

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 816

By: Smith

COMMITTEE SUBSTITUTE

An Act relating to court clerks; amending 12 O.S.

1991, Sections 35.1, as amended by Section 2, Chapter 400, O.S.L. 1997 and 158.1 (12 O.S. Supp. 1997, Section 35.1), which relate to processing of passports and private process servers; modifying certain amount to be retained by court clerk; authorizing court clerk to charge certain entities certain fee; increasing certain fees; changing time period for renewal of certain license; deleting language requiring certain filing and payment of certain fee; amending 19 O.S. 1991, Section 220, which relates to the court clerk's revolving fund; requiring certain monies to be expended in certain manner; amending 43 O.S. 1991, Section 9, which relates to marriage records; modifying requirements for storage of certain records; amending 49 O.S. 1991, Section 2, as amended by Section 2, Chapter 77, O.S.L. 1997 (49 O.S. Supp. 1997, Section 2), which relates to notaries public; increasing certain fee; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 1991, Section 35.1, as amended by Section 2, Chapter 400, O.S.L. 1997 (12 O.S. Supp. 1997, 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 the election to process passports as an official duty and service, the court clerk shall execute all passport applications presented.

B. ~~Ten percent (10%) of the amounts~~ 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 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 35.2 of Title 12, unless there is created a duplication in numbering, reads as follows:

The court clerk may charge any state agency or other state governmental entity the usual and customary fee for making copies of any document.

SECTION 3. AMENDATORY 12 O.S. 1991, Section 158.1, is amended to read as follows:

Section 158.1 A. Service and return of process in civil cases may be by an authorized licensed private process server. The presiding judge of the judicial administrative district in which the county is located, or such associate district judge or district

judge of the county as may be designated by the presiding judge, shall be authorized to issue a license to make service of process in civil cases to a person deemed qualified to do so. The authority of the licensee shall be statewide.

B. Any person eighteen (18) years of age or older, of good moral character, and found ethically and mentally fit may obtain such license by filing application therefor with the court clerk on a verified form to be prescribed by the Administrative Director of the Courts.

C. The applicant filing for such license shall pay a license fee of ~~Thirty-five Dollars (\$35.00)~~ One Hundred Dollars (\$100.00), and the regular docketing, posting, mailing, and filing fees prescribed by law. The license shall contain the name, address, a brief description of the licensee, and, at the discretion of the district court clerk, a recent photograph of the licensee. The license shall state that the licensee is an officer of the court only for the purpose of service of process. The license shall be carried by the licensee while on duty as a private process server. At the end of ~~one (1)~~ two (2) calendar ~~year~~ years from the date of issuance of the initial license, the license shall be renewed for a period of ~~one (1) year~~ two (2) years. The license shall be renewed each succeeding ~~year~~ two (2) years. A fee of ~~Five Dollars (\$5.00)~~ Fifteen Dollars (\$15.00) per year shall be charged for renewal of license. All fees collected pursuant to this section shall be deposited in the court fund.

D. Upon the filing of the application for license, the court clerk shall give five (5) days' notice of hearing by causing the notice to be posted in the courthouse. A copy of ~~said~~ the notice shall be mailed to the district attorney, the sheriff, and the chief of police or marshal in the county seat and shall contain the name of the applicant and the time and place the presiding judge or such

associate district judge or district judge as is designated by the presiding judge will act upon ~~said~~ the application.

E. If, at the time of consideration of the new application or application for a license renewal, there are no protests and the applicant appears qualified, the application for ~~said~~ the license shall be granted by the presiding judge or such associate district judge or district judge as is designated by the presiding judge and, upon executing bond running to the State of Oklahoma in the amount of Five Thousand Dollars (\$5,000.00) for faithful performance of his or her duties and filing ~~said~~ the bond with the court clerk, the applicant shall be authorized and licensed to serve civil process statewide.

F. If any citizen of the county files a written protest setting forth objections to the licensing of the applicant, the district court clerk shall so advise the presiding judge or such associate district judge or district judge as is designated by the presiding judge, who shall set a later date for hearing of application and protest. ~~Said~~ The hearing shall be held within thirty (30) days and after notice to all persons known to be interested.

~~G. Upon an annual filing of a certified copy of a license issued pursuant to the provisions of this section and payment of a filing fee of Ten Dollars (\$10.00) to the court clerk of any county within this state, a licensed process server may serve process in that county for the district court having jurisdiction over said county.~~

~~H.~~ Proof of service of process shall be shown by affidavit as provided for by subsection G of Section 2004 of this title.

~~H.~~ H. The district attorney of the county wherein a license authorized under this act has been issued may file a petition in the district court to revoke the license issued to any licensee, as authorized pursuant to the provisions of this section, alleging the violation by the licensee of any of the provisions of the law.

After at least ten (10) days' notice by certified mail to the licensee, the chief or presiding judge, sitting without jury, shall hear ~~said~~ the petition and enter an order thereon. If ~~said~~ the license is revoked, the licensee shall not be permitted to reapply for a license for a period of five (5) years from the date of revocation. Notwithstanding any other provisions of this section, any licensee whose license has been revoked one time shall pay the sum of One Thousand Dollars (\$1,000.00) as a renewal fee. If a second revocation occurs, the chief or presiding judge shall not allow an applicant to renew the license.

~~¶~~ I. The district court clerk shall keep posted at all times in his office the list of licensed private process servers. Any person in need of a process server's services may designate one from the names on the list, before presenting summons to the court clerk for issuance, without necessity for individual judicial appointment.

SECTION 4. AMENDATORY 19 O.S. 1991, Section 220, is amended to read as follows:

Section 220. A. Beginning July 1, 1991, there is hereby created with the county treasurer of each county within the State of Oklahoma a revolving fund to be designated the "Court Clerk's Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received as grants from the federal government and any other monies designated by law for deposit into ~~said~~ the fund. All monies accruing to the credit of ~~said~~ the fund are hereby appropriated and may be budgeted and expended by the court clerk in the ~~lawful operation of his or her office~~ manner and for those purposes set forth for the court fund as specified in Title 20 of the Oklahoma Statutes.

B. There shall be no monies, other than federal funds, deposited into the fund created herein, unless expressly authorized by the Legislature.

SECTION 5. AMENDATORY 43 O.S. 1991, Section 9, is amended to read as follows:

Section 9. The judge or clerk of the district court issuing any marriage license shall make a complete record of the application, license, and certificate thereon, in connected form, each subjoining the other on an optical disc, microfilm, microfiche, or in a book kept by ~~him~~ the judge or clerk for that purpose, properly indexed; and the record of the license shall be made before it is delivered to the person procuring the same, and the record of the certificate shall be made upon the return of the license: ~~Provided;~~ provided, that all records pertaining to the issuance of such license shall be open to public inspection during office hours. ~~Provided;~~ provided further, that after recording of the original license and completed certificate as hereinbefore required, it shall be returned to the persons to whom the same was issued, with the issuing officer's certificate on the back thereof showing the book and page where the same has been recorded.

SECTION 6. AMENDATORY 49 O.S. 1991, Section 2, as amended by Section 2, Chapter 77, O.S.L. 1997 (49 O.S. Supp. 1997, Section 2), is amended to read as follows:

Section 2. A. Before entering upon the duties of his or her office every notary public so appointed and commissioned shall file in the office of the court clerk, in his or her capacity as clerk of the district court, of the county in which such notary resides or is employed, if the notary is a nonresident, at the time he or she is commissioned, the commission issued to him or her, the notary's oath of office, the notary's official signature, an impression of the notary's official seal, and a good and sufficient bond to the State of Oklahoma, in the sum of One Thousand Dollars (\$1,000.00), with one or more sureties to be approved by the court clerk, conditioned for the faithful performance of the duties of the notary's office.

B. Such commission, bond, and oath shall be recorded in the office of such court clerk, as clerk of the district court. The commission shall be returned to the notary. The bond and oath shall be transmitted by the court clerk to the Secretary of State to be filed and recorded in that office. The filing of such commission, bond, official signature, and impression of official seal in the office of the court clerk shall be deemed sufficient evidence to enable the court clerk to certify that the person so commissioned is a notary public, duly commissioned and acting as such, during the time such commission is in force. Upon the filing of his or her commission with the court clerk, every notary public shall pay to the court clerk the sum of ~~Five Dollars (\$5.00)~~ Twenty Dollars (\$20.00) to be held and accounted for by the court clerk as fees of that office.

C. The Secretary of State shall record and file the bond and oath of each notary of this state.

D. Upon the receipt of a final judgment against an Oklahoma notary public for performing a false or fraudulent notarial act from an Oklahoma District Court or its equivalent from a foreign jurisdiction, the Secretary of State shall revoke the appointment of said notary and notify the clerk of the district court of the county in which the notary resides of said revocation.

E. The court clerk shall charge a fee of Three Dollars (\$3.00) for authenticating a notary commission.

SECTION 7. This act shall become effective November 1, 1998.

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