

By: Smith of the Senate
and
Askins of the House

An Act relating to courts; amending 20 O.S. 1991, Sections 1313.2, as last amended by Section 8, Chapter 260, O.S.L. 1997, and 1313.3, as amended by Section 1, Chapter 188, O.S.L. 1994 (20 O.S. Supp. 1998, Sections 1313.2 and 1313.3), which relate to the court fund; clarifying persons required to pay certain assessments or fees; deleting language requiring court to provide separate bail for certain penalty assessments and fees; amending 22 O.S. 1991, Section 715, which relates to witnesses in criminal procedures; prohibiting subpoena of court clerk under certain circumstances and providing exception; amending 59 O.S. 1991, Section 1327, as amended by Section 6, Chapter 170, O.S.L. 1993 (59 O.S. Supp. 1998, Section 1327), which relates to bail bondsmen; requiring bondsman to file certain notification when surrendering defendant prior to breach; requiring exoneration after surrender; and providing an effective date.

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

SECTION 1. AMENDATORY 20 O.S. 1991, Section 1313.2, as last amended by Section 8, Chapter 260, O.S.L. 1997 (20 O.S. Supp. 1998, Section 1313.2), is amended to read as follows:

Section 1313.2 A. As used in this section:

1. "Convicted" means any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere or otherwise, and any deferred or suspended sentence or judgment;
2. "Court" means any state or municipal court having jurisdiction to impose a criminal fine or penalty; and
3. "DNA" means Deoxyribonucleic acid.

B. Any person convicted of an offense punishable by a fine of Ten Dollars (\$10.00) or more or by incarceration, excluding parking and standing violations, or any person forfeiting a traffic citation bond when charged with such an offense, shall be ordered by the

court to pay Four Dollars (\$4.00) as a separate penalty assessment and One Hundred Fifty Dollars (\$150.00) as a Laboratory Analysis Fee if applicable pursuant to subsection C of this section, and One Hundred Fifty Dollars (\$150.00) as a DNA fee if applicable pursuant to subsection G of this section, which assessment and fee shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense. ~~The court shall provide for separate bail for the penalty assessment; provided that a defendant admitted to bail on an undertaking by a surety may include the amount of the penalty assessment in the undertaking.~~

C. Any person convicted of any misdemeanor or felony offense shall pay a Laboratory Analysis Fee in the amount of One Hundred Fifty Dollars (\$150.00) for each offense if forensic science or laboratory services are rendered or administered by the Oklahoma State Bureau of Investigation, by the Toxicology Laboratory of the Office of the Chief Medical Examiner or by any municipality or county in connection with the case.

The court clerk shall cause to be deposited the amount of One Hundred Fifty Dollars (\$150.00) as collected, for every conviction as described in this subsection. The court may retain fifteen percent (15%) of such monies to cover administrative costs pursuant to this subsection. The court clerk shall remit the remainder of the monies in ~~said~~ the fund on a monthly basis either to:

1. The Oklahoma State Bureau of Investigation who shall deposit ~~said~~ the monies into the OSBI Revolving Fund provided for in Section 150.19a of Title 74 of the Oklahoma Statutes for services rendered or administered by the Oklahoma State Bureau of Investigation;

2. The Office of the Chief Medical Examiner who shall deposit ~~said~~ the monies into the Office of the Chief Medical Examiner Toxicology Laboratory Revolving Fund provided for in Section 954 of Title 63 of the Oklahoma Statutes for services rendered or

administered by the Toxicology Laboratory of the Office of the Chief Medical Examiner; or

3. The appropriate municipality or county for services rendered or administered by a municipality or county.

The monies from the Laboratory Analysis Fee Fund deposited into the OSBI Revolving Fund shall be used for the following:

1. Providing criminalistic laboratory services;

2. The purchase and maintenance of equipment for use by the laboratory in performing analysis;

3. Education, training, and scientific development of Oklahoma State Bureau of Investigation personnel; and

4. The destruction of seized property and chemicals as prescribed in Sections 2-505 and 2-508 of Title 63 of the Oklahoma Statutes.

D. Upon conviction or bond forfeiture, the court shall collect the penalty assessment provided for in subsection B of this section and deposit it in an account created for that purpose. As an administrative fee for handling funds collected as a penalty assessment, each court is authorized to retain two percent (2%) of such monies and may also retain all interest accrued thereon prior to the due date for deposits as provided in this subsection. Except as otherwise provided in subsection E of this section, for the fiscal year ending June 30, 1987, the remainder of such monies shall be forwarded quarterly by the court clerk to the State Treasury. Deposits shall be due July 15 for the preceding quarter ending June 30, October 15 for the preceding quarter ending September 30, January 15 for the preceding quarter ending December 31, and April 15 for the preceding quarter ending March 31. There shall be a penalty imposed for failure to make timely deposits. Such penalty shall be one percent (1%) of the principal amount due per day beginning from the tenth day after payment is due and accumulating until the penalty reaches one hundred percent (100%) of the

principal amount due. The State Treasurer shall deposit seventy percent (70%) of the monies received in the C.L.E.E.T. Fund, and thirty percent (30%) of the monies received in the General Revenue Fund. Beginning on July 1, 1987, ninety percent (90%) of the monies received by the State Treasurer from the court clerks pursuant to this section shall be deposited in the C.L.E.E.T. Fund and ten percent (10%) shall be deposited in the General Revenue Fund. Along with the deposits required by this subsection each court also shall submit a report stating the total amount of funds collected and the total number of penalty assessments imposed during the preceding quarter. Such report may be made on computerized or manual disposition reports.

E. Any municipality or county having a basic law enforcement academy approved by the Council on Law Enforcement Education and Training pursuant to the criteria developed by the Council for training law enforcement officers shall retain from monies collected pursuant to this section, Two Dollars (\$2.00) from each penalty assessment less the two percent (2%) administrative fee retained by the court. Such monies shall be deposited into an account for the sole use of the municipality or county in implementing its law enforcement training functions. Not more than seven percent (7%) of such monies shall be used for court and prosecution training. The court clerk of any such municipality or county shall furnish to the State Treasury the report required by subsection D of this section.

F. There is hereby created in the State Treasury a fund for the Council on Law Enforcement Education and Training to be designated the "C.L.E.E.T. Fund". The fund shall be subject to legislative appropriation and shall consist of any monies received from fees and receipts collected pursuant to the Oklahoma Open Records Act, reimbursements for parts used in the repair of weapons of law enforcement officers attending the basic academies, gifts, bequests,

contributions, tuition, fees, devises, and the assessments levied pursuant to ~~said~~ the fund pursuant to law.

G. Any person convicted of violating Section 7115 of Title 10 of the Oklahoma Statutes or Section 645, 650, 650.2, 650.5, 650.6, 650.7, 650.8, 651, 652, 701.7, 701.8, 711, 832, 885, 888, 1114, subsection B of Section 1021, 1021.2, 1021.3, 1087, 1088, 1123, 1173, or 1192.1 of Title 21 of the Oklahoma Statutes shall pay a DNA fee of One Hundred Fifty Dollars (\$150.00). Such fee shall not be collected if the person has a valid DNA sample in the OSBI DNA Offender Database at the time of sentencing.

The court clerk shall cause to be deposited the amount of One Hundred Fifty Dollars (\$150.00) as collected, for every conviction as described in this subsection. The court may retain fifteen percent (15%) of such monies to cover administrative costs pursuant to this subsection. The court clerk shall remit the remainder of the monies in said fund on a monthly basis to the Oklahoma State Bureau of Investigation who shall deposit ~~said~~ the monies into the OSBI Revolving Fund provided for in Section 150.19a of Title 74 of the Oklahoma Statutes for services rendered or administered by the Oklahoma State Bureau of Investigation.

The monies from the DNA sample fee deposited into the OSBI Revolving Fund shall be used for creating, staffing, and maintaining the OSBI DNA Laboratory and OSBI DNA Offender Database.

SECTION 2. AMENDATORY 20 O.S. 1991, Section 1313.3, as amended by Section 1, Chapter 188, O.S.L. 1994 (20 O.S. Supp. 1998, Section 1313.3), is amended to read as follows:

Section 1313.3 A. In addition to the penalty assessment imposed by Section 1313.2 of this title, any person convicted of any offense punishable by a fine of Ten Dollars (\$10.00) or more or by incarceration, excluding parking and standing violations, or any person forfeiting a traffic citation bond when charged with such offense, shall be ordered by the court to pay a fingerprinting fee

in the amount of Three Dollars (\$3.00) for each offense for the A.F.I.S. Fund in the State Treasury. The fee shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense. ~~The court shall provide for separate bail for the fee; provided that a defendant admitted to bail on an undertaking by a surety may include the amount of the fee in the undertaking.~~ The fee shall be collected at the same time and in the same manner as the penalty assessment provided for in Section 1313.2 of Title 20 of the Oklahoma Statutes. Each court clerk shall be authorized to retain six cents (\$0.06) of each fee collected. The court clerk shall deposit the fee collected pursuant to this section in the account provided for in subsection D of Section 1313.2 of this title and shall forward the amounts imposed by this section and Section 1313.2 of this title as a lump sum in one check or draft. The deposits required by this section shall be included in the total amount of money disclosed in the report required by Section 1313.2 of this title, but it shall not be required that the fee be listed as a separate item. Two Dollars and seventy cents (\$2.70) of each penalty assessment received pursuant to this section by the State Treasurer shall be deposited in the A.F.I.S. Fund and twenty-four cents (\$0.24) shall be deposited in the General Revenue Fund.

B. As used in this section:

1. "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; and

2. "Court" means any state or municipal court having jurisdiction to impose a criminal fine or penalty.

SECTION 3. AMENDATORY 22 O.S. 1991, Section 715, is amended to read as follows:

Section 715. A. No person is obliged to attend as a witness before a court or magistrate ~~out of~~ outside the county where the

witness resides or is served with ~~the~~ a subpoena, unless the judge of the court in which the offense is triable, upon an affidavit of the district attorney, or of the defendant or ~~his~~ the defendant's counsel, stating that he or she believes that the evidence and attendance of the witness is material and ~~his attendance at the examination or trial~~ necessary, shall endorse on the subpoena an order for the attendance of the witness.

B. The court clerks of this state shall not be subject to subpoena unless the court makes a specific finding that appearance and testimony is both material and necessary because of a written objection to the introduction of certified documents made by the defendant or other party prior to trial.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 1327, as amended by Section 6, Chapter 170, O.S.L. 1993 (59 O.S. Supp. 1998, Section 1327), is amended to read as follows:

Section 1327. A. At any time before there has been a breach of the undertaking in any type of bail provided herein, the surety or bondsman may surrender the defendant, or the defendant may surrender himself or herself, to the official to whose custody the defendant was committed at the time bail was taken, or to the official into whose custody the defendant would have been given had he or she been committed. The defendant may be surrendered without the return of premium for the bond if he or she has been guilty of nonpayment of premium, changing address without notifying his or her bondsman, conceals himself or herself, or leaves the jurisdiction of the court without the permission of his or her bondsman, or of violating his or her contract with the bondsman in any way that does harm to the bondsman, or the surety, or violates his or her obligation to the court. When a bondsman or surety surrenders a defendant pursuant to this subsection, the bondsman or surety shall file written notification of the surrender. Upon surrender, the bond shall be

exonerated and the clerk shall enter a minute in the case
exonerating the bond.

B. If the defendant has been placed in custody of another jurisdiction, the district attorney shall direct a hold order to the official, judge or law enforcement agency where the defendant is in custody. All reasonable expenses accrued in returning the defendant to the original court shall be borne by the bondsman who posted the bond with that court. Upon application, the bond in the original court shall be exonerated when the hold order is placed and upon proof of payment of expenses by the bondsman.

C. When a defendant does appear before the court as required by law and is sentenced or a deferred sentence is granted as provided for in Section 991c of Title 22 of the Oklahoma Statutes, in such event the undertaking and bondsman and insurer shall be exonerated from further liability.

SECTION 5. This act shall become effective November 1, 1999.

Passed the Senate the 9th day of February, 1999.

President of the Senate

Passed the House of Representatives the ____ day of _____ ,
1999.

Speaker of the House of
Representatives