

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 1091

By: Osburn

AS INTRODUCED

An Act relating to fees; amending 28 O.S. 2011, Section 152, as last amended by Section 3, Chapter 362, O.S.L. 2016 (28 O.S. Supp. 2018, Section 152), which relates to court fees; providing for certain additional assessment; providing for crediting of the assessment to certain fund; creating the Court Clerk's Records Management and Preservation Fund; making funds nonfiscal; stating source of revenue; prohibiting transfer to other funds; stating purpose; requiring compilation of monthly report on collections and expenditures; providing for codification; 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 152, as last amended by Section 3, Chapter 362, O.S.L. 2016 (28 O.S. Supp. 2018, 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	1. Actions for divorce, alimony without	
2	divorce, separate maintenance, custody or	
3	support.....	\$183.00
4	2. Any ancillary proceeding to modify or	
5	vacate a divorce decree providing for	
6	custody or support.....	\$43.00
7	3. Probate and guardianship.....	\$135.00
8	4. Annual guardianship report.....	\$33.00
9	5. Any proceeding for sale or lease of real or	
10	personal property or mineral interest in	
11	probate or guardianship.....	\$43.00
12	6. Any proceeding to revoke the probate of a	
13	will.....	\$43.00
14	7. Judicial determination of death.....	\$58.00
15	8. Adoption.....	\$105.00
16	9. Civil actions for an amount of Ten Thousand	
17	Dollars (\$10,000.00) or less and	
18	condemnation.....	\$150.00
19	10. Civil actions for an amount of Ten	
20	Thousand One Dollars (\$10,001.00) or more.....	\$163.00
21	11. Garnishment.....	\$23.00
22	12. Continuing wage garnishment.....	\$63.00
23	13. Any other proceeding after judgment.....	\$33.00
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- 1       14. All others, including but not limited to  
2           actions for forcible entry and detainer,  
3           judgments from all other courts, including  
4           the Workers' Compensation Court.....\$85.00  
5       15. Notice of renewal of judgment.....\$23.00

6       B. In addition to the amounts collected pursuant to paragraphs  
7 1, 3, 7, 8, 9, 10 and 14 of subsection A of this section, the sum of  
8 Six Dollars (\$6.00) shall be assessed and credited to the Law  
9 Library Fund.

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

15      D. In addition to the amounts collected pursuant to subsection  
16 A of this section, the sum of Five Dollars (\$5.00) shall be assessed  
17 and credited to the Oklahoma court-appointed special advocates  
18 (OCASA).

19      E. In addition to the amounts collected pursuant to subsection  
20 A of this section, the sum of Two Dollars (\$2.00) shall be assessed  
21 and credited as follows:

- 22       1. One Dollar and fifty-five cents (\$1.55) of such amount shall  
23 be credited to the Council on Judicial Complaints Revolving Fund;  
24 and

1        2. Forty-five cents (\$0.45) of such amount shall be credited to  
2 the State Judicial Revolving Fund to be used to reimburse district  
3 courts for expenses related to services of interpreters and  
4 translators. Vouchers for such expenses shall be submitted by the  
5 district court and approved by the Chief Justice of the Supreme  
6 Court or another justice designated by the Chief Justice.

7        F. In addition to the amounts collected pursuant to paragraphs  
8 1, 3, 8, 9, 10 and 14 of subsection A of this section, each county  
9 may assess, upon approval by the board of county commissioners, a  
10 sum not to exceed Ten Dollars (\$10.00) per case to be credited to  
11 the Sheriff's Service Fee Account in the county in which the action  
12 arose for the purpose of enhancing existing or providing additional  
13 courthouse security.

14        G. In addition to the amounts collected pursuant to subsection  
15 A of this section, the sum of Ten Dollars (\$10.00) shall be assessed  
16 and credited to the Court Clerk's Records Management and  
17 Preservation Fund created in Section 2 of this act.

18        H. In any case in which a litigant claims to have a just cause  
19 of action and that, by reason of poverty, the litigant is unable to  
20 pay the fees and costs provided for in this section and is  
21 financially unable to employ counsel, upon the filing of an  
22 affidavit in forma pauperis executed before any officer authorized  
23 by law to administer oaths to that effect and upon satisfactory  
24 showing to the court that the litigant has no means and is,

1 therefore, unable to pay the applicable fees and costs and to employ  
2 counsel, no fees or costs shall be required. The opposing party or  
3 parties may file with the court clerk of the court having  
4 jurisdiction of the cause an affidavit similarly executed  
5 contradicting the allegation of poverty. In all such cases, the  
6 court shall promptly set for hearing the determination of  
7 eligibility to litigate without payment of fees or costs. Until a  
8 final order is entered determining that the affiant is ineligible,  
9 the clerk shall permit the affiant to litigate without payment of  
10 fees or costs. Any litigant executing a false affidavit or counter  
11 affidavit pursuant to the provisions of this section shall be guilty  
12 of perjury.

13 ~~H.~~ I. Payments to the court clerk for fees and costs assessed  
14 pursuant to this section may be made by a nationally recognized  
15 credit or debit card or other electronic payment method as provided  
16 in paragraph 1 of subsection B of Section 151 of this title.

17 SECTION 2. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 31.3 of Title 28, unless there  
19 is created a duplication in numbering, reads as follows:

20 A. For the purpose of preserving, maintaining, archiving and  
21 protecting recorded instruments within the office of clerk of the  
22 district court, including, but not limited to, records management,  
23 preservation, automation and modernization and related lawful  
24 expenditures, in addition to all other fees required by law, the

1 clerk of the district court in each county shall collect the fees  
2 prescribed in subsection G of Section 152 of Title 28 of the  
3 Oklahoma Statutes.

4 B. There is hereby created a fund in each county to be known as  
5 the "Court Clerk's Records Management and Preservation Fund". Each  
6 fund shall be a continuing fund, not subject to fiscal year  
7 limitations, and shall consist of revenues from the fees prescribed  
8 in subsection G of Section 152 of Title 28 of the Oklahoma Statutes.  
9 All monies accruing to each fund shall be expended by the clerk of  
10 the district court and shall not be transferred to any other fund.  
11 Each fund shall be retained and used for the preservation of court  
12 records maintained within the county in which such fees are  
13 collected.

14 C. Each clerk of the district court shall compile a report to  
15 the board of county commissioners within each county on a monthly  
16 basis detailing the funds collected, funds expended and the nature  
17 of each expenditure. The report shall constitute a full accounting  
18 record of these transactions. A copy of the report shall be  
19 furnished to the Administrative Director of the Courts for review.

20 SECTION 3. This act shall become effective July 1, 2019.

21 SECTION 4. It being immediately necessary for the preservation  
22 of the public peace, health or safety, an emergency is hereby  
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1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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