

**OKLAHOMA STATE SENATE
JOINT
COMMITTEE REPORT**

May 17, 2016

JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET

SB 1610

By: Jolley and Treat of the Senate and Sears and Casey of the House

Title: Fees; modifying fees assessed in certain criminal and juvenile cases. Effective date. Emergency.

Recommendation: **DO PASS**

Aye: Barrington, Boggs, Brecheen, Brooks, Brown, Crain, Fields, Ford, Fry, Halligan, Holt, Justice, Mazzei, Newberry, Paddack, Quinn, Sharp, Shortey, Simpson, Stanislawski, Sykes, Thompson, Yen, Treat, Jolley

Nay: Bass, Dahm, David, Dossett, Floyd, Griffin, Loveless, Matthews, Pittman, Silk, Smalley, Sparks, Wyrick

Pass:

Senator Clark Jolley, Chair

OKLAHOMA HOUSE OF REPRESENTATIVES
COMMITTEE REPORT

JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET

SB1610

By: Sears et al of the House

Jolley et al of the Senate

Title: Fees; modifying fees assessed in certain criminal and juvenile cases. Effective date. Emergency.

Coauthored By:

Recommendation: **DO PASS**

Amendments:

 Chr.
Representative Earl Sears

YEAS: 16

Bennett, Casey, Coody (A), Cox, Johnson, Martin, McCullough, McDaniel (R), Nelson, Ortega, Osborn, Ownbey, Russ, Sanders, Sears, Wright

NAYS: 9

Brown, Hoskin, Inman, McDaniel (J), McPeak, Morrisette, Peterson, Rousselot, Sherrer

CONSTITUTIONAL PRIVILEGE: 0

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 1610

By: Jolley and Treat of the
Senate

and

Sears and Casey of the
House

AS INTRODUCED

An Act relating to fees; amending 28 O.S. 2011, Sections 153, as amended by Section 4 of Enrolled House Bill No. 3146 of the 2nd Session of the 55th Oklahoma Legislature, and 162, which relate to costs in criminal cases and juvenile proceedings; modifying fees assessed in certain criminal and juvenile cases; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 28 O.S. 2011, Section 153, as amended by Section 4 of Enrolled House Bill No. 3146 of the 2nd Session of the 55th 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

1 standing and parking violations and for charges otherwise provided
2 for by law, which fee shall cover docketing of the case, filing of
3 all papers, issuance of process, warrants, orders, and other
4 services to the date of judgment:

5 1. For each defendant convicted of
6 exceeding the speed limit by at least
7 one (1) mile per hour but not more than
8 ten (10) miles per hour, whether charged
9 individually or conjointly with others\$77.00

10 2. For each defendant convicted of a
11 misdemeanor traffic violation other than
12 an offense provided for in paragraph 1
13 or 5 of this subsection, whether charged
14 individually or conjointly with others\$98.00

15 3. For each defendant convicted of a
16 misdemeanor, other than for driving
17 under the influence of alcohol or other
18 intoxicating substance or an offense
19 provided for in paragraph 1 or 2 of this
20 subsection, whether charged individually
21 or conjointly with others\$93.00

22 4. For each defendant convicted of a
23 felony, other than for driving under the
24 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

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)~~ Twenty Dollars (\$20.00) shall be assessed and collected in every traffic case for each offense other than for driving under the influence of alcohol or other intoxicating substance; the sum of ~~Fifteen Dollars (\$15.00)~~ Thirty Dollars (\$30.00) shall be assessed and collected in every misdemeanor case for each offense; the sum of ~~Fifteen Dollars (\$15.00)~~ Thirty Dollars (\$30.00) shall be assessed and collected in every misdemeanor case for each offense for driving under the

1 influence of alcohol or other intoxicating substance; the sum of
2 ~~Twenty-five Dollars (\$25.00)~~ Fifty Dollars (\$50.00) shall be
3 assessed and collected in every felony case for each offense; and
4 the sum of ~~Twenty-five Dollars (\$25.00)~~ Fifty Dollars (\$50.00) shall
5 be assessed and collected in every felony case for each offense for
6 driving under the influence of alcohol or other intoxicating
7 substance.

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

13 E. In addition to the amount collected pursuant to paragraphs 1
14 through 6 of subsection A of this section, the sum of Ten Dollars
15 (\$10.00) shall be assessed and credited to the Sheriff's Service Fee
16 Account in the county in which the conviction occurred for the
17 purpose of enhancing existing or providing additional courthouse
18 security.

19 F. In addition to the amounts collected pursuant to paragraphs
20 1 through 6 of subsection A of this section, the sum of Three
21 Dollars (\$3.00) shall be assessed and credited to the Office of the
22 Attorney General Victim Services Unit.

23 G. In addition to the amounts collected pursuant to paragraphs
24 1 through 6 of subsection A of this section, the sum of Three

1 Dollars (\$3.00) shall be assessed and credited to the Child Abuse
2 Multidisciplinary Account. This fee shall not be used for purposes
3 of hiring or employing any law enforcement officers.

4 H. In addition to the amount collected pursuant to paragraphs 5
5 and 6 of subsection A of this section, the sum of Fifteen Dollars
6 (\$15.00) shall be assessed in every misdemeanor or felony case for
7 each offense of driving under the influence of alcohol or other
8 intoxicating substance and credited to the Oklahoma Impaired Driver
9 Database Revolving Fund created pursuant to Section 8 of ~~this act~~
10 Enrolled House Bill No. 3146 of the 2nd Session of the 55th Oklahoma
11 Legislature.

12 I. Prior to conviction, parties in criminal cases shall not be
13 required to pay, advance, or post security for the services of a
14 language interpreter or for the issuance or service of process to
15 obtain compulsory attendance of witnesses.

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

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

21 1. A court clerk issuing a misdemeanor warrant is entitled to
22 ten percent (10%) of the sheriff's service fee, provided for in
23 paragraph 9 of subsection A of this section, collected on a warrant
24 referred to the contractor for the misdemeanor warrant notification

1 program governed by Sections 514.4 and 514.5 of Title 19 of the
2 Oklahoma Statutes. This ten-percent sum shall be deposited into the
3 issuing Court Clerk's Revolving Fund, created pursuant to Section
4 220 of Title 19 of the Oklahoma Statutes, of the court clerk issuing
5 the warrant with the balance of the sheriff's service fee to be
6 deposited into the Sheriff's Service Fee Account, created pursuant
7 to the provisions of Section 514.1 of Title 19 of the Oklahoma
8 Statutes, of the sheriff in the county in which service is made or
9 attempted. Otherwise, the sheriff's service fee, when collected,
10 shall be deposited in its entirety into the Sheriff's Service Fee
11 Account of the sheriff in the county in which service is made or
12 attempted;

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

15 3. The witness fees paid by the district attorney pursuant to
16 the provisions of Section 82 of this title which, if collected by
17 the court clerk, shall be transferred to the district attorney's
18 office in the county where witness attendance was required. Fees
19 transferred pursuant to this paragraph shall be deposited in the
20 district attorney's maintenance and operating expense account;

21 4. The fees provided for in subsection C of this section shall
22 be forwarded to the District Attorneys Council Revolving Fund to
23 defray the costs of prosecution; and
24

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

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

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

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

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

18 L. Costs required to be collected pursuant to this section
19 shall not be dismissed or waived; provided, if the court determines
20 that a person needing the services of a language interpreter is
21 indigent, the court may waive all or part of the costs or require
22 the payment of costs in installments.

23 M. As used in this section, "convicted" means any final
24 adjudication of guilt, whether pursuant to a plea of guilty or nolo

1 | contendere or otherwise, and any deferred judgment or suspended
2 | sentence.

3 | N. A court clerk may accept in payment for any fee, fine,
4 | forfeiture payment, cost, penalty assessment or other charge or
5 | collection to be assessed or collected by a court clerk pursuant to
6 | this section a nationally recognized credit card or debit card or
7 | other electronic payment method as provided in paragraph 1 of
8 | subsection B of Section 151 of this title.

9 | O. Upon receipt of payment of fines and costs for offenses
10 | charged prior to July 1, 1992, the court clerk shall apportion and
11 | pay Thirteen Dollars (\$13.00) per conviction to the court fund.

12 | SECTION 2. AMENDATORY 28 O.S. 2011, Section 162, is
13 | amended to read as follows:

14 | Section 162. A. The clerks of the courts shall collect as
15 | costs in every juvenile delinquency, child in need of supervision,
16 | or deprived case in which the juvenile is adjudicated, irrespective
17 | of whether or not the sentence is deferred, or minor in need of
18 | treatment case pursuant to the Inpatient Mental Health and Substance
19 | Abuse Treatment of Minors Act, Section 5-501 et seq. of Title 43A of
20 | the Oklahoma Statutes, irrespective of whether the child is
21 | committed for inpatient mental health or substance abuse treatment,
22 | or in every such case in which a petition is filed at the demand of
23 | the parents of a juvenile and said petition is subsequently
24 | dismissed prior to adjudication at said parents' request, the

1 following flat charge and no more, except for the charges provided
2 for in this section, which fee shall cover docketing of the case,
3 filing of all papers, issuance of process, warrants and orders, and
4 other services to date of judgment:
5 For each case where one or more juveniles
6 are adjudicated deprived.....\$50.00
7 For each juvenile who is certified to stand
8 trial as an adult.....\$75.00
9 In each juvenile case wherein parental
10 rights are terminated.....\$50.00
11 For each juvenile adjudicated in need of
12 supervision.....\$50.00
13 For each child found to be a minor in need
14 of treatment.....\$50.00
15 For each juvenile adjudicated for an
16 offense which would be a misdemeanor if
17 committed by an adult, including
18 violation of any traffic law, whether
19 charged individually or conjointly with
20 others.....\$50.00
21 For each juvenile adjudicated for an
22 offense which would be a felony if
23 committed by an adult, whether charged
24 individually or conjointly with others.....\$75.00

1 For the services of a court reporter at
2 each trial held in the case.....\$20.00
3 When a jury is requested.....\$30.00
4 A sheriff's fee for serving or endeavoring
5 to serve all writs, warrants, orders,
6 process, commands, or notices or pursuing
7 any fugitive from justice.....\$20.00 or
8 mileage as established
9 by Oklahoma Statutes,
10 whichever is greater.
11 B. In addition to the amount collected pursuant to subsection A
12 of this section, the sum of ~~Fifteen Dollars (\$15.00)~~ Thirty Dollars
13 (\$30.00) shall be assessed and collected for each juvenile case.
14 The fees collected shall be forwarded to the District Attorneys
15 Revolving Fund to defray the costs of prosecution.
16 C. Costs assessed pursuant to subsections A and B of this
17 section shall be levied against the juvenile, the parent, or both,
18 but shall not be levied against the legal guardian or any state or
19 private agency having custody of any juvenile subject to such
20 proceedings.
21 D. Prior to adjudication, parties in juvenile delinquency,
22 child in need of supervision, minor in need of treatment, and
23 deprived cases shall not be required to pay, advance, or post
24 security for the issuance or service of process to obtain compulsory

1 attendance of witnesses. These fees shall be deposited into the
2 court fund, except the sheriff's fee, when collected, shall be
3 transferred to the general fund of the county in which service is
4 made or attempted to be made.

5 E. The clerk of the district court shall charge the sum of One
6 Hundred Dollars (\$100.00) for preparing, assembling, indexing, and
7 transmitting the record for appellate review. This fee shall be
8 paid by the party taking the appeal and shall be entered as costs in
9 the action. If more than one party to the action shall prosecute an
10 appeal from the same judgment or order, the fee shall be paid by the
11 party whose petition in error is determined by the district court or
12 by the appellate court to commence the principal appeal. The fees
13 collected hereunder shall be paid into the court fund.

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

18 G. In those seventy-four counties in which court services are
19 provided by contract between the Oklahoma Supreme Court and the
20 Department of Human Services, funds received from court costs in
21 juvenile cases may be withdrawn from the court fund and paid to the
22 Department of Human Services upon approval by the Chief Justice of
23 the Oklahoma Supreme Court. Said funds are to be expended by the
24 Department of Human Services to supplement community-based programs,

1 such as youth services programs, day treatment programs and group
2 home services. Specific annual training of Department workers in
3 community-based services providing the above court-related services
4 is also to be included for expenditure of funds received from court
5 costs in juvenile cases by the Department of Human Services.

6 H. In those seventy-four counties in which court services are
7 provided by contract between the Oklahoma Supreme Court and the
8 Office of Juvenile Affairs, funds received from court costs or
9 orders for care and maintenance in juvenile cases may be withdrawn
10 from the court fund and paid to the Office of Juvenile Affairs upon
11 approval by the Chief Justice of the Oklahoma Supreme Court. Said
12 funds are to be expended by the Office of Juvenile Affairs to
13 provide care and maintenance and to supplement community-based
14 programs, such as alternative education, juvenile offender community
15 and victim restitution work programs, community sanction programs,
16 youth services programs, day treatment programs, group home
17 services, and detention services. Specific annual training of
18 agency workers in community-based services providing the above
19 court-related services is also to be included for expenditure of
20 funds received from court costs in juvenile cases by the Office of
21 Juvenile Affairs.

22 SECTION 3. This act shall become effective July 1, 2016.

23 SECTION 4. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

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declared to exist, by reason whereof this act shall take effect and
be in full force from and after its passage and approval.

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