STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB2628 By: Nance of the House

and

Herbert of the Senate

AS INTRODUCED

An Act relating to fees; amending 28 O.S. 201, Sections 152 and 153, which relate to civil and criminal court costs; adding fees; directing monies be deposited in Sheriff's Service Fee Account to be used for courthouse security; stating exception; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 28 O.S. 2001, Section 152, is amended to read as follows:

Section 152. A. In any civil case filed in a district court, the court clerk shall collect, at the time of filing, the following flat fees, none of which shall ever be refundable, and which shall be the only charge for court costs, except as is otherwise specifically provided for by law:

1. Actions for divorce, alimony without divorce, separate maintenance, custody or support.....$82.00
2. Any ancillary proceeding to modify or vacate a divorce decree providing for custody or support.....$40.00
3. Probate and guardianship.....$82.00
4. Annual guardianship report.....$30.00
5. Any proceeding for sale or lease of real or personal property or mineral interest in probate or guardianship.....$40.00

6. Any proceeding to revoke the probate of a will.....$40.00

7. Judicial determination of death.....$55.00

8. Adoption.....$102.00

9. Civil actions and condemnation.....$82.00

10. Garnishment.....$20.00

11. Continuing wage garnishment.....$60.00

12. Any other proceeding after judgment.....$30.00

13. All others, including but not limited to actions for forcible entry and detainer, judgments from all other courts, including the Workers' Compensation Court.....$82.00

14. Notice of renewal of judgment.....$20.00

B. In addition to the amounts collected pursuant to subsection A of this section, the sum of Six Dollars ($6.00) shall be assessed and credited to the Law Library Fund.

C. In addition to the amounts collected pursuant to subsection A of this section, the sum of Ten Dollars ($10.00) shall be assessed and credited to the Sheriff's Service Fee Account of the sheriff of the county in which the case is heard to be used for the purposes of providing courthouse security, or upon written approval of the sheriff, the county commissioners may use these funds to contract with a private party to provide courthouse security. If, due to the collections of these monies, the budget of the sheriff is reduced by the county commissioners, the monies may be expended by the sheriff for any lawful purpose related to running the office of sheriff.

D. Of the amounts collected pursuant to paragraph 8 of subsection A of this section, the sum of Twenty Dollars ($20.00) shall be deposited to the credit of the Voluntary Registry and Confidential Intermediary program and the Mutual Consent Voluntary Registry established pursuant to the Oklahoma Adoption Code.

~~D.~~ E. Of the amounts collected pursuant to subsection A of this section, the sum of Ten Dollars ($10.00) shall be deposited to the credit of the Child Abuse Multidisciplinary Account.

~~E.~~ F. In any case in which a litigant claims to have a just cause of action and that, by reason of poverty, the litigant is unable to pay the fees and costs provided for in this section and is financially unable to employ counsel, upon the filing of an affidavit in forma pauperis executed before any officer authorized by law to administer oaths to that effect and upon satisfactory showing to the court that the litigant has no means and is, therefore, unable to pay the applicable fees and costs and to employ counsel, no fees or costs shall be required. The opposing party or parties may file with the court clerk of the court having jurisdiction of the cause an affidavit similarly executed contradicting the allegation of poverty. In all such cases, the court shall promptly set for hearing the determination of eligibility to litigate without payment of fees or costs. Until a final order is entered determining that the affiant is ineligible, the clerk shall permit the affiant to litigate without payment of fees or costs. Any litigant executing a false affidavit or counter affidavit pursuant to the provisions of this section shall be guilty of perjury.

SECTION 2. AMENDATORY 28 O.S. 2001, Section 153, is amended to read as follows:

Section 153. A. The clerks of the courts shall collect as costs in every criminal case for each offense of which the defendant is convicted, irrespective of whether or not the sentence is deferred, the following flat charges and no more, except for standing and parking violations and for charges otherwise provided for by law, which fee shall cover docketing of the case, filing of all papers, issuance of process, warrants, orders, and other services to the date of judgment:

1. For each defendant convicted of exceeding the speed limit by at least one (1) mile per hour but not more than ten (10) miles per hour, whether charged individually or conjointly with others..... $57.00

2. For each defendant convicted of a misdemeanor traffic violation other than an offense provided for in paragraph 1 or 5 of this subsection, whether charged individually or conjointly with others..... $73.00

3. For each defendant convicted of a misdemeanor, other than for driving under the influence of alcohol or other intoxicating substance or an offense provided for in paragraph 1 or 2 of this subsection, whether charged individually or conjointly with others..... $83.00

4. For each defendant convicted of a felony, other than for driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others..... $103.00

5. For each defendant convicted of the misdemeanor of driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others..... $183.00

6. For each defendant convicted of the felony of driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others..... $183.00

7. For the services of a court reporter at each preliminary hearing and trial held in the case..... $20.00

8. For each time a jury is requested..... $30.00

9. A sheriff's fee for serving or endeavoring to serve each writ, warrant, order, process, command, or notice or pursuing any fugitive from justice

a. within the county..... $30.00, or mileage as established by the Oklahoma Statutes, whichever is greater, or

b. outside of the county..... $30.00, or actual, necessary expenses, whichever is greater

10. For the services of a language interpreter, other than an interpreter appointed pursuant to the provisions of the Oklahoma Interpreter for the Deaf Act, at each hearing held in the case, the actual cost of the interpreter.

B. In addition to the amount collected pursuant to paragraphs 2 through 5 of subsection A of this section, the sum of Six Dollars ($6.00) shall be assessed and credited to the Law Library Fund pursuant to Section 1201 et seq. of Title 20 of the Oklahoma Statutes.

C. Prior to conviction, parties in criminal cases shall not be required to pay, advance, or post security for the services of a language interpreter or for the issuance or service of process to obtain compulsory attendance of witnesses.

D. In addition to any other cost authorized by this section, Ten Dollars ($10.00) shall be added to the court costs charged pursuant to this section in any criminal case for each offense of which a defendant is convicted. This fee shall be deposited into the Sheriff’s Service Fee Account of the sheriff of the county in which the case is heard to be used for the purposes of providing courthouse security, or upon written approval of the sheriff, the county commissioners may use these funds to contract with a private party to provide courthouse security. If, due to the collections of these monies, the budget of the sheriff is reduced by the county commissioners, the monies may be expended by the sheriff for any lawful purpose related to running the office of sheriff.

E. The fees collected pursuant to this section shall be deposited into the court fund, except the following:

1. The sheriff's fee provided for in paragraph 9 of subsection A of this section which, when collected, shall be deposited in 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 in which service is made or attempted;

2. The sheriff’s fee provided for in Section 153.2 of this title; and

3. The witness fees paid by the district attorney pursuant to the provisions of Section 82 of this title which, if collected by the court clerk, shall be transferred to the district attorney’s office in the county where witness attendance was required. Fees transferred pursuant to this paragraph shall be deposited in the district attorney’s maintenance and operating expense account.

~~E.~~ F. Costs required to be collected pursuant to this section shall not be dismissed or waived; provided, if the court determines that a person needing the services of a language interpreter is indigent, the court may waive all or part of the costs or require the payment of costs in installments.

~~F.~~ G. As used in this section, "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.

~~G.~~ H. A court clerk may accept in payment for any fee, fine, or cost for violation of any traffic law a nationally recognized credit card issued to the applicant. The court clerk may add an amount equal to the amount of the service charge incurred, not to exceed four percent (4%) of the amount of the payment as a service charge for the acceptance of the credit card. For purposes of this paragraph, "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining goods, services, or anything else of value and which is accepted by over one thousand (1,000) merchants in this state. The court clerk shall determine which nationally recognized credit cards will be accepted as payment for fees; provided, the court clerk must ensure that no loss of state revenue will occur by the use of such cards.

~~H.~~ I. Upon receipt of payment of fines and costs for offenses charged prior to July 1, 1992, the court clerk shall apportion and pay Thirteen Dollars ($13.00) per conviction to the court fund.

SECTION 3. This act shall become effective July 1, 2002.

SECTION 4. 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.

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