

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1122

By: Biggs

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5
6 AS INTRODUCED

7 An Act relating to drug possession; directing law
8 enforcement to complete and enter arrest reports for
9 drug possession offenses into certain database;
10 amending 28 O.S. 2011, Section 153, as last amended
11 by Section 1, Chapter 389, O.S.L. 2016 (28 O.S. Supp.
12 2016, Section 153), which relates to court fees in
13 criminal cases; establishing assessment for
14 misdemeanor offenses involving the possession of
15 controlled dangerous substances; remitting assessment
16 to the Oklahoma Drug Possession Database Revolving
17 Fund; providing for the preemption of certain laws of
18 municipalities and political subdivisions;
19 prohibiting municipalities and political subdivisions
20 from prosecuting certain ordinances; providing an
21 exception to mandatory preemption; allowing for the
22 establishment of municipal criminal courts of record;
23 authorizing Director of Oklahoma State Bureau of
24 Narcotics and Dangerous Drugs Control to oversee
creation of certain database; providing for
assistance from the Office of Management and
Enterprise Services; requiring certain arrest reports
be completed and entered into drug possession
database; requiring Director to prescribe the form
and format of the drug possession arrest report;
creating the Oklahoma Drug Possession Database
Revolving Fund; stating purpose of fund; providing
for codification; providing an effective date; and
declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 34-109 of Title 11, unless there
3 is created a duplication in numbering, reads as follows:

4 In any case in which a person is arrested for the possession of
5 a controlled dangerous substance, except marijuana, a drug
6 possession arrest report shall be completed by the municipal law
7 enforcement officer who made the arrest and shall be entered into
8 the drug possession database created pursuant to Section 4 of this
9 act.

10 SECTION 2. AMENDATORY 28 O.S. 2011, Section 153, as last
11 amended by Section 1, Chapter 389, O.S.L. 2016 (28 O.S. Supp. 2016,
12 Section 153), is amended to read as follows:

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

- 21 1. For each defendant convicted of
22 exceeding the speed limit by at least
23 one (1) mile per hour but not more than
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- 1 ten (10) miles per hour, whether charged
2 individually or conjointly with others\$77.00
- 3 2. For each defendant convicted of a
4 misdemeanor traffic violation other than
5 an offense provided for in paragraph 1
6 or 5 of this subsection, whether charged
7 individually or conjointly with others\$98.00
- 8 3. For each defendant convicted of a
9 misdemeanor, other than for driving
10 under the influence of alcohol or other
11 intoxicating substance or an offense
12 provided for in paragraph 1 or 2 of this
13 subsection, whether charged individually
14 or conjointly with others\$93.00
- 15 4. For each defendant convicted of a
16 felony, other than for driving under the
17 influence of alcohol or other
18 intoxicating substance, whether charged
19 individually or conjointly with others\$103.00
- 20 5. For each defendant convicted of the
21 misdemeanor of driving under the influence
22 of alcohol or other intoxicating substance,
23 whether charged individually or conjointly
24 with others \$433.00

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 Twenty Dollars (\$20.00) shall be
12 assessed and collected in every traffic case for each offense other
13 than for driving under the influence of alcohol or other
14 intoxicating substance; the sum of Thirty Dollars (\$30.00) shall be
15 assessed and collected in every misdemeanor case for each offense;
16 the sum of Thirty Dollars (\$30.00) shall be assessed and collected
17 in every misdemeanor case for each offense for driving under the
18 influence of alcohol or other intoxicating substance; the sum of
19 Fifty Dollars (\$50.00) shall be assessed and collected in every
20 felony case for each offense; and the sum of Fifty Dollars (\$50.00)
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.

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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. In addition to the amount collected pursuant to paragraphs 5
22 and 6 of subsection A of this section, the sum of Fifteen Dollars
23 (\$15.00) shall be assessed in every misdemeanor or felony case for
24 each offense of driving under the influence of alcohol or other

1 intoxicating substance and credited to the Oklahoma Impaired Driver
2 Database Revolving Fund created pursuant to Section 8 of Enrolled
3 House Bill No. 3146 of the 2nd Session of the 55th Oklahoma
4 Legislature.

5 I. In addition to the amount collected pursuant to paragraph 3
6 of subsection A of this section, the sum of Ten Dollars (\$10.00)
7 shall be assessed in every misdemeanor case for each offense of
8 possession of a controlled dangerous substance and credited to the
9 Oklahoma Drug Possession Database Revolving Fund created pursuant to
10 Section 4 of this act.

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

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

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

20 1. A court clerk issuing a misdemeanor warrant is entitled to
21 ten percent (10%) of the sheriff's service fee, provided for in
22 paragraph 9 of subsection A of this section, collected on a warrant
23 referred to the contractor for the misdemeanor warrant notification
24 program governed by Sections 514.4 and 514.5 of Title 19 of the

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

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

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

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

23 5. The following amounts of the fees provided for in paragraphs
24 2, 3, 5 and 6 of subsection A of this section, when collected, shall

1 be deposited in the Trauma Care Assistance Revolving Fund, created
2 pursuant to the provisions of Section 1-2530.9 of Title 63 of the
3 Oklahoma Statutes:

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

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

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

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

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

21 ~~M.~~ N. As used in this section, "convicted" means any final
22 adjudication of guilt, whether pursuant to a plea of guilty or nolo
23 contendere or otherwise, and any deferred judgment or suspended
24 sentence.

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

7 ~~Θ.~~ P. Upon receipt of payment of fines and costs for offenses
8 charged prior to July 1, 1992, the court clerk shall apportion and
9 pay Thirteen Dollars (\$13.00) per conviction to the court fund.

10 SECTION 3. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2-1001 of Title 63, unless there
12 is created a duplication in numbering, reads as follows:

13 A. The State Legislature hereby occupies and preempts the
14 entire field of legislation in this state touching in any way the
15 prosecution of offenses relating to the possession of controlled
16 dangerous substances, except marijuana, to the complete exclusion of
17 any order, ordinance, local legislation or regulation by any
18 municipality or other political subdivision of this state.

19 B. No municipality or other political subdivision shall
20 prosecute any laws or ordinances relating to the offense of
21 possession of a controlled dangerous substance, except marijuana.
22 Any existing or future orders, ordinances, local legislation or
23 regulations in violation of this section is void and unenforceable.

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1 C. The preemption provisions of this section shall not apply to
2 prosecutions in municipal criminal courts of record for offenses
3 relating to the possession of controlled dangerous substances.
4 Nothing in this section shall prohibit a municipality from
5 establishing a municipal criminal court of record pursuant to the
6 provisions of Section 28-101 of Title 11 of the Oklahoma Statutes.

7 SECTION 4. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2-1002 of Title 63, unless there
9 is created a duplication in numbering, reads as follows:

10 A. The Director of the Oklahoma State Bureau of Narcotics and
11 Dangerous Drugs Control is hereby authorized to oversee the
12 creation, development and implementation of a statewide drug
13 possession database with assistance from the Office of Management
14 and Enterprise Services subject to fiscal limitations.

15 B. In any case in which a person is arrested for possessing a
16 controlled dangerous substance, a drug possession arrest report
17 shall be completed by the law enforcement officer that made the
18 arrest and shall be entered into the drug possession database. The
19 Director shall prescribe the form and format of the arrest report.

20 C. There is hereby created in the State Treasury a revolving
21 fund for the Oklahoma State Bureau of Narcotics and Dangerous Drugs
22 Control to be designated the "Oklahoma Drug Possession Database
23 Revolving Fund". The fund shall be a continuing fund, not subject
24 to fiscal year limitations. All monies accruing to the credit of

1 the fund are hereby appropriated and may be budgeted and expended by
2 the Bureau for the exclusive purpose of implementing, developing,
3 administering and maintaining the drug possession database.
4 Expenditures from the funds shall be made upon warrants issued by
5 the State Treasurer against claims filed as prescribed by law with
6 the Director of the Office of Management and Enterprise Services for
7 approval and payment.

8 SECTION 5. This act shall become effective July 1, 2017.

9 SECTION 6. It being immediately necessary for the preservation
10 of the public peace, health or safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

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