

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL 1458

By: Smith of the Senate

and

Benson of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to courts; amending 20 O.S. 2001, Sections 1005, 1005.1, 1007, 1010, 1304 and 1307, which relate to judicial records, allowable claims and reports of expenses; removing certain record destruction requirements; adding exception to certain recording requirements; providing for destruction of certain records; updating language; making language gender neutral; modifying certain time periods; requiring certain court reporters to remove specified materials under certain circumstances; authorizing court clerk to destroy certain materials; providing for payment of certain costs; modifying expenses allowed to be claimed against the court fund; modifying reporting requirements; requiring Supreme Court to appoint certain position; stating authority of Project Manager; limiting network; providing exception; prohibiting certain projects; authorizing certain contracts; stating methods of payment on certain contracts; requiring legislative oversight; providing certain staff support; authorizing certain testimony; authorizing certain recommendations; amending Section 2 of Enrolled Senate Bill No. 1418 of the 2nd Session of the 48th Oklahoma Legislature, which relates to pretrial release; requiring court clerk to follow certain procedures in specified circumstances; amending 38 O.S. 2001, Sections 18, 19, 20, 21 and 22, which relate to jurors; removing certain responsibilities of sheriff and court clerk; conforming language; modifying certain time period; modifying information the Commissioner of Public Safety is to provide to the Administrative Director of the Courts; modifying procedures for use of certain information; making language gender neutral; updating language; modifying procedures for requesting additional jurors; amending 59 O.S. 2001, Sections 1327 and 1332, which relate to bail bondsmen; modifying liability of bondsmen in certain circumstances; requiring the court to issue an arrest warrant under certain circumstances; deleting duty of the court clerk to maintain certain records; providing for exoneration of certain persons; modifying circumstances resulting in bond forfeiture; repealing 38 O.S. 2001, Sections 24, 25, 26 and 27, which relate to jurors and procedure for selection;

providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 20 O.S. 2001, 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 2. AMENDATORY 20 O.S. 2001, Section 1005.1, is amended to read as follows:

Section 1005.1 A. 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.

B. Small claims cases and justice of the peace court records shall not be subject to microfilm or other permanent recording requirements. 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, and 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 3. AMENDATORY 20 O.S. 2001, Section 1007, is amended to read as follows:

Section 1007. The court clerk in each county in Oklahoma is ~~hereby~~ authorized to destroy or sell for salvage the documents mentioned ~~herein~~ in this section which have been on file or stored in ~~his~~ the court clerk's office for a period longer than the time specified below:

1. One (1) year. All marriage health certificates.
2. Two (2) years. All instruments relating to beer, bingo, process servers, foreign process servers, closing out sale, and pool hall licenses including the applications, affidavits of residence, orders for hearing, notices of hearing, affidavits of posting and mailing and duplicate beer license.
3. ~~Five (5)~~ Three (3) years. All duplicate receipts, duplicate vouchers, mechanics' and materialmen's lien records, duplicate deposit tickets, jury lists, juror and witness certificates, court clerk's liens, court fund claims, jury and bailiff records, monthly reports, statutory bonds, cost bonds, paid claims, procedural bonds, court assignments, and court calendars including disposition docket books containing entries which have been posted to the case file docket sheet or computer printed docket sheet, appearance bonds and search warrants in instances where no charges are filed, purchase orders, and court minutes.

~~4. Ten (10) years. All records of traffic cases preserved on microfilm, optical disk or other storage media.~~

SECTION 4. AMENDATORY 20 O.S. 2001, Section 1010, is amended to read as follows:

Section 1010. A court reporter's notes may be destroyed by a person lawfully in possession of the notes after a ~~five-year~~ one-year period has elapsed following the death of the court reporter.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1011 of Title 20, unless there is created a duplication in numbering, reads as follows:

Each court reporter who has been employed by a district court of this state shall remove all exhibits, notes and other materials from the custody of the court clerk within thirty (30) days after termination of employment with that district court by the court reporter. In the event that the court reporter fails to remove the property in a timely manner, the court clerk shall be authorized to destroy the materials after six (6) months have elapsed since termination of the court reporter's employment, and the court reporter shall be responsible for any expenses for costs of reproduction.

SECTION 6. AMENDATORY 20 O.S. 2001, 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 1, 5, 6, 7 and 13 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. Compensation of bailiffs and ~~part-time help~~ employees of the court fund;

2. 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;

3. 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;

4. Office supplies, books for records, postage, and printing;

5. Furniture, fixtures, and equipment;

6. Renovating, remodeling, and maintenance of courtrooms, judge's chambers, clerk's offices, and other areas primarily used for judicial functions;

7. Rent for courtroom facilities outside the courthouse;

8. Judicial robes;

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

10. 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);

11. Transcripts ordered by the court;

12. 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;

13. Security expenses 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. 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 Division of the Department of Central Services may not be purchased by any court fund at prices higher than those approved by the Director of Central Purchasing.

SECTION 7. AMENDATORY 20 O.S. 2001, Section 1307, is amended to read as follows:

Section 1307. A. Within thirty (30) days after the end of each ~~month~~ quarter of every fiscal year, the court clerk of each county shall report to the Administrative Director of the Courts, in the manner prescribed by law for the reporting of information by agencies to the Office of State Finance pursuant to Section 41.1 et seq. of Title 62 of the Oklahoma Statutes, the:

1. Gross receipts to the court fund during the preceding ~~month~~ quarter;

2. Total amount of expenses paid during the preceding ~~month~~ quarter, including, but not limited to, bond and interest expense and payments to the county general fund; and

3. Total amount of money transferred or to be transferred to the State Judicial Fund for the ~~preceding month~~ entire past fiscal year as set forth in Section 1308 of this title.

B. The Administrative Director of the Courts shall subsequently report the information required by subparagraphs 1 and 2 of subsection A of this section within ten (10) days after receipt of the information to the Office of State Finance in a manner consistent with the policies and procedures of the Office of State Finance for reporting by state agencies pursuant to the provisions of Section 41.1 et seq. of Title 62 of the Oklahoma Statutes.

C. The information required by this section for reporting by court clerks pursuant to subsection A of this section and for

reporting by the Administrative Director of the Courts pursuant to subsection B of this section shall be in a form that separates fines, fees, forfeitures and other sources of revenue. The information shall also indicate the amount of receipts used for local court expenses and the amount deposited into the State Judicial Fund.

D. A ceiling on the amount of local court funds to be allocated by the Chief Justice of the Supreme Court for the local court budgets shall be established in the annual appropriation to the courts.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1315.3 of Title 20, unless there is created a duplication in numbering, reads as follows:

The Supreme Court shall appoint within the Administrative Office of the Courts the position of Project Manager for the Oklahoma Court Information System. The Project Manager shall have authority over all other employees of the Management Information System Division of the Administrative Office of the Courts.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1315.4 of Title 20, unless there is created a duplication in numbering, reads as follows:

For the fiscal year ending June 30, 2003, the Supreme Court shall limit the Oklahoma Court Information System network to Oklahoma, Tulsa, Garfield, Payne, Comanche, Cleveland, Canadian, and Rogers Counties. However, any county court clerk may request to be added to the Oklahoma Court Information System network during the fiscal year ending June 30, 2003, and the Supreme Court may add any requesting county to the network if it determines that the addition will not adversely impact operations in existing network counties.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1315.5 of Title 20, unless there is created a duplication in numbering, reads as follows:

The Supreme Court shall not enter into any joint development project with a vendor of computer software that requires county court clerk offices to use software that is not available to the general public, other than software that is essential for operation of the court's case management application and related components.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1315.6 of Title 20, unless there is created a duplication in numbering, reads as follows:

For the fiscal year ending June 30, 2003, the Administrative Office of the Courts may enter into contracts with county court clerks to reconcile funds paid on court cases from November 1, 1999, through November 1, 2001, where a county has not yet reconciled such funds. Such contracts shall not exceed Seventy-five Thousand Dollars (\$75,000.00). Each contract shall be paid monthly as reimbursement for extraordinary services delivered by county employees to reconcile financial accounting of court cases. Claims for payment shall be submitted by court clerks on a monthly basis on forms approved by the Supreme Court.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1315.7 of Title 20, unless there is created a duplication in numbering, reads as follows:

A joint meeting of the House Appropriations and Budget Subcommittee on the Judiciary and the Senate Appropriations Subcommittee on Public Safety and Judiciary shall monitor compliance with this act, using staff support provided by the Oklahoma Criminal Justice Resource Center. At public meetings, the joint committee is authorized to take testimony from court clerks, the public and from the Supreme Court Technical Oversight Committee, and to make recommendations to the Supreme Court to resolve technical and policy problems that impact other elected officials and other state and federal agencies.

SECTION 13. AMENDATORY Section 2 of Enrolled Senate Bill No. 1418 of the 2nd Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 2. A. The provisions of this act shall apply only to counties having a population of four hundred thousand (400,000) or more persons.

B. Following an arrest for a misdemeanor or felony offense and before formal charges have been filed or an indictment made, the arrested person may have bail set by the court as provided in this act; provided there are no provisions of law to the contrary.

C. When formal charges or an indictment has been filed, bail shall be set according to law and the pretrial bond, if any, may be reaffirmed unless additional security is required. Every judicial district may, upon the order of the presiding judge for the district, establish a pretrial bail schedule for felony or misdemeanor offenses, except for traffic offenses included in subsections B, C and D of Section 1115.3 of Title 22 of the Oklahoma Statutes and those offenses specifically excluded herein. The bail schedule established pursuant to the authority of this act shall exclude any offense for which bail is not allowed by law. The bail schedule authorized by this act shall be set in accordance with guidelines relating to bail and shall be published and reviewed by March 1 of each year by the courts and district attorney of the judicial district.

D. The pretrial bail shall be set in a numerical dollar amount. If the person fails to appear in court as required the judge shall:

1. Rescind the bond and proceed to enter a judgment against the defendant for the dollar amount of the pretrial bail if no private bail was given at the time of release; provided, however, the court clerk shall follow the procedures as set forth in Section 1301 et seq. of Title 59 of the Oklahoma Statutes in collecting the

forfeiture amount against the person who fails to appear in court;

or

2. Rescind and forfeit the private bail if cash, property or surety bail was furnished at the time of release as set forth in Section 1301 et seq. of Title 59 of the Oklahoma Statutes.

E. When a pretrial program authorized by subsection A of this section exists in the judicial district where the person is being held, the judge may utilize the services of the pretrial release program when ordering pretrial release, except when private bail has been furnished.

F. Upon an order for pretrial release or release on bond, the person shall be released from custody without undue delay.

SECTION 14. AMENDATORY 38 O.S. 2001, 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 of each year thereafter, a list by county of persons residing whose mailing addresses are in the county, who are eighteen (18) years of age or older, and who are holders of a current ~~driver's~~ driver 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~~ mailing address of each person listed. The list shall be used exclusively for jury selection purposes. The Administrative Director of the Courts and the court clerk shall not copy or permit any person to copy the list or any portion thereof for purposes other than jury selection;

2. All names and addresses of the persons so listed under the provisions of paragraph 1 of this ~~subsection~~ section 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~~ prescribed by the Administrative Director of the Courts;

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 15. AMENDATORY 38 O.S. 2001, Section 19, is amended to read as follows:

Section 19. ~~Said officer~~ The Administrative Director of the Courts shall ~~write or~~ cause to be ~~written~~ generated, from the names of all persons who are known to be qualified jurors under the law ~~on separate cards of uniform size and color, writing also on said cards, whenever possible, the post office address of each juror so selected, the expense thereof to be paid from the court fund of each county, said names and addresses of such qualified voters to be~~

~~typed upon the cards as herein described under the supervision of the court clerk. The cards containing said names shall be deposited in a circular hollow wheel, to be provided for such purpose by the board of county commissioners of each county after they have examined the contents thereof and removed therefrom and destroyed any cards found therein. Said wheel shall be in the form of a drum made of iron or steel and shall be so constructed as to freely revolve on its axle and big enough to freely mix all the cards placed therein, the size thereof in each to be determined by the number of names placed therein and shall be kept locked at all times, except when in use as hereinafter provided, by the use of two separate locks, so arranged that the key to one will not open the other lock; and said wheel and the clasps thereto attached into which the locks shall be fitted, shall be so arranged that said wheel cannot be opened unless both of said locks are unlocked at the time the wheel is opened. The keys to such locks shall be kept, one by the sheriff and the other by the court clerk. The sheriff and the court clerk shall not open such wheel, nor permit the same to be opened by any person, except at the time and in the manner and by the persons herein specified; but said sheriff and court clerk shall keep such wheel, when not in use, in a safe and secure place where the same cannot be tampered with, the general panel of jurors as required under Section 20 of this title.~~

SECTION 16. AMENDATORY 38 O.S. 2001, Section 20, is amended to read as follows:

Section 20. In each county, the judges of the courts of record shall, more than ten (10) days prior to each term of court, determine approximately the number of jurors that are reasonably necessary for jury service in all the ~~said~~ courts of record of ~~such~~ the county for each ~~two-week~~ jury period during the time ~~said~~ the courts may hold during the term and shall thereupon order the ~~drawing of such~~ number of jurors from the ~~wheel~~ Administrative

Director of the Courts for each ~~of said two-week~~ jury period, said jury to be known as the general panel of jurors for service in all ~~such~~ the courts of such county for the respective weeks for which they are designated to serve. A majority of ~~said~~ the judges are authorized to act in carrying out the provisions of this law; provided, however, there is only one judge in the county or where the district judge so designates in writing the judge of the court of record using the jury is authorized to act in carrying out the provisions of this law or he or she may increase or diminish the number of jurors to be selected for any ~~two-week~~ jury period, and shall order said jurors drawn for as many weeks in advance of service as they or he or she deem proper. The general panel shall report for duty to the presiding district court judge or if none to the judge of the court of record using the jury, and said judge, for such time as he so acts shall organize said juries and have immediate supervision and control of them.

SECTION 17. AMENDATORY 38 O.S. 2001, Section 21, is amended to read as follows:

Section 21. ~~At such times as the chief judge of the district court or, during his absence or disability, some other judge assigned to the district court in the county, may order the court clerk or one of his deputies and the sheriff or one of his deputies in open court and under the directions of the chief judge of the district court, or during his absence or disability, some other judge assigned to the district court in the county, shall draw from the wheel containing the names of jurors, after the same has been well turned so that the cards therein are thoroughly mixed, one by one until the number of jurors for grand or petit jury service as directed by said judge are procured and shall record such names as they are drawn upon as many separate sheets of paper as there are weeks for such term or terms for which jurors will be required. The officers attending such drawing shall not divulge the name of any~~

~~person that may be drawn as a juror to any person.~~ If a grand jury is ordered, ~~the first names drawn to~~ the number stated in the judge's order, not to exceed one hundred, shall be summoned as grand jurors, and the grand jury shall be impaneled from said persons.

The judge of the district court shall order the court clerk or one of his or her deputies to order the stated number of jurors from the Administrative Director of the Courts. In addition to the twelve (12) grand jurors to be impaneled, three additional persons shall be selected as alternate grand jurors. The alternate grand jurors shall attend all functions of the grand jury during its term and shall be subject to all laws governing grand jurors. Provided that, no alternate juror shall participate in any deliberations of the grand jury until appointed to fill a vacancy. If the judge so directs, the persons summoned for the grand jury panel who are not used thereon may be transferred to the petit jury panel. Additional and other drawing of as many names as the court may order may be had at any such time as the court or judge may order for the completion of a grand or petit jury panel, or for the impaneling of a new grand or petit jury if, in the judgment of the court, the same shall be necessary, or if, for any cause, the court, in its discretion, shall deem other jurors necessary. The court may excuse or discharge any person drawn and summoned as a grand or petit juror, whenever, in its discretion, such action shall be deemed expedient. No person may be required to render service as a petit juror for more than a total of eighteen (18) days in any one calendar year unless, when this time limit is reached, he or she is sitting upon a panel engaged in the consideration of a case, in which event he or she may be excused when such case is terminated; provided, that if the judge is of the opinion that the jury business of a term fixed by the court may be concluded within six (6) days, ~~he~~ the judge may require a petit jury, or a petit juror, to remain until the termination of ~~said~~ such jury service. Persons summoned for petit jury service

need not be required to serve during previously fixed days or weeks or a term fixed by the court for jury trials, but they may be recalled from time to time as the trial needs of the district court may require, without regard to the term fixed by the court for jury trials for which they were originally summoned.

SECTION 18. AMENDATORY 38 O.S. 2001, Section 22, is amended to read as follows:

Section 22. Said jurors, when impaneled, shall constitute a general panel for the two-week period, for service as jurors in all district, superior, common pleas and county court in ~~said the~~ the county, and shall be used interchangeably in all ~~of the said such~~ such courts. In the event of a deficiency of ~~said~~ jurors at any given time to meet the requirement of all of ~~said such~~ such courts, the presiding judge having control of ~~said the~~ the general panel for the two-week period shall ~~order~~ direct the district court clerk to request from the Administrative Director of the Courts such additional jurors ~~to be drawn from the wheel~~ as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. ~~Resort to the wheel shall be had in all cases to fill out the general panel, except where waived by the parties or their attorneys; provided that by written agreement entered into by all parties to any cause or suit, or the attorney of record in such suit or cause filed therein, the court may direct that an open venire be issued to the sheriff or other suitable person, for such number of jurors as may be deemed necessary, to be selected from the body of the county, or from such portion of the county as the court may order without resorting to the jury wheel; provided, that no person shall serve as talesman oftener than once a year.~~

SECTION 19. AMENDATORY 59 O.S. 2001, 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. After surrender, and upon filing of written notification of the 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 enters a plea, 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 20. AMENDATORY 59 O.S. 2001, Section 1332, is amended to read as follows:

Section 1332. A. If there is a breach of an undertaking, the court before which the cause is pending shall issue an arrest warrant for the defendant and declare the undertaking and any money, property, or securities that have been deposited as bail, forfeited on the day the defendant failed to appear. In the event of the forfeiture of a bail bond the clerk of the trial court shall, within thirty (30) days after the forfeiture, by mail with return receipt requested, mail a true and correct copy of the order and judgment of forfeiture to the bondsman, and if applicable, the insurer, whose risk it is, and keep at least one copy of the order and judgment of forfeiture on file; provided, the clerk shall not be required to mail the order and judgment of forfeiture to the bondsman or insurer if, within fifteen (15) days from the date of forfeiture, the defendant is returned to custody, the bond is reinstated by the court with the bondsman's approval, or the order of forfeiture is vacated or set aside by the court. Failure of the clerk of the trial court to comply with the thirty-day notice provision in this subsection shall exonerate the bond by operation of law. ~~The court clerk shall record the exoneration in the file.~~

B. The order and judgment of forfeiture shall be on forms prescribed by the Administrative Director of the Courts.

C. 1. The bail bondsman shall have ninety (90) days from receipt of the order and judgment of forfeiture from the court clerk or mailing of the notice if no receipt is made, to return the defendant to custody.

2. When the court record indicates that the defendant is returned to custody in the jurisdiction where forfeiture occurred, within the ninety-day period, the court clerk shall enter minutes vacating the forfeiture and exonerating the bond. If the defendant has been timely returned to custody, but this fact is not reflected

by the court record, the court shall vacate the forfeiture and exonerate the bond.

3. For the purposes of this section, return to custody shall mean:

- a. the return of the defendant to the appropriate Oklahoma law enforcement agency by the bondsman,
- b. an appearance of the defendant in open court in the court where charged,
- c. arrest or incarceration within this state of the defendant by law enforcement personnel, or
- d. arrest or incarceration of the defendant in any other jurisdiction provided, the bondsman has requested that a hold be placed on the defendant in the jurisdiction wherein the forfeiture lies, and has guaranteed reasonable travel expenses for the return of the defendant.

4. In addition to the provisions set forth in paragraphs 2 and 3 of this subsection, ~~the court may vacate the forfeiture and exonerate the bond~~ shall be exonerated by operation of law in any ~~felony~~ case in which:

- a. the bondsman has requested in writing of the sheriff's department in the county where the forfeiture occurred that the defendant be entered into the computerized records of the National Crime Information Center, and
- b. the request has not been honored within thirty (30) business days of the receipt of the written request by the department.

5. The court may, in its discretion, vacate the order of forfeiture and exonerate the bond where good cause has been shown for:

- a. the defendant's failure to appear, or

b. the bondsman's failure to return the defendant to custody within ninety (90) days.

D. 1. If, within ninety (90) days from receipt of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made, the defendant is not returned to custody, or the forfeiture has not been stayed, the bondsman and if applicable, the insurer whose risk it is, shall deposit cash or other valuable securities in the face amount of the bond with the court clerk ninety-one (91) days from receipt of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made; provided, this provision shall not apply if the defendant has been returned to custody within the ninety-day period and the court has failed to vacate the forfeiture pursuant to paragraphs 2 through 5 of subsection C of this section.

2. After the order and judgment has been paid, the bondsman and if applicable, the insurer, whose risk it is, may file a motion for remitter within one hundred eighty (180) days from receipt of the order and judgment of forfeiture, or mailing of the notice if no receipt is made, and upon the event the defendant is returned to custody within ninety (90) days after payment is due, and all expenses for the defendant's return have been paid by the bondsman, the bondsman's property shall be returned.

3. If the additional cash or securities are not deposited with the court clerk on or before the ninety-first day after the date of service of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made, then the court clerk shall notify the Insurance Commissioner by sending a certified copy of the order and judgment of forfeiture and proof that the bondsman and, if applicable, the insurer have been notified by mail with return receipt requested.

4. The Insurance Commissioner shall:

- a. in the case of a surety bondsman, immediately cancel the license privilege and authorization of the insurer to do business within the State of Oklahoma and cancel the appointment of all surety bondsman agents of the insurer who are licensed by Section 1301 et seq. of this title, and
- b. in the case of a professional bondsman, withdraw the face amount of the said forfeiture from the deposit provided in Section 1306 of this title. The Commissioner shall then immediately direct the professional bondsman, by mail with return receipt requested, to make additional deposits to bring the original deposit to the required level. Should the professional bondsman, after being notified, fail to make an additional deposit within ten (10) days from the receipt of notice, or mailing of notice if no receipt is made, the license shall be revoked and all sums presently on deposit shall be held by the Commissioner to secure the face amounts of bonds outstanding. Upon release of the bonds, any amount of deposit in excess of the bonds shall be returned to the bondsman; provided, the bail bondsman shall have had notice as required by the court, at the place of the bondsman's business, of the trial or hearing of the defendant named in the bond. The notice shall have been at least ten (10) days before the required appearance of the defendant, unless the appearance is scheduled at the time of execution of the bond. Notwithstanding the foregoing, the bondsman shall be deemed to have had notice of the trial or hearing if the defendant named in the bond shall have been

recognized back in open court to appear at a date certain for the trial or hearing.

5. If the actions of any bail bondsman force the Insurance Commissioner to withdraw monies, deposited pursuant to Section 1306 of this title, to pay past due executions more than two (2) times in a consecutive twelve-month period, then the license of the professional bondsman shall, in addition to other penalties, be suspended automatically for one (1) year or until a deposit equal to all outstanding forfeitures due is made. The deposit shall be maintained until the Commissioner deems it feasible to reduce the deposit. In no case shall an increased deposit exceed two (2) years unless there is a recurrence of withdrawals as stated herein.

E. 1. If the defendant's failure to appear was the result of the defendant's death or of being in the custody of a court other than the court in which the appearance was scheduled, forfeiture shall not lie. Upon proof to the court that the bondsman paid the order and judgment of forfeiture without knowledge that the defendant was deceased or in custody of another court on the day the defendant was due to appear, and all expenses for the defendant's return have been paid by the bondsman, the bondsman's property shall be returned.

2. Where the defendant is in the custody of another court, the district attorney or municipal attorney shall direct a hold order to the official, judge, court or law enforcement agent wherein the defendant is in custody; provided, that all expenses accrued as a result of returning the custody of the defendant shall be borne by the bondsman.

F. The district attorney or municipal attorney shall not receive any bonuses or other monies or property for or by reason of services or actions in connection with or collection of bond forfeitures under the provisions of Section 1301 et seq. of this title, except that the court may award a reasonable attorney fee in

favor of the prevailing party for legal services in any civil action or proceeding to collect upon a judgment of forfeiture.

G. The above procedures shall be subject to the bondsman's rights of appeal. The bondsman or insurer may appeal an order and judgment of forfeiture pursuant to the procedures for appeal set forth in Section 951 et seq. of Title 12 of the Oklahoma Statutes. To stay the execution of the order and judgment of forfeiture, the bondsman or insurer shall comply with the provisions set forth in Section 990.4 of Title 12 of the Oklahoma Statutes.

H. For municipal courts of record, the above procedures are criminal in nature and ancillary to the criminal procedures before the trial court and shall be subject to the bondsman's right of appeal. The bondsman or insurer may appeal an order and judgment of forfeiture by the municipal courts of record to the Court of Criminal Appeals.

I. Upon a motion to the court, any person executing a bail bond as principal or as surety shall be exonerated after three (3) years have elapsed from the posting of the bond, unless a judgment has been entered against the surety or the principal for the forfeiture of the bond, or unless the court grants an extension of the three-year time period for good cause shown, upon motion by the prosecuting attorney.

SECTION 21. REPEALER 38 O.S. 2001, Sections 24, 25, 26 and 27, are hereby repealed.

SECTION 22. This act shall become effective November 1, 2002.

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