one flat fee of Twenty Dollars (\$20.00) may be charged;
5. For sheriff's fees on court-ordered sales of real or personal property \$50.00
6. When a jury is requested ..... \$50.00
7. For issuing each summons for each person .... \$5.00
8. For services of a court reporter at each trial held in the case \$20.00

The fees prescribed in paragraphs 4 and 5 of this section shall be paid by the court clerk into 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 where service is made or attempted or where the sheriff's sale occurs. All other

fees shall be deposited into the local court fund in the county where collected.

SECTION 3. AMENDATORY 28 O.S. 1991, Section 153, as last amended by Section 10, Chapter 286, O.S.L. 1995 (28 O.S. Supp. 1995, 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 standing and parking violations and 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 the 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 a misdemeanor traffic violation other than an offense provided for in paragraph 1 or 5 of this subsection, whether charged individually or conjointly with others \$73.00
3. For each defendant convicted of a misdemeanor, other than for driving under the influence of alcohol or other intoxicating substance or an offense provided for in paragraph 1 or 2 of this subsection, whether charged individually or conjointly with others \$83.00
4. 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 \$103.00

5. 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 \$183.00
6. 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 \$183.00
7. For the services of a court reporter at each trial held in the case \$20.00
8. For each time a jury is requested ..... \$30.00
9. 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 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 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.

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

E. 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. 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.

G. Upon receipt of payment of fines and costs for offenses charged prior to July 1, 1992, the court clerk shall apportion and pay Thirteen Dollars (\$13.00) per conviction to the court fund.

SECTION 4. AMENDATORY 28 O.S. 1991, Section 155.1, as amended by Section 3, Chapter 134, O.S.L. 1992 (28 O.S. Supp. 1995, Section 155.1), is amended to read as follows:

Section 155.1 The clerk of the district court shall charge the sum of ~~Fifty Dollars (\$50.00)~~ One Hundred Dollars (\$100.00) for preparing, assembling, indexing, and transmitting the record for appellate review. This fee shall be paid by the party taking the appeal and shall be entered as costs in the action. If more than one party to the action shall prosecute an appeal from the same judgment or order, the fee shall be paid by the party whose petition in error is determined by the district court or by the appellate court to commence the principal appeal. The fees collected hereunder shall be paid into the court fund.

SECTION 5. AMENDATORY 28 O.S. 1991, Section 162, as last amended by Section 4, Chapter 10, O.S.L. 1993 (28 O.S. Supp. 1995, Section 162), is amended to read as follows:

Section 162. A. The clerks of the courts shall collect as costs in every juvenile delinquency, child in need of supervision, or deprived case in which the juvenile is adjudicated, irrespective of whether or not the sentence is deferred, or child in need of mental health treatment case pursuant to the Inpatient Mental Health Treatment of Children Act, Section 5-501 et seq. of Title 43A of the Oklahoma Statutes, irrespective of whether the child is committed for inpatient mental health treatment, or in every such case in which a petition is filed at the demand of the parents of a juvenile and said petition is subsequently dismissed prior to adjudication at said parents' request, the following flat charge and no more, except for the charges provided for in this section, which fee shall cover docketing of the case, filing of all papers, issuance of process, warrants and orders, and other services to date of judgment:

For each case where one or more juveniles are adjudicated  
deprived..... \$50.00

For each juvenile who is certified to stand trial as an adult..... \$75.00

In each juvenile case wherein parental rights are terminated..... \$50.00

For each juvenile adjudicated in need of supervision..... \$50.00

For each child found to be a child in need of mental health treatment..... \$50.00

For each juvenile adjudicated for an offense which would be a misdemeanor if committed by an adult, including violation of any traffic law, whether charged individually or conjointly with others..... \$50.00

For each juvenile adjudicated for an offense which would be a felony if committed by an adult, whether charged individually or conjointly with others..... \$75.00

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

When a jury is requested..... \$30.00

A sheriff's fee for serving or endeavoring to serve all writs, warrants, orders, process, commands, or notices or pursuing any fugitive from justice..... \$20.00 or  
mileage as established  
by Oklahoma Statutes,  
whichever is greater.

B. Such costs shall be levied against the juvenile, the parent, or both, but shall not be levied against the legal guardian or any state or private agency having custody of any juvenile subject to such proceedings.

C. Prior to adjudication, parties in juvenile delinquency, child in need of supervision, child in need of treatment, and

deprived 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 the sheriff's fee, when collected, shall be transferred to the general fund of the county in which service is made or attempted to be made.

D. The clerk of the district court shall charge the sum of ~~Thirty Dollars (\$30.00)~~ One Hundred Dollars (\$100.00) for preparing, assembling, indexing, and transmitting the record for appellate review. This fee shall be paid by the party taking the appeal and shall be entered as costs in the action. If more than one party to the action shall prosecute an appeal from the same judgment or order, the fee shall be paid by the party whose petition in error is determined by the district court or by the appellate court to commence the principal appeal. The fees collected hereunder shall be paid into the court fund.

E. Fees and costs collected in juvenile cases may be withdrawn from the court fund and used for operations of the juvenile bureaus, in counties wherein a statutory juvenile bureau is in operation, upon approval by the Chief Justice of the Oklahoma Supreme Court.

F. In those seventy-four counties in which court services are provided by contract between the Oklahoma Supreme Court and the Department of Human Services, funds received from court costs in juvenile cases may be withdrawn from the court fund and paid to the Department of Human Services upon approval by the Chief Justice of the Oklahoma Supreme Court. Said funds are to be expended by the Department of Human Services to supplement community-based programs, such as juvenile offender victim restitution work programs, youth services programs, day treatment programs, group home services, and detention services. Specific annual training of Department workers

in community-based services providing the above court-related services is also to be included for expenditure of funds received from court costs in juvenile cases by the Department of Human Services.

SECTION 6. This act shall become effective November 1, 1996.

45-2-1863

KSM