CS for HB 1282

THE HOUSE OF REPRESENTATIVES
Monday, March 5, 2007

Committee Substitute for

House Bill No. 1282

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1282 - By: DUNCAN of the House and LERBLANCE of the Senate.

An Act relating to fees; amending 28 O.S. 2001, Sections 152, as last amended by Section 4, Chapter 192, O.S.L. 2005 and 153, as last amended by Section 18 of Enrolled House Bill No. 2195 of the 1st Session of the 51st Oklahoma Legislature (28 O.S. Supp. 2006, Section 152), which relate to court costs and fees; increasing amount of sum assessed and credited to the Oklahoma Court Information System Revolving Fund; and providing an effective date.

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

SECTION 1. AMENDATORY 28 O.S. 2001, Section 152, as last amended by Section 4, Chapter 192, O.S.L. 2005 (28 O.S. Supp. 2006, 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..... $140.00

2. Any ancillary proceeding to modify or vacate a divorce decree providing for custody or support $40.00

3. Probate and guardianship $132.00

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 for an amount of Ten Thousand Dollars ($10,000.00) or less and condemnation $147.00

10. Civil actions for an amount of Ten Thousand One Dollars ($10,001.00) or more $160.00

11. Garnishment $20.00

12. Continuing wage garnishment $60.00

13. Any other proceeding after judgment $30.00

14. 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

15. Notice of renewal of judgment $20.00

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B. In addition to the amounts collected pursuant to paragraphs 1, 3, 7, 8, 9, 10 and 14 of 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 subsections A and B of this section, the sum of ~~Ten Dollars ($10.00)~~ Twenty-five Dollars ($25.00) shall be assessed and credited to the Oklahoma Court Information System Revolving Fund created pursuant to Section 1315 of Title 20 of the Oklahoma Statutes.

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.

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.

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

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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, as last amended by Section 18 of Enrolled House Bill No. 2195 of the 1st Session of the 51st Oklahoma Legislature, 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 $77.00

2. For each defendant convicted of a misdemeanor traffic violation other than an offense provided for in

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paragraph 1 or 5 of this subsection, whether charged individually or conjointly with others $98.00

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 $93.00

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 $433.00

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 $433.00

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

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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 ..... $50.00, or mileage as established by the Oklahoma Statutes, whichever is greater, or

b. outside of the county ..... $50.00, 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 6 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. In addition to the amount collected pursuant to subsection A of this section, the sum of Ten Dollars ($10.00) shall be assessed and collected in every traffic case for each

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offense other than for driving under the influence of alcohol or other intoxicating substance; the sum of Fifteen Dollars ($15.00) shall be assessed and collected in every misdemeanor case for each offense; the sum of Fifteen Dollars ($15.00) shall be assessed and collected in every misdemeanor case for each offense for driving under the influence of alcohol or other intoxicating substance; the sum of Twenty-five Dollars ($25.00) shall be assessed and collected in every felony case for each offense; and the sum of Twenty-five Dollars ($25.00) shall be assessed and collected in every felony case for each offense for driving under the influence of alcohol or other intoxicating substance.

D. In addition to the amounts collected pursuant to subsections A and B of this section, the sum of ~~Ten Dollars ($10.00)~~ Twenty-five Dollars ($25.00) shall be assessed and credited to the Oklahoma Court Information System Revolving Fund created pursuant to Section 1315 of Title 20 of the Oklahoma Statutes.

E. In addition to the amount collected pursuant to paragraphs 1 through 6 of subsection A of this section, the sum of Ten Dollars ($10.00) shall be assessed and credited to the Sheriff's Service Fee Account in the county in which the conviction occurred for the purpose of enhancing existing or providing additional courthouse security.

F. 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.

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

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1. A court clerk issuing a misdemeanor warrant is entitled to ten percent (10%) of the sheriff's service fee, provided for in paragraph 9 of subsection A of this section, collected on a warrant referred to the contractor for the misdemeanor warrant notification program governed by Sections 514.4 and 514.5 of Title 19 of the Oklahoma Statutes. This ten-percent sum shall be deposited into the issuing Court Clerk's Revolving Fund, created pursuant to Section 220 of Title 19 of the Oklahoma Statutes, of the court clerk issuing the warrant with the balance of the sheriff's service fee to be deposited 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 in which service is made or attempted. Otherwise, the sheriff's service fee, when collected, shall be deposited in its entirety into the Sheriff's Service Fee Account 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;

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;

4. The fees provided for in subsection C of this section shall be forwarded to the District Attorneys Council Revolving Fund to defray the costs of prosecution; and

5. The following amounts of the fees provided for in paragraphs 2, 3, 5 and 6 of subsection A of this section, when collected, shall be deposited in the Trauma Care

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Assistance Revolving Fund, created pursuant to the provisions of Section 1-2530.9 of Title 63 of the Oklahoma Statutes:

a. Ten Dollars ($10.00) of the Ninety-eight-Dollar fee provided for in paragraph 2 of subsection A of this section,

b. Ten Dollars ($10.00) of the Ninety-three-Dollar fee provided for in paragraph 3 of subsection A of this section,

c. One Hundred Dollars ($100.00) of the Four-Hundred-Thirty-three-Dollar fee provided for in paragraph 5 of subsection A of this section, and

d. One Hundred Dollars ($100.00) of the Four-Hundred-Thirty-three-Dollar fee provided for in paragraph 6 of subsection A of this section.

H. 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.

I. 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.

J. A court clerk may accept in payment for any fee, fine, or cost for violation of any traffic law a nationally recognized credit card or debit card issued to the applicant. The court clerk shall publicly post and collect a fee for the acceptance of the nationally recognized credit or debit card. The court fee shall be set by the Supreme Court of

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Oklahoma each time a fee schedule is promulgated by the Supreme Court of Oklahoma, not to exceed five percent (5%) of the amount of the payment. Any other costs or maintenance fees accrued for accepting or using credit or debit cards may be paid from the court fund. 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. "Debit card" means an identification card or device issued to a person by a business organization which permits such person to obtain access to or activate a consumer banking electronic facility. 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.

K. 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 2. This act shall become effective November 1, 2007.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY, dated 03-01-07 - DO PASS, As Amended and Coauthored.

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