

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 546

By: Henry

AS INTRODUCED

An Act relating to courts; amending 12 O.S. 1991, Section 158.1, as amended by Section 2, Chapter 310, O.S.L. 1998 (12 O.S. Supp. 2000, Section 158.1), which relates to private process servers; modifying fees; amending 20 O.S. 1991, Section 1315, as last amended by Section 5, Chapter 359, O.S.L. 1999 (20 O.S. Supp. 2000, Section 1315), which relates to Oklahoma Court Information System; describing when the Oklahoma Court Information System may be utilized; amending 22 O.S. 1991, Section 1224.2, which relates to criminal procedure; adding certain document to be filed; requiring district attorney to make certain application under certain circumstances; amending 28 O.S. 1991, Section 152.1, as last amended by Section 5, Chapter 38, O.S.L. 2000 (28 O.S. Supp. 2000, Section 152.1), which relates to civil actions; modifying certain services; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 1991, Section 158.1, as amended by Section 2, Chapter 310, O.S.L. 1998 (12 O.S. Supp. 2000, Section 158.1), is amended to read as follows:

Section 158.1 A. Service and return of process in civil cases may be by an authorized licensed private process server. The presiding judge of the judicial administrative district in which the county is located, or an associate district judge or district judge of the county as may be designated by the presiding judge, shall be authorized to issue a license to make service of process in civil cases to persons deemed qualified to do so.

B. Any person eighteen (18) years of age or older, of good moral character, and found ethically and mentally fit may obtain a license by filing an application therefor with the court clerk on a

verified form to be prescribed by the Administrative Office of the Courts.

C. The applicant filing for a license shall:

1. Pay a license fee of Thirty-five Dollars (\$35.00), and the regular docketing, posting, mailing, and filing fees prescribed by law. The license shall contain the name, address, a brief description of the licensee, and, at the discretion of the district court clerk, a recent photograph of the licensee. The license shall state that the licensee is an officer of the court only for the purpose of service of process and only within the county in which the license is issued. The license shall be carried by the licensee while on duty as a private process server. At the end of one (1) calendar year from the date of issuance of the initial license, the license shall be renewed for a period of one (1) year. The license shall be renewed each succeeding year. A fee of ~~Five Dollars (\$5.00)~~ Thirty-five Dollars (\$35.00) shall be charged for each license renewal. Upon an annual filing of a certified copy of a license issued pursuant to the provisions of this paragraph and payment of a filing fee of Ten Dollars (\$10.00) to the court clerk of any county within this state, a licensed process server may serve process in that county for the district court having jurisdiction for that county; or

2. Pay a license fee of One Hundred Fifty Dollars (\$150.00), and the regular docketing, posting, mailing, and filing fees prescribed by law. The license shall contain the name, address, a brief description of the licensee, and, at the discretion of the district court clerk, a recent photograph of the licensee. The license shall state that the licensee is an officer of the court only for the purpose of service of process. The authority of the licensee shall be statewide. The license shall be carried by the licensee while on duty as a private process server. At the end of one (1) calendar year from the date of issuance of the initial

license, the license shall be renewed for a period of three (3) years. The license shall be renewed each succeeding three (3) years. A fee of ~~Fifteen Dollars (\$15.00)~~ One Hundred Fifty Dollars (\$150.00) per renewal shall be charged for each license renewal.

All fees collected pursuant to this section shall be deposited in the court fund.

D. Upon the filing of an application for a license, the court clerk shall give five (5) days' notice of hearing by causing the notice to be posted in the courthouse. A copy of the notice shall be mailed to the district attorney, the sheriff, and the chief of police or marshal in the county seat and shall contain the name of the applicant and the time and place the presiding judge or the associate district judge or district judge designated by the presiding judge, will act upon the application.

E. If, at the time of consideration of the application or renewal, there are no protests and the applicant appears qualified, the application for the license shall be granted by the presiding judge or such associate district judge or district judge as is designated by the presiding judge and, upon executing bond running to the State of Oklahoma in the amount of Five Thousand Dollars (\$5,000.00) for faithful performance of his or her duties and filing the bond with the court clerk, the applicant shall be authorized and licensed to serve civil process statewide.

F. If any citizen of the county files a written protest setting forth objections to the licensing of the applicant, the district court clerk shall so advise the presiding judge or such associate district judge or district judge as is designated by the presiding judge, who shall set a later date for hearing of application and protest. The hearing shall be held within thirty (30) days and after notice to all persons known to be interested.

G. Proof of service of process shall be shown by affidavit as provided for by subsection G of Section 2004 of this title.

H. The district attorney of the county wherein a license authorized under this act has been issued may file a petition in the district court to revoke the license issued to any licensee, as authorized pursuant to the provisions of this section, alleging the violation by the licensee of any of the provisions of the law. After at least ten (10) days' notice by certified mail to the licensee, the chief or presiding judge, sitting without jury, shall hear the petition and enter an order thereon. If the license is revoked, the licensee shall not be permitted to reapply for a license for a period of five (5) years from the date of revocation. Notwithstanding any other provisions of this section, any licensee whose license has been revoked one time shall pay the sum of One Thousand Dollars (\$1,000.00) as a renewal fee. If a second revocation occurs, the chief or presiding judge shall not allow an applicant to renew the license.

I. The court clerk shall keep posted at all times in ~~his~~ the office the list of licensed private process servers. Any person in need of a process server's services may designate one from the names on the list, before presenting summons to the court clerk for issuance, without necessity for individual judicial appointment.

SECTION 2. AMENDATORY 20 O.S. 1991, Section 1315, as last amended by Section 5, Chapter 359, O.S.L. 1999 (20 O.S. Supp. 2000, Section 1315), is amended to read as follows:

Section 1315. A. 1. The Supreme Court, by and through the office of the Administrative Director of the Courts, shall establish a court information system to be designated the "Oklahoma Court Information System" for the purpose of providing data processing services to state agencies, boards, and commissions and other entities pursuant to contract. The Administrative Director of the Courts may assess a reasonable fee for such services.

2. Court clerks and judges of the district courts of this state shall utilize the case tracking, accounting, legal research, and

other services of the "Oklahoma Court Information System" at the direction of the Chief Justice of the Supreme Court. The development and implementation of the system's accounting, auditing, and financial reporting functions shall be subject to the approval of the State Auditor and Inspector.

B. There is hereby created in the State Treasury a revolving fund for the Supreme Court to be designated the "Oklahoma Court Information System Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received in payment of data processing services furnished pursuant to contract. The Administrative Director of the Courts, at the end of each month, shall issue a statement of charges to each entity for which data processing services were furnished. The cost for data processing services shall be recovered directly from the entity for which such services were furnished and shall not be prorated to or payable by those not receiving the services. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Supreme Court for the acquisition, operation, maintenance, repair, and replacement of data processing equipment and software. Expenditures from the 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 3. AMENDATORY 22 O.S. 1991, Section 1224.2, is amended to read as follows:

Section 1224.2 In the event the search warrant is executed, then the search warrant, affidavit for search warrant, return of search warrant, if separate, and transcript of oral testimony, if any, shall be filed with the clerk of the district court, and shall be indexed by the clerk in alphabetical order. Upon a criminal prosecution being filed, ~~said documents shall~~ the district attorney

shall make application for a court order that the documents be transferred and filed in ~~said~~ the case.

SECTION 4. AMENDATORY 28 O.S. 1991, Section 152.1, as last amended by Section 5, Chapter 38, O.S.L. 2000 (28 O.S. Supp. 2000, Section 152.1), is amended to read as follows:

Section 152.1 A. 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..... \$30.00
2. For the filing of any counterclaim or setoff pursuant to Section 1758 of Title 12 of the Oklahoma Statutes..... \$20.00
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 each writ, warrant, order, process, command, or notice for each person in one or more counties..... \$35.00
provided that if more than one person is served at the same address, one flat fee of Thirty-five Dollars (\$35.00) may be charged
6. For sheriff's fees on court-ordered sales of real or personal property..... \$75.00
7. When a jury is requested..... \$60.00
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 subsection A 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.

B. Of the amounts collected pursuant to the provisions of paragraphs 1, 2 and 7 of subsection A of this section, the sum of Ten Dollars (\$10.00) shall be deposited to the credit of the Child Abuse Multidisciplinary Account.

SECTION 5. This act shall become effective November 1, 2001.

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