

ENROLLED SENATE
BILL NO. 570

By: Smith of the Senate

and

Steidley of the House

An Act relating to court clerks; amending 10 O.S.

1991, Section 60.18, which relates to certificates of adoption; deleting requirement that court clerk prepare certain certificate; requiring court clerk to certify certain certificate; amending 12 O.S.

1991, Sections 35.1 and 1764, which relate to

passports and the Small Claims Procedure Act;

requiring retention of portion of certain fee to be deposited in local court fund; clarifying language;

increasing fees; adding statutory references;

amending 20 O.S. 1991, Sections 1005, as last

amended by Section 2, Chapter 197, O.S.L. 1995,

Section 1, Chapter 192, O.S.L. 1996, Section 14,

Chapter 286, O.S.L. 1995, and 1304, as last amended

by Section 1, Chapter 78, O.S.L. 1996 (20 O.S.

Supp. 1996, Sections 1005, 1005.1, 1227 and 1304),

which relate to destruction of records by court

clerk, the Law Library Revolving Fund and the court

fund; allowing destruction of certain records by

court clerk unless objected to by certain judge;

allowing destruction of certain records and

documents under certain circumstances; requiring

certain monies to be combined and used for payment

of certain bills; prohibiting placement of certain

orders for printed materials; requiring

Administrative Director of the Courts to solicit

proposals for certain electronic research services; modifying statutory references; expanding expenses allowable as claims against the court fund; amending 22 O.S. 1991, Section 712, which relates to service of certain witnesses; eliminating certain service requirements; providing for payment of costs; amending 28 O.S. 1991, Sections 31, as amended by Section 10, Chapter 292, O.S.L. 1993, 86 and 152.1, as amended by Sections 7 and 9, Chapter 339, O.S.L. 1996 (28 O.S. Supp. 1996, Sections 31, 86 and 152.1), which relate to fees; increasing fees; modifying jurors' fees; providing for certain mileage payment; prohibiting certain persons from receiving certain fees; conforming language; amending 38 O.S. 1991, Section 18, as amended by Section 1, Chapter 58, O.S.L. 1996 (38 O.S. Supp. 1996, Section 18), which relates to selection of jurors; modifying county officers responsible for jury list; providing for codification; providing effective dates; and declaring an emergency.

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 For each adoption or annulment of adoption, the clerk of the court shall 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. 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 the hospital and the physician is obtained. The State Registrar shall then seal and file the original certificate of birth with the certified copy attached. 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 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 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 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, fees shall be charged and collected pursuant to Section 152.1 of Title 28 of the Oklahoma Statutes for the mailing of the copy of the affidavit and 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 1005, as last amended by Section 2, Chapter 197, O.S.L. 1995 (20 O.S. Supp. 1996, Section 1005), is amended to read as follows:

Section 1005. A. Unless there is an objection by the presiding administrative judge or the chief judge of the district court, the court clerk is authorized to dispose of the judicial records enumerated in this subsection by first offering all or part of the records to the Archives and Records Division of the Oklahoma Department of Libraries for preservation as historical research materials, and by destroying all those which are not accepted by the Division. Nothing shall prohibit the presiding administrative judge or the chief judge of the district court from entering an order for

the destruction of records prior to the time limits enumerated in this subsection for good cause shown. The judicial records subject to disposal or destruction shall be:

1. Domestic relations cases. This shall include, but not be limited to, cases filed concerning divorce, separate maintenance, annulment, reciprocal actions for enforcement of support, child custody, domestic abuse, foreign judgments in domestic relations cases, income assignments relating to an order of support, paternity, appeal on administrative order relating to support or paternity, habeas corpus relating to children, and other domestic-related filings:

- a. domestic relations cases that have been dismissed and no pleading has been filed or any action taken in the case for more than one (1) year, and
- b. all domestic relations cases after a twenty-year period has elapsed since any pleading has been filed or any action taken in the case;

2. Probate cases. This shall include, but not be limited to, cases filed concerning the probating of estates, guardianships, conservatorships, protective services to the elderly, powers of attorney, and trusts:

- a. probate cases that have been dismissed and no pleading has been filed or any action taken in the case for more than one (1) year, and
- b. all probate cases after a twenty-year period has elapsed since any pleading has been filed or any action taken in the case;

3. Actions brought for money judgment only in which a dismissal or release and satisfaction has been filed for more than five (5) years;

4. Civil (CJ and CS) records of unadjudicated cases and adjudicated cases:

- a. civil (CJ and CS) cases that have been dismissed and no pleading has been filed or any action taken in the case for more than one (1) year, and
- b. all adjudicated civil (CJ and CS) cases after a ten-year period has elapsed since any pleading has been filed or any action taken in the case;

5. Felony criminal records of unadjudicated cases and adjudicated cases:

- a. felony criminal cases that have been dismissed and no pleading or any action taken in the case for more than one (1) year,
- b. felony criminal records of adjudicated cases after a ten-year period has elapsed since any pleading has been filed or any action taken in the case, and
- c. felony criminal records of adjudicated cases, where the sentence imposed was death, life without parole, or life, after a fifty-year period has elapsed since any pleading has been filed or any action taken in the case;

6. Misdemeanor records of unadjudicated cases and adjudicated cases:

- a. misdemeanor cases that have been dismissed and no pleading or any action taken in the case for more than one (1) year,
- b. misdemeanor records of adjudicated cases after a five-year period has elapsed since any pleading has been filed or any action taken in the case; and

7. Juvenile cases. This shall include, but not be limited to, cases filed concerning delinquents, children in need of supervision, deprived children, children in need of treatment, children in need of shelter, and other related juvenile filings:

- a. juvenile cases that have been dismissed and no pleading has been filed or any action taken in the case for more than one (1) year, and
- b. all juvenile cases after a twenty-year period has elapsed since any pleading has been filed or any action taken in the case.

B. The judicial records and the appearance docket books or sheets on which they are entered, prior to their disposal or destruction, shall be stored on at least two microfilm records, optical disks, or other appropriate medium, one of which shall be placed in the Archives and Records Division of the Oklahoma Department of Libraries or in a bank or other appropriate local depository and the other shall be available for public use in the court clerk's office. The copy in the Department of Libraries or other depository shall be available for replacement in case of functional failure of the one available for public use. The cost of the storage medium and equipment for viewing and copying shall be paid out of the court fund, upon approval by the Chief Justice of the Supreme Court. Records reproduced from microfilm, optical disk, and other media produced pursuant to the provisions of this section shall be received in evidence and have the same legal efficacy as the original.

C. Traffic cases. The court clerk of each district court shall destroy the judicial records of traffic cases and the appearance docket books or sheets on which they are entered after a five-year period has elapsed since any pleading has been filed or any action taken in the case, except in the case of a conviction for driving under the influence of intoxicating liquor or any narcotic drug, which records shall be destroyed after a ten-year period has elapsed since any pleading has been filed or any action taken in the case.

D. Small claims cases and justice of the peace court records. The court clerk of each district court shall destroy the judicial records of justice of the peace courts including docket books on which they are entered; small claims cases including the docket books and sheets on which they are entered after a five-year period has elapsed since any pleading has been filed or any action taken in the case.

SECTION 5. AMENDATORY Section 1, Chapter 192, O.S.L. 1996 (20 O.S. Supp. 1996, Section 1005.1), is amended to read as follows:

Section 1005.1 All paper records which have been recorded on microfilm, microfiche, compact disc, or any other recognized technological means may be destroyed after the respective case has been adjudicated. With the exception of felony conviction records, probate, adoption, quiet title, ejectment, partition, marriage and divorce records, and Indian deed approval records, all court records which have not been recorded on microfilm, microfiche, compact disc, or any other recognized technological means and in which no activity has occurred for twenty-two (22) years, may be destroyed or may be given as historical research materials to an appropriate organization as determined by the court clerk of the district court.

SECTION 6. AMENDATORY Section 14, Chapter 286, O.S.L. 1995 (20 O.S. Supp. 1996, Section 1227), is amended to read as follows:

Section 1227. There is hereby created in the State Treasury a revolving fund for the Supreme Court to be designated the "Law Library Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies collected by the clerks of the district court for law libraries as prescribed by law, the sales of any law library books or equipment, charges for services, gifts, grants, private donations, and federal funding. All monies accruing to the credit of the fund are hereby

appropriated and may be budgeted and expended by the Supreme Court upon approval of the Chief Justice for:

1. The payment of charges due and owing by county law libraries at the time this statute is enacted;

2. The purchase of books, journals, publications, computer-assisted research devices and services, computer equipment and maintenance, communication charges, and other necessary equipment, services, and fixtures;

3. The payment of the salaries and benefits of personnel to administer the law libraries and assist in the purchase, sale, and inventory of books and equipment and the payment of all bills due and owing by county law libraries. Without regard for the county in which bills were incurred or monies accrued, all monies received in the fund shall be combined and all bills paid from this fund;

4. The payment of incidental expenses as established in rules promulgated by the Supreme Court;

5. The payment of expenses occurring as the result of a natural disaster, accident, or equipment malfunction which is not reasonably foreseeable;

6. No initial orders or renewals for printed materials not previously on subscription may be placed after July 1, 1997; and

7. On or before August 1, 1997, the Administrative Director of the Courts shall solicit proposals for electronic research services to be provided to county law libraries if funds are available. Such proposals shall provide both compact disc and Internet access capabilities.

Expenditures from this 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.

SECTION 7. 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 expenses lawfully incurred for the operation of the court in each county. Payment of the expenses may be made after the claim 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 the governing board. No expenditures falling into any category listed in paragraphs 2, 6, 7 and 8 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, 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 Section 81 et seq. of Title 28 of the Oklahoma Statutes;

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. Rent for courtroom facilities outside the courthouse;

9. Judicial robes;

10. Attorney's fees for indigents in the trial court and on appeal;

11. 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);

12. Transcripts ordered by the court;

13. 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;

14. The cost of publication notice in juvenile proceedings as provided in Section 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 7006-1.2 of Title 10 of the Oklahoma Statutes;

15. Interpreter fees;

16. Necessary travel expenses of the office of county indigent defender approved by the court fund governing board;

17. Rent for county indigent defender's office outside of the county courthouse;

18. Computer equipment for county indigent defender's office;

19. Reasonable compensation for expert, investigative, or other services authorized by the court for indigent defendants not represented by a county indigent defender or the Oklahoma Indigent Defense System, if requested;

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

21. Any other expenses now or hereafter expressly authorized by statute.

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 Sections 771 through 778 of Title 19 of the Oklahoma Statutes 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 8. 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 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 9. 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 \$ 7.00

except ordinary mailing of first-class mail in probate cases, for each case \$ 7.00

For the actual cost of all postage in each case in excess of \$ 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 10. 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 out of the local court fund:

1. For each day's attendance before any court of record, Twenty Dollars (\$20.00); and

2. For mileage going to and returning from jury service each day, pursuant to the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74.

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.

C. The provisions of this section shall not apply to any person who is summoned for jury duty and who is excused from serving pursuant to the provisions of subsection A of Section 28 of Title 38 of the Oklahoma Statutes, beginning on the day the person is excused from service.

SECTION 11. 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, 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 the filing of any counterclaim or setoff pursuant to Section 1758 of Title 12 of the Oklahoma Statutes \$10.00
3. For mailing by any type of mail writs, warrants, orders, process, command, or notice for each person \$ 7.00
4. For the actual cost of all postage in each case in excess of \$ 7.00
5. 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;
6. For sheriff's fees on court-ordered sales of real or personal property \$50.00
7. When a jury is requested \$50.00
8. For issuing each summons for each person ... \$ 5.00
9. For services of a court reporter at each trial held in the case \$20.00

The fees prescribed in paragraphs 5 and 6 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 12. 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, 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 13. This act shall become effective July 1, 1997.

SECTION 14. 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.