

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1471

By: Paulk

AS INTRODUCED

An Act relating to criminal witness fees; amending 22 O.S. 1991, Section 718, as last amended by Section 1, Chapter 229, O.S.L. 1994 (22 O.S. Supp. 1996, Section 718), which relates to fees and mileage for witnesses in criminal matters; providing that fees and mileage assessed against defendant as costs upon conviction shall be deposited in District Attorneys Council revolving fund; amending 28 O.S. 1991, Section 82, as last amended by Section 7, Chapter 229, O.S.L. 1994 (28 O.S. Supp. 1996, Section 82), which relates to witnesses for state; providing that fees and mileage shall be assessed as costs and deposited into District Attorneys Council revolving fund; amending 28 O.S. 1991, Section 106, which relates to clerk holding fees for persons entitled; providing that unclaimed fees shall be deposited into the District Attorneys Council revolving fund; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 718, as last amended by Section 1, Chapter 229, O.S.L. 1994 (22 O.S. Supp. 1996, Section 718), is amended to read as follows:

Section 718. A witness who appears from another state to testify in this state in a criminal case or proceeding pursuant to a subpoena issued in accordance with the provisions of the Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings, Section 721 et seq. of this title, shall be reimbursed as prescribed by law for travel and expenses at rates not to exceed those prescribed by law for reimbursement of state employees traveling interstate. Upon conviction, such fees and mileage shall be taxed as costs, collected and deposited ~~as other costs in the case~~ in the District Attorneys Council Revolving Fund and used for witness fees and mileage in accordance with Section 82 of Title 28 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 28 O.S. 1991, Section 82, as last amended by Section 7, Chapter 229, O.S.L. 1994 (28 O.S. Supp. 1996, Section 82), is amended to read as follows:

Section 82. A. Any witness appearing in obedience to an order, subpoena, or other lawful compulsion at any stage of a criminal case or proceeding, grand jury proceeding and in any civil case or proceeding in which the party seeking the attendance of the witness is represented by the district attorney, shall be paid, from any monies available for the operations of the district attorney's office in the county where attendance is required, the fees and mileage at the rate prescribed by law.

B. Any witness appearing in obedience to an order, subpoena, or other lawful compulsion at any stage of a criminal case or proceeding in which the party seeking the attendance of the witness is represented by the Indigent Defense System or its agent shall be paid from the court fund. The court clerk shall report the amount of witness fees paid pursuant to this subsection monthly to the

Administrative Office of the Courts. The Administrative Office of the Courts shall bill the Indigent Defense System for the cost of the witness fees which shall be paid from funds available for expenditure by the Indigent Defense System. Payment by the Indigent Defense System to the Administrative Office of the Courts shall be made within ten (10) days of the receipt of the billing.

C. Any witness appearing in obedience to an order, subpoena, or other lawful compulsion in an administrative proceeding, medicaid fraud investigation, or multicounty grand jury proceeding shall be paid by the party seeking the attendance of the witness. If the party seeking the attendance is the Attorney General or represented by the Attorney General, the witness shall be paid from funds available for expenditure by the Attorney General. If an administrative agency seeking the attendance of the witness is not represented by the Attorney General, the witness shall be paid from funds available for expenditure by the administrative agency.

D. Any witness appearing in obedience to an order, subpoena, or other lawful compulsion issued by a court of this state for which no provision of this section is applicable, shall be paid in the discretion of the court from funds which are subject to the court's orders.

E. Upon conclusion of the proceedings, such fees and mileage shall be taxed as costs in the case, and collected and deposited as other costs in the case unless the witness is represented by the district attorney as set forth in subsection A of this section.

F. Fees and mileage paid pursuant to subsection A of this section shall be taxed as costs in the case and collected and deposited in the District Attorneys Council Revolving Fund and used for witness fees and mileage in accordance with this section.

SECTION 3. AMENDATORY 28 O.S. 1991, Section 106, is amended to read as follows:

Section 106. A. It shall be the duty of the court clerk receiving any costs or fees belonging to any other person, to deposit the same in the court fund subject to the order of the person entitled thereto, and to pay the same over on request; and if such costs or fees other than witness fees shall not be claimed within three (3) years after having been received, except in all cases where jurisdiction is continuing, and three (3) years after final judgment, they shall become the property of the court fund, provided that any unexpended court costs or money belonging to litigants shall be mailed by the court clerk to the proper attorney of record.

B. Any unclaimed witness fees shall be deposited in the District Attorneys Council Revolving Fund and used for witness fees and mileage in accordance with Section 82 of this title.

SECTION 4. This act shall become effective November 1, 1997.

46-1-5385

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