

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1550

By: McCullough

4  
5  
6 AS INTRODUCED

7 An Act relating to service of process fees; amending  
8 19 O.S. 2011, Sections 514 and 514.4, which relate to  
9 sheriff service and execution of process; providing  
10 for local law enforcement agency to serve and execute  
11 process within its jurisdiction; permitting law  
12 enforcement agency to enter into certain contracts;  
13 directing contract provisions to be administered by  
14 certain statewide group; amending 28 O.S. 2011,  
15 Sections 152.1, 153 and 162, which relate to court  
16 fees; directing certain fee be paid directly to local  
17 law enforcement agency; modifying service of process  
18 fee; directing fee be paid directly to local law  
19 enforcement agency in certain cases; and providing an  
20 effective date.

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

22 SECTION 1. AMENDATORY 19 O.S. 2011, Section 514, is  
23 amended to read as follows:

24 Section 514. The sheriff ~~in person, or by his~~ undersheriff or  
deputy, or other local law enforcement agency or officer within the  
jurisdiction of the law enforcement agency shall serve and execute,  
according to law, all process, writs, precepts and orders issued or

1 made by lawful authorities, ~~and to him directed,~~ and shall attend  
2 upon the several courts of record held in ~~his~~ the county.

3 SECTION 2. AMENDATORY 19 O.S. 2011, Section 514.4, is  
4 amended to read as follows:

5 Section 514.4 A. Notwithstanding any other section of law, the  
6 county sheriffs of any Oklahoma county or other local law  
7 enforcement agency may enter into a private contract, pursuant to  
8 Section 85.41 of Title 74 of the Oklahoma Statutes. Such contract  
9 shall require the contractor to attempt to locate and notify persons  
10 of their outstanding misdemeanor or failure-to-pay warrants.

11 B. A person may make payment directly to the court, as allowed  
12 by law, or the contractor shall be authorized to accept payment on  
13 misdemeanor or failure-to-pay warrants by various means including,  
14 but not limited to, payment by phone, mail, or Internet, and in any  
15 payment form including, but not limited to, personal, cashier's,  
16 traveler's, certified, or guaranteed bank check, postal or  
17 commercial money order, nationally recognized credit or a debit  
18 card, or other generally accepted payment form. Any payment  
19 collected and received by the contractor shall be paid within  
20 fifteen (15) days to the court clerk of the entity that issued the  
21 outstanding misdemeanor or failure-to-pay warrant.

22 C. As provided for by this section, a person may pay in lieu of  
23 appearance before the court and such payment accepted by the court  
24 shall constitute a finding of guilty as though a plea of nolo

1 | contendere had been entered by the defendant as allowed by law and  
2 | shall function as a written, dated, and signed plea form acceptable  
3 | to the court. Such payment shall serve as a written waiver of a  
4 | jury trial.

5 | D. The court shall release the outstanding misdemeanor or  
6 | failure-to-pay warrant upon receipt of all sums due pursuant to said  
7 | warrant including the misdemeanor or failure-to-pay warrant,  
8 | scheduled fine or sum due, all associated fees, costs and statutory  
9 | penalty assessments, and the administrative cost pursuant to Section  
10 | 514.5 of this title.

11 | E. The provisions of any contract entered into by a county  
12 | sheriff shall be administered by a statewide association of county  
13 | sheriffs in Oklahoma. The county sheriff of any Oklahoma county may  
14 | assign their right to contract to the statewide association  
15 | administering the provisions of this contract. The provisions of  
16 | any contract entered into by a local law enforcement agency shall be  
17 | administered by a statewide association of chiefs of police in  
18 | Oklahoma.

19 | F. The provisions of this section and Section 514.5 of this  
20 | title shall be applicable to:

- 21 | 1. Any misdemeanor or failure-to-pay warrant issued or relating  
22 | to any proceeding pursuant to the State and Municipal Traffic Bail  
23 | Bond Procedure Act;

24 |

1        2. Any misdemeanor or failure-to-pay warrant issued that allows  
2 a defendant to resolve the matter by payment in lieu of a personal  
3 appearance in court; and

4        3. Any failure-to-pay warrant issued in a criminal case.

5        SECTION 3.        AMENDATORY        28 O.S. 2011, Section 152.1, is  
6 amended to read as follows:

7        Section 152.1 A. In civil cases, the court clerk shall collect  
8 and deposit in the court fund the following charges in addition to  
9 the flat fee:

- 10        1. For posting notices and filing  
11                certificates required by statute.....\$30.00
- 12        2. For the filing of any counterclaim or  
13                setoff pursuant to Section 1758 of  
14                Title 12 of the Oklahoma Statutes.....\$20.00
- 15        3. For mailing by any type of mail writs,  
16                warrants, orders, process, command, or  
17                notice for each person.....\$10.00
- 18        4. For the actual cost of all postage in  
19                each case in excess of .....\$10.00
- 20        5. For serving or endeavoring to serve each  
21                writ, warrant, order, process,  
22                command, or notice for each person in  
23                one or more counties.....\$50.00

24

1 provided that if more than one person is  
2 served at the same address, one flat  
3 fee of Fifty Dollars (\$50.00) may be  
4 charged

- 5 6. For sheriff's fees on court-ordered  
6 sales of real or personal property.....\$75.00
- 7 7. When a jury is requested.....\$349.00
- 8 8. For issuing each summons for each person.....\$ 5.00
- 9 9. For services of a court reporter at each  
10 trial held in the case.....\$20.00
- 11 10. For filing a motion for summary  
12 judgment or summary disposition of  
13 issue(s).....\$50.00

14 The fees prescribed in paragraphs 5 and 6 of this subsection  
15 shall be paid by the court clerk into the Sheriff's Service Fee  
16 Account, created pursuant to the provisions of Section 514.1 of  
17 Title 19 of the Oklahoma Statutes, of the sheriff in the county  
18 where service is made or attempted or where the sheriff's sale  
19 occurs, except when the local law enforcement agency makes or  
20 attempts service as provided by Section 514 of Title 19 of the  
21 Oklahoma Statutes. If the local law enforcement agency makes or  
22 attempts service within its jurisdiction, the fees prescribed in  
23 paragraph 5 of this subsection shall be paid by the court clerk  
24 directly to the local law enforcement agency. All other fees shall

1 be deposited into the local court fund in the county where  
2 collected.

3 B. The fee prescribed in paragraph 7 of subsection A of this  
4 section shall be paid at the time of the pretrial conference by the  
5 party requesting a jury.

6 SECTION 4. AMENDATORY 28 O.S. 2011, Section 153, is  
7 amended to read as follows:

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

- 16 1. For each defendant convicted of  
17 exceeding the speed limit by at least  
18 one (1) mile per hour but not more  
19 than ten (10) miles per hour, whether  
20 charged individually or conjointly  
21 with others.....\$77.00
- 22 2. For each defendant convicted of a  
23 misdemeanor traffic violation other  
24 than an offense provided for in

- 1 paragraph 1 or 5 of this subsection,  
2 whether charged individually or  
3 conjointly with others.....\$98.00
- 4 3. For each defendant convicted of a  
5 misdemeanor, other than for driving  
6 under the influence of alcohol or  
7 other intoxicating substance or an  
8 offense provided for in paragraph 1 or  
9 2 of this subsection, whether charged  
10 individually or conjointly with others.....\$93.00
- 11 4. For each defendant convicted of a  
12 felony, other than for driving under  
13 the influence of alcohol or other  
14 intoxicating substance, whether  
15 charged individually or conjointly  
16 with others.....\$103.00
- 17 5. For each defendant convicted of the  
18 misdemeanor of driving under the  
19 influence of alcohol or other  
20 intoxicating substance, whether charged  
21 individually or conjointly with others..... \$433.00
- 22 6. For each defendant convicted of the  
23 felony of driving under the influence  
24 of alcohol or other intoxicating

1 substance, whether charged

2 individually or conjointly with others.....\$433.00

3 7. For the services of a court reporter at

4 each preliminary hearing and trial

5 held in the case.....\$20.00

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

7 9. A ~~sheriff's~~ fee to be paid to the

8 sheriff or local law enforcement

9 agency for serving or endeavoring to

10 serve each writ, warrant, order,

11 process, command, or notice or

12 pursuing any fugitive from justice

13 a. within the county or

14 jurisdiction of the local law

15 enforcement agency..... \$50.00, or

16 mileage as

17 established by the

18 Oklahoma Statutes,

19 whichever is

20 greater, or

21 b. outside of the county..... \$50.00, or

22 actual, necessary

23 expenses, whichever

24 is greater

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

5        B. In addition to the amount collected pursuant to paragraphs 2  
6 through 6 of subsection A of this section, the sum of Six Dollars  
7 (\$6.00) shall be assessed and credited to the Law Library Fund  
8 pursuant to Section 1201 et seq. of Title 20 of the Oklahoma  
9 Statutes.

10        C. In addition to the amount collected pursuant to subsection A  
11 of this section, the sum of Ten Dollars (\$10.00) shall be assessed  
12 and collected in every traffic case for each offense other than for  
13 driving under the influence of alcohol or other intoxicating  
14 substance; the sum of Fifteen Dollars (\$15.00) shall be assessed and  
15 collected in every misdemeanor case for each offense; the sum of  
16 Fifteen Dollars (\$15.00) shall be assessed and collected in every  
17 misdemeanor case for each offense for driving under the influence of  
18 alcohol or other intoxicating substance; the sum of Twenty-five  
19 Dollars (\$25.00) shall be assessed and collected in every felony  
20 case for each offense; and the sum of Twenty-five Dollars (\$25.00)  
21 shall be assessed and collected in every felony case for each  
22 offense for driving under the influence of alcohol or other  
23 intoxicating substance.

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

6 E. In addition to the amount collected pursuant to paragraphs 1  
7 through 6 of subsection A of this section, the sum of Ten Dollars  
8 (\$10.00) shall be assessed and credited to the Sheriff's Service Fee  
9 Account in the county in which the conviction occurred for the  
10 purpose of enhancing existing or providing additional courthouse  
11 security.

12 F. In addition to the amounts collected pursuant to paragraphs  
13 1 through 6 of subsection A of this section, the sum of Three  
14 Dollars (\$3.00) shall be assessed and credited to the Office of the  
15 Attorney General Victim Services Unit.

16 G. In addition to the amounts collected pursuant to paragraphs  
17 1 through 6 of subsection A of this section, the sum of Three  
18 Dollars (\$3.00) shall be assessed and credited to the Child Abuse  
19 Multidisciplinary Account. This fee shall not be used for purposes  
20 of hiring or employing any law enforcement officers.

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

1 I. The amounts to be assessed as court costs upon filing of a  
2 case shall be those amounts above-stated in paragraph 3 or 4 of  
3 subsection A and subsection B, C, D and E of this section.

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

6 1. A court clerk issuing a misdemeanor warrant is entitled to  
7 ten percent (10%) of the ~~sheriff's service~~ fee, provided for in  
8 paragraph 9 of subsection A of this section, collected on a warrant  
9 referred to the contractor for the misdemeanor warrant notification  
10 program governed by Sections 514.4 and 514.5 of Title 19 of the  
11 Oklahoma Statutes. This ten-percent sum shall be deposited into the  
12 issuing Court Clerk's Revolving Fund, created pursuant to Section  
13 220 of Title 19 of the Oklahoma Statutes, of the court clerk issuing  
14 the warrant with the balance of the ~~sheriff's service~~ fee to be  
15 deposited into the Sheriff's Service Fee Account, created pursuant  
16 to the provisions of Section 514.1 of Title 19 of the Oklahoma  
17 Statutes, of the sheriff in the county in which service is made or  
18 attempted, or to be paid by the court clerk directly to the local  
19 law enforcement agency if the local law enforcement agency makes or  
20 attempts service within its jurisdiction. Otherwise, the ~~sheriff's~~  
21 ~~service~~ fee, when collected, shall be deposited in its entirety into  
22 the Sheriff's Service Fee Account of the sheriff in the county in  
23 which service is made or attempted, or shall be paid in its entirety  
24 directly to the local law enforcement agency if the local law

1 enforcement agency makes or attempts service within its  
2 jurisdiction;

3 2. The sheriff's fee provided for in Section 153.2 of this  
4 title;

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

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

14 5. The following amounts of the fees provided for in paragraphs  
15 2, 3, 5 and 6 of subsection A of this section, when collected, shall  
16 be deposited in the Trauma Care Assistance Revolving Fund, created  
17 pursuant to the provisions of Section 1-2530.9 of Title 63 of the  
18 Oklahoma Statutes:

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

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

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

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

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

12           L.    As used in this section, "convicted" means any final  
13 adjudication of guilt, whether pursuant to a plea of guilty or nolo  
14 contendere or otherwise, and any deferred judgment or suspended  
15 sentence.

16           M.    A court clerk may accept in payment for any fee, fine,  
17 forfeiture payment, cost, penalty assessment or other charge or  
18 collection to be assessed or collected by a court clerk pursuant to  
19 this section a nationally recognized credit card or debit card or  
20 other electronic payment method as provided in paragraph 1 of  
21 subsection B of Section 151 of this title.

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

1 SECTION 5. AMENDATORY 28 O.S. 2011, Section 162, is  
2 amended to read as follows:

3 Section 162. A. The clerks of the courts shall collect as  
4 costs in every juvenile delinquency, child in need of supervision,  
5 or deprived case in which the juvenile is adjudicated, irrespective  
6 of whether or not the sentence is deferred, or minor in need of  
7 treatment case pursuant to the Inpatient Mental Health and Substance  
8 Abuse Treatment of Minors Act, Section 5-501 et seq. of Title 43A of  
9 the Oklahoma Statutes, irrespective of whether the child is  
10 committed for inpatient mental health or substance abuse treatment,  
11 or in every such case in which a petition is filed at the demand of  
12 the parents of a juvenile and said petition is subsequently  
13 dismissed prior to adjudication at said parents' request, the  
14 following flat charge and no more, except for the charges provided  
15 for in this section, which fee shall cover docketing of the case,  
16 filing of all papers, issuance of process, warrants and orders, and  
17 other services to date of judgment:

- 18 For each case where one or more  
19 juveniles are adjudicated deprived.....\$50.00
- 20 For each juvenile who is certified to  
21 stand trial as an adult.....\$75.00
- 22 In each juvenile case wherein parental  
23 rights are terminated.....\$50.00
- 24 For each juvenile adjudicated in need

1 of supervision.....\$50.00  
 2 For each child found to be a minor  
 3 in need of treatment.....\$50.00  
 4 For each juvenile adjudicated for an  
 5 offense which would be a misdemeanor  
 6 if committed by an adult, including  
 7 violation of any traffic law, whether  
 8 charged individually or conjointly with others.....\$50.00  
 9 For each juvenile adjudicated for an  
 10 offense which would be a felony if  
 11 committed by an adult, whether charged  
 12 individually or conjointly with others.....\$75.00  
 13 For the services of a court reporter at  
 14 each trial held in the case.....\$20.00  
 15 When a jury is requested.....\$30.00  
 16 A ~~sheriff's~~ fee for serving or  
 17 endeavoring to serve all writs,  
 18 warrants, orders, process, commands,  
 19 or notices or pursuing any fugitive  
 20 from justice.....\$20.00 or mileage  
 21 as established by  
 22 Oklahoma Statutes,  
 23 whichever is  
 24 greater.

1 B. In addition to the amount collected pursuant to subsection A  
2 of this section, the sum of Fifteen Dollars (\$15.00) shall be  
3 assessed and collected for each juvenile case. The fees collected  
4 shall be forwarded to the District Attorneys Revolving Fund to  
5 defray the costs of prosecution.

6 C. Costs assessed pursuant to subsections A and B of this  
7 section shall be levied against the juvenile, the parent, or both,  
8 but shall not be levied against the legal guardian or any state or  
9 private agency having custody of any juvenile subject to such  
10 proceedings.

11 D. Prior to adjudication, parties in juvenile delinquency,  
12 child in need of supervision, minor in need of treatment, and  
13 deprived cases shall not be required to pay, advance, or post  
14 security for the issuance or service of process to obtain compulsory  
15 attendance of witnesses. These fees shall be deposited into the  
16 court fund, except the ~~sheriff's~~ fee for service or endeavoring to  
17 serve, when collected, shall be transferred to the general fund of  
18 the county in which service is made or attempted to be made by the  
19 county sheriff, or the general fund of the local law enforcement  
20 agency if the local law enforcement agency makes or attempts service  
21 within its jurisdiction.

22 E. The clerk of the district court shall charge the sum of One  
23 Hundred Dollars (\$100.00) for preparing, assembling, indexing, and  
24 transmitting the record for appellate review. This fee shall be

1 paid by the party taking the appeal and shall be entered as costs in  
2 the action. If more than one party to the action shall prosecute an  
3 appeal from the same judgment or order, the fee shall be paid by the  
4 party whose petition in error is determined by the district court or  
5 by the appellate court to commence the principal appeal. The fees  
6 collected hereunder shall be paid into the court fund.

7 F. Fees and costs collected in juvenile cases may be withdrawn  
8 from the court fund and used for operations of the juvenile bureaus,  
9 in counties wherein a statutory juvenile bureau is in operation,  
10 upon approval by the Chief Justice of the Oklahoma Supreme Court.

11 G. In those seventy-four counties in which court services are  
12 provided by contract between the Oklahoma Supreme Court and the  
13 Department of Human Services, funds received from court costs in  
14 juvenile cases may be withdrawn from the court fund and paid to the  
15 Department of Human Services upon approval by the Chief Justice of  
16 the Oklahoma Supreme Court. Said funds are to be expended by the  
17 Department of Human Services to supplement community-based programs,  
18 such as youth services programs, day treatment programs and group  
19 home services. Specific annual training of Department workers in  
20 community-based services providing the above court-related services  
21 is also to be included for expenditure of funds received from court  
22 costs in juvenile cases by the Department of Human Services.

23 H. In those seventy-four counties in which court services are  
24 provided by contract between the Oklahoma Supreme Court and the

1 Office of Juvenile Affairs, funds received from court costs or  
2 orders for care and maintenance in juvenile cases may be withdrawn  
3 from the court fund and paid to the Office of Juvenile Affairs upon  
4 approval by the Chief Justice of the Oklahoma Supreme Court. Said  
5 funds are to be expended by the Office of Juvenile Affairs to  
6 provide care and maintenance and to supplement community-based  
7 programs, such as alternative education, juvenile offender community  
8 and victim restitution work programs, community sanction programs,  
9 youth services programs, day treatment programs, group home  
10 services, and detention services. Specific annual training of  
11 agency workers in community-based services providing the above  
12 court-related services is also to be included for expenditure of  
13 funds received from court costs in juvenile cases by the Office of  
14 Juvenile Affairs.

15 SECTION 6. This act shall become effective November 1, 2013.

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