

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 570

By: Smith

COMMITTEE SUBSTITUTE

[ Court clerks - service requirements - jurors' fees  
- codification -

effective date ]

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 60.18, is amended to read as follows:

Section 60.18 ~~(1)~~ For each adoption or annulment of adoption, the clerk of the court shall ~~prepare~~ certify, within thirty (30) days after the decree becomes final, certificate of such decree on a form furnished by the State Registrar of Vital Statistics, ~~and before the 15th day of each calendar month the clerk shall forward to the State Registrar the certificates prepared by him during the preceding calendar month, if adoptions in said court have been effected.~~

~~(2)~~ The State Registrar, upon receipt of a certified copy of an order or decree of adoption, shall prepare a supplementary certificate in the new name of the adopted person, the city and county of residence of adoptive parents, hospital of choice of adoptive parents, and the family physician of the adoptive parents if they are residents of the State of Oklahoma; provided, however,

any change of name of the physician or the hospital shall first require that the written consent of ~~such~~ the hospital and ~~such~~ the physician is obtained. The State Registrar shall then seal and file the original certificate of birth with ~~said~~ the certified copy attached ~~thereto~~. ~~Such~~ The sealed documents may be opened by the State Registrar only upon the demand of the adopted person, if of legal age, or of the adoptive parents, by an order of the court. Upon receipt of a certified copy of a court order of annulment of adoption, the State Registrar shall restore the original certificate to its original place in the files.—~~Provided;~~ provided further, that this act shall be retroactive and apply to adoptions heretofore granted by any court in this state.

SECTION 2. AMENDATORY 12 O.S. 1991, Section 35.1, is amended to read as follows:

Section 35.1 A. The duties of the court clerk may include the process of passports as permitted and prescribed by federal law and regulation if the court clerk files a written election with the Administrative Director of the Courts to process passports. Upon the filing of ~~said~~ the election to process passports as an official duty and service, the court clerk shall execute ~~such~~ all passport applications ~~as are presented and all passport fees and portions of such passport fees retained by the court clerk, as permitted and prescribed by federal law and regulation, shall be mandatorily deposited by the court clerk in a fund in the county treasury designated in Section 331 of Title 62 of the Oklahoma Statutes as the county "General Fund".~~

B. Ten percent (10%) of the amounts collected pursuant to subsection A of this section shall be retained by the court clerk and deposited in the court clerk's revolving fund pursuant to the provisions of Section 220 of Title 19 of the Oklahoma Statutes. All other fees collected hereunder shall be paid into the court fund of the county.

SECTION 3. AMENDATORY 12 O.S. 1991, Section 1764, is amended to read as follows:

Section 1764. A fee of Thirty-five Dollars (\$35.00) shall be charged and collected for the filing of the affidavit for the commencement of any action for an amount of One Thousand Five Hundred Dollars (\$1,500.00) or less. Any action in excess of One Thousand Five Hundred Dollars (\$1,500.00) shall be subject to the filing fees provided in Title 28 of the Oklahoma Statutes for the same kind of action as filed in district court. For the filing of any counterclaim or setoff, a fee of ~~Five Dollars (\$5.00)~~ Ten Dollars (\$10.00) shall be charged and collected for the mailing of the copy of the affidavit and ~~Five Dollars (\$5.00)~~ Seven Dollars (\$7.00) for each notice mailed. Except as otherwise provided in Section 1772 of this title, no other fee or charge shall be collected by any officer for any service rendered pursuant to the provisions of the Small Claims Procedure Act, or for the taking of affidavits for use in connection with any action tried pursuant to the provisions of the Small Claims Procedure Act. If the affidavit and order are served by the sheriff or a licensed private process server, the court clerk shall collect the usual fee for the sheriff, which shall be taxed as costs in the case. The fee paid to a licensed private process server, as approved by the court, shall be taxed as additional costs in the case. After judgment, the court clerk shall issue such process and shall be entitled to collect only such fees and charges as are allowed by law for like services in other actions. All fees collected as authorized by this section and Section 1772 of this title shall be deposited with other fees that are collected by the district court. Any statute providing for an award of attorneys fees shall be applicable to the small claims division if the attorney makes an appearance in the case, whether before or after judgment or on hearing for disclosure of assets.

SECTION 4. AMENDATORY 20 O.S. 1991, Section 1304, as last amended by Section 1, Chapter 78, O.S.L. 1996 (20 O.S. Supp. 1996, 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~~ each 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~~ the governing board. No expenditures falling into any category listed in paragraphs 2, 6 and 7 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 6 and 7 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,~~ pursuant to Sections 771 through 778 of Title 19 of the Oklahoma Statutes;

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 the defense as set out in Section 81 et seq. of Title 28 of the Oklahoma Statutes, except that 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 and other areas used for court functions;
13. The cost of publication notice in juvenile proceedings as provided in Section ~~1105~~ 7003-3.5 of Title 10 of the Oklahoma Statutes and in termination of parental rights proceedings brought by the state as provided in Section ~~1131~~ 7006-1.2 of Title 10 of the Oklahoma Statutes;
14. Interpreter fees;
15. Necessary travel expenses of the office of county indigent defender approved by the court fund governing board;
16. Rent for county indigent defender's office outside of the county courthouse;

17. Any other expenses now or hereafter expressly authorized by statute; and

18. Necessary training for the judges and court personnel on the court integrated computer system.

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 5. AMENDATORY 22 O.S. 1991, Section 712, is amended to read as follows:

Section 712. A. Service of subpoenas for witnesses in criminal actions in the district courts of this state shall be made ~~by the officer, or other person making the service, by either personal service of such subpoena containing the time, place and the name of the court, and the action in which he is required to testify, or by mailing a copy thereof by certified mail not less than five (5) days before the trial day of the cause upon which said witness is required to attend, and the person making such service shall make a return thereof showing the manner of service, and if the same be by certified mail, he shall file with such return the registry receipt; provided, that the person or district attorney shall state therein the manner in which the witness or witnesses shall be served, and~~

~~the officer or person serving such subpoena shall serve the same in the manner directed by the requesting party, and make his return in accordance therewith; provided, further, that if the requesting party calls for serving such subpoena by certified letter, then the requesting party shall prepare the subpoena, the return receipt card, and the envelope for mailing. The maximum sum authorized to be expended from the court fund for the mailing by certified mail of subpoenas requested by the district attorney shall not exceed One Thousand Dollars (\$1,000.00) per county per fiscal year in the same manner as in civil actions pursuant to Section 2004.1 of Title 12 of the Oklahoma Statutes.~~

B. The cost of service of subpoenas shall be borne by the parties unless otherwise ordered by the court.

SECTION 6. AMENDATORY 22 O.S. 1991, Section 1355.6, as last amended by Section 5, Chapter 301, O.S.L. 1996 (22 O.S. Supp. 1996, Section 1355.6), is amended to read as follows:

Section 1355.6 A. The Indigent Defense System shall have the responsibility of defending all indigents, as determined in accordance with the provisions of the Indigent Defense Act in all felony, misdemeanor, and traffic cases punishable by incarceration. In addition, the System shall have the responsibility of defending all indigent juveniles, as determined in accordance with the provisions of the Indigent Defense Act, in juvenile delinquency proceedings and appeals, adult certification proceedings and appeals, reverse certification proceedings and appeals, and any other cases and appeals pursuant to the Oklahoma Juvenile Code, other than mental health cases and appeals and in-need-of-supervision proceedings and appeals.

B. The System shall be appointed to perfect appeals and to provide representation in postconviction cases in accord with postconviction policy, to the extent provided in the Indigent Defense Act and pursuant to policies established by the Board.

C. When an indigent requests representation by the System, such person shall submit an appropriate application to the court clerk, which shall state that the application is signed under oath and under the penalty of perjury and that a false statement may be prosecuted as such. The application shall state whether or not the indigent has been released on bond. In addition, if the indigent has been released on bond, the application shall include a written statement from the applicant that the applicant has contacted three (3) attorneys, licensed to practice law in this state, and the applicant has been unable to obtain legal counsel. A nonrefundable application fee of Forty Dollars (\$40.00) shall be paid to the court clerk at the time the application is submitted, and no application shall be accepted without payment of the fee; except that the court may, based upon the financial information submitted, waive all or part of the fee, if the court determines that the person does not have the financial resources to pay the fee. ~~The first Twenty Dollars (\$20.00) of any fee collected pursuant to this subsection shall be transmitted monthly to the Oklahoma Indigent Defense System no later than the tenth working day of the month following the month in which the fee was collected. The balance of any~~ Any fees collected pursuant to this subsection shall be retained by the court clerk and deposited in the Court Clerk's Revolving Fund.

D. 1. The Court of Criminal Appeals shall promulgate rules governing the determination of indigency pursuant to the provisions of Section 55 of Title 20 of the Oklahoma Statutes. The initial determination of indigency shall be made by the Chief Judge of the Judicial District or a designee thereof, based on the defendant's application and the rules provided herein.

2. Upon promulgation of the rules required by law, the determination of indigency shall be subject to review by the Presiding Judge of the Judicial Administrative District. Until such

rules become effective, the determination of indigency shall be subject to review by the Court of Criminal Appeals.

E. Before the court appoints the System based on the application, the court shall advise the indigent or, if applicable, a parent or legal guardian, that the application is signed under oath and under the penalty of perjury and that a false statement may be prosecuted as such. A copy of the application may be sent to the prosecuting attorney or the Office of the Attorney General, whichever is appropriate, for review. Upon request by any party including, but not limited to, the attorney appointed to represent the indigent, the court shall hold a hearing on the issue of eligibility for appointment of the System.

F. If the defendant is admitted to bail and the defendant or another person on behalf of the defendant posts a bond, other than by personal recognizance, this fact shall constitute a rebuttable presumption that the defendant is not indigent.

SECTION 7. AMENDATORY 28 O.S. 1991, Section 31, as amended by Section 10, Chapter 292, O.S.L. 1993 (28 O.S. Supp. 1996, Section 31), is amended to read as follows:

Section 31. Notwithstanding any other provision of law, the clerk of the district court, or the clerk of any other court of record, shall charge and collect the following fees for services by them respectively rendered and none others, except as otherwise provided by law:

Approving bond or undertaking, including certificate and seal  
\$3.00

Making copy of an instrument of record or on file, first page  
..... \$1.00

subsequent pages (each) ..... \$0.50

Certifying to any instrument (each) ..... \$0.50

Authentication of court records ..... \$5.00

Receiving and paying out money in pursuance of law or order of court 1%

provided, however, that such charge shall not exceed \$300.00.

In any case which has been on file and pending without activity for a period of five (5) years and in which there is on hand, unexpended, a balance of deposits for costs, there shall be a charge annually thereafter for accounting, to be deducted from any such balance, and to the extent available therefor, an annual fee of \$3.00

Application, issuing, entering return and recording marriage license \$25.00

Conveyance of full-blood Indian heirs to interest in inherited lands, same to be accounted for as other fees \$5.00

Storage and indexing of wills ..... \$5.00

Posting notice outside the courthouse ..... \$10.00

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~~ \$7.00

For the actual cost of all postage in each case in excess of ~~\$5.00~~ \$7.00

For filing and indexing of disclaimers other than in pending probate or civil cases pursuant to the provisions of Section 751 et seq. of Title 60 of the Oklahoma Statutes \$5.00

SECTION 8. AMENDATORY 28 O.S. 1991, Section 86, as amended by Section 7, Chapter 339, O.S.L. 1996 (28 O.S. Supp. 1996, Section 86), is amended to read as follows:

Section 86. A. Jurors shall be paid ~~the following fees~~ Twenty Dollars (\$20.00) out of the ~~Court Cash Fund:~~

~~1. For local court fund for each day's attendance before any court of record, Twelve Dollars and fifty cents (\$12.50); and~~

~~2. For each day of actual jury service before any court of record Twenty Dollars (\$20.00).~~

B. The Court Fund Board of the district court may contract for or provide reimbursement for parking for district court jurors to be paid from the Court Fund. Parking so provided to jurors shall be in lieu of any reimbursement to jurors for parking fees.

SECTION 9. AMENDATORY 28 O.S. 1991, Section 152.1, as amended by Section 9, Chapter 339, O.S.L. 1996 (28 O.S. Supp. 1996, 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 \$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 \$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 10. AMENDATORY 38 O.S. 1991, Section 18, as amended by Section 1, Chapter 58, O.S.L. 1996 (38 O.S. Supp. 1996, Section 18) is amended to read as follows:

Section 18. A. Between the tenth and twenty-fifth day of November of each year, the sheriff or one of the sheriff's deputies, ~~the secretary of the county election board or one of the secretary's deputies,~~ and the court clerk or one of the court clerk's deputies, shall meet at the courthouse of the county they serve in the office of the court clerk and select from the list of qualified jurors of the county, as prescribed by this chapter, all qualified jurors for service in the district court in the county for the ensuing year in the manner hereinafter provided.

B. For the purpose of ascertaining names of all persons qualified for jury service:

1. The Commissioner of Public Safety shall cause to be provided to the Administrative Director of the Courts, not later than the first day of October, 1987, and the first day of October each year thereafter, a list of persons residing in the county who are eighteen (18) years of age or older and are holders of a current driver's license or a current identification license issued by the Department of Public Safety pursuant to subsection E of Section 6-105 of Title 47 of the Oklahoma Statutes. The list shall contain the name, date of birth, and place of residence of each person listed. The list shall be used exclusively for jury selection

purposes. The court clerk shall not copy or permit any person to copy the list or any portion thereof;

2. All names and addresses of the persons so listed under the provisions of paragraph 1 of this subsection shall be used thereafter in the selection of juries; provided, however, no jury panel shall be quashed because of a duplication of names;

3. The list will be furnished by the Administrative Director of the Courts to the court clerks according to the period of time specified in subsection A of this section;

4. The provisions of this section shall not be construed to preclude persons otherwise qualified to serve as jurors from volunteering for jury service in a manner prescribed by the Administrative Director of the Courts; and

5. The Administrative Director of the Courts may accept changes or corrections in a mailing address or county of residence of a qualified juror from such qualified juror. Changes may be accepted in any manner prescribed by the Administrative Director of the Courts.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1764.1 of Title 12, unless there is created a duplication in numbering, reads as follows:

No court clerk shall be required to mail any order, judgment, or appealable order to any party.

SECTION 12. This act shall become effective November 1, 1997.

46-1-1081 KSM