

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 993

By: Smith

AS INTRODUCED

An Act relating to civil procedure; amending 12 O.S. 2001, Section 1190, which relates to garnishment costs and attorney fees; modifying language; clarifying who is entitled to recover costs; and declaring an emergency.

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

SECTION 1. AMENDATORY 12 O.S. 2001, Section 1190, is amended to read as follows:

Section 1190. A. A garnishee may deduct a fee of Ten Dollars (\$10.00) from the funds of the defendant in the garnishee's possession as reimbursement for costs incurred in answering. If the garnishee is not indebted to the defendant and the garnishee's answer evidencing that is filed and mailed or delivered to the judgment creditor or to the judgment creditor's attorney of record, the garnishee may assess the judgment creditor a fee of Ten Dollars (\$10.00) as reimbursement for such costs.

B. 1. In case of the trial of any issue between the judgment creditor and any garnishee, costs shall be awarded to the ~~plaintiff~~ judgment creditor and against the garnishee, in addition to the garnishee's liability, if the judgment creditor recovered more than the garnishee admitted by the garnishee's answer; and if the ~~garnishee judgment creditor~~ does not, the garnishee shall recover costs ~~of~~ from the judgment creditor. The costs shall include a reasonable attorney's fee to be taxed in favor of the prevailing party.

2. In the case of the trial to determine the amount to be recovered for due and owing child support, where any liability on the part of the garnishee is disclosed, costs shall be awarded to the judgment creditor and against the defendant, including a reasonable attorney's fee.

C. In all other cases under this article not expressly provided for, the court may, in its discretion, award costs in favor of or against any party.

D. In addition to sums otherwise due pursuant to a judgment, a judgment creditor, if represented by an attorney, shall be entitled to an attorney's fee of Fifty Dollars (\$50.00) for prosecuting a garnishment pursuant to subparagraphs b, c, and d of paragraph 2 of subsection B of Section 1171 of this title, and an attorney's fee of One Hundred Dollars (\$100.00) for prosecuting a garnishment pursuant to subparagraph e of paragraph 2 of subsection B of Section 1171 of this title, not to exceed a total of One Hundred Fifty Dollars (\$150.00) in any twelve-month period.

SECTION 2. 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.