

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1631

By: Rogers

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5
6 AS INTRODUCED

7 An Act relating to fees; amending 28 O.S. 2011,
8 Sections 152, as last amended by Section 3, Chapter
9 362, O.S.L. 2016 and 153, as last amended by Section
10 1, Chapter 389, O.S.L. 2016 (28 O.S. Supp. 2016,
11 Sections 152 and 153), which relate to court fees;
12 providing for certain additional assessment;
13 providing for crediting of the assessment to certain
14 fund; creating the Court Clerk's Records Management
15 and Preservation Funds; making funds nonfiscal;
16 stating source of revenue; prohibiting transfer to
17 other funds; stating purpose; requiring compilation
18 of monthly report on collections and expenditures;
19 creating a Records Management and Preservation Board
20 within each county; stating purpose; providing for
21 composition of the Board; requiring approval of a
22 majority of the Board for expenditures; requiring
23 that one member of the majority be the clerk of the
24 district court; requiring annual report by the
Administrative Director of the Courts; 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. 2016,
Section 152), is amended to read as follows:

1 Section 152. A. In any civil case filed in a district court,
2 the court clerk shall collect, at the time of filing, the following
3 flat fees, none of which shall ever be refundable, and which shall
4 be the only charge for court costs, except as is otherwise
5 specifically provided for by law:

- 6 1. Actions for divorce, alimony without
7 divorce, separate maintenance, custody or
8 support.....\$183.00
- 9 2. Any ancillary proceeding to modify or
10 vacate a divorce decree providing for
11 custody or support.....\$43.00
- 12 3. Probate and guardianship.....\$135.00
- 13 4. Annual guardianship report.....\$33.00
- 14 5. Any proceeding for sale or lease of real or
15 personal property or mineral interest in
16 probate or guardianship.....\$43.00
- 17 6. Any proceeding to revoke the probate of a
18 will.....\$43.00
- 19 7. Judicial determination of death.....\$58.00
- 20 8. Adoption.....\$105.00
- 21 9. Civil actions for an amount of Ten Thousand
22 Dollars (\$10,000.00) or less and
23 condemnation.....\$150.00

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- 1 10. Civil actions for an amount of Ten
- 2 Thousand One Dollars (\$10,001.00) or more\$163.00
- 3 11. Garnishment.....\$23.00
- 4 12. Continuing wage garnishment.....\$63.00
- 5 13. Any other proceeding after judgment.....\$33.00
- 6 14. All others, including but not limited to
- 7 actions for forcible entry and detainer,
- 8 judgments from all other courts, including
- 9 the Workers' Compensation Court.....\$85.00
- 10 15. Notice of renewal of judgment.....\$23.00

11 B. In addition to the amounts collected pursuant to paragraphs
 12 1, 3, 7, 8, 9, 10 and 14 of subsection A of this section, the sum of
 13 Six Dollars (\$6.00) shall be assessed and credited to the Law
 14 Library Fund.

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

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

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

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

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

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

20 G. In addition to the amounts collected pursuant to subsection
21 A of this section, the sum of Five Dollars (\$5.00) shall be assessed
22 and credited to the Court Clerks' Records Management and
23 Preservation Fund created in Section 3 of this act.

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1 H. In any case in which a litigant claims to have a just cause
2 of action and that, by reason of poverty, the litigant is unable to
3 pay the fees and costs provided for in this section and is
4 financially unable to employ counsel, upon the filing of an
5 affidavit in forma pauperis executed before any officer authorized
6 by law to administer oaths to that effect and upon satisfactory
7 showing to the court that the litigant has no means and is,
8 therefore, unable to pay the applicable fees and costs and to employ
9 counsel, no fees or costs shall be required. The opposing party or
10 parties may file with the court clerk of the court having
11 jurisdiction of the cause an affidavit similarly executed
12 contradicting the allegation of poverty. In all such cases, the
13 court shall promptly set for hearing the determination of
14 eligibility to litigate without payment of fees or costs. Until a
15 final order is entered determining that the affiant is ineligible,
16 the clerk shall permit the affiant to litigate without payment of
17 fees or costs. Any litigant executing a false affidavit or counter
18 affidavit pursuant to the provisions of this section shall be guilty
19 of perjury.

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

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

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

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

1 intoxicating substance or an offense
2 provided for in paragraph 1 or 2 of this
3 subsection, whether charged individually
4 or conjointly with others\$93.00

5 4. For each defendant convicted of a
6 felony, other than for driving under the
7 influence of alcohol or other
8 intoxicating substance, whether charged
9 individually or conjointly with others\$103.00

10 5. For each defendant convicted of the
11 misdemeanor of driving under the influence
12 of alcohol or other intoxicating substance,
13 whether charged individually or conjointly
14 with others \$433.00

15 6. For each defendant convicted of the
16 felony of driving under the influence of
17 alcohol or other intoxicating substance,
18 whether charged individually or
19 conjointly with others\$433.00

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

23 8. For each time a jury is requested.....\$30.00
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1 9. A sheriff's fee for serving or
2 endeavoring to serve each writ, warrant,
3 order, process, command, or notice or
4 pursuing any fugitive from justice

5 a. within the county..... \$50.00, or
6 mileage as
7 established by the
8 Oklahoma Statutes,
9 whichever is
10 greater, or

11 b. outside of the county..... \$50.00, or
12 actual, necessary
13 expenses, whichever
14 is greater

15 10. For the services of a language interpreter, other than an
16 interpreter appointed pursuant to the provisions of the Oklahoma
17 Legal Interpreter for the Deaf and Hard-of-Hearing Act, at each
18 hearing held in the case, the actual cost of the interpreter.

19 B. In addition to the amount collected pursuant to paragraphs 2
20 through 6 of subsection A of this section, the sum of Six Dollars
21 (\$6.00) shall be assessed and credited to the Law Library Fund
22 pursuant to Section 1201 et seq. of Title 20 of the Oklahoma
23 Statutes.

1 C. In addition to the amount collected pursuant to subsection A
2 of this section, the sum of Twenty Dollars (\$20.00) shall be
3 assessed and collected in every traffic case for each offense other
4 than for driving under the influence of alcohol or other
5 intoxicating substance; the sum of Thirty Dollars (\$30.00) shall be
6 assessed and collected in every misdemeanor case for each offense;
7 the sum of Thirty Dollars (\$30.00) shall be assessed and collected
8 in every misdemeanor case for each offense for driving under the
9 influence of alcohol or other intoxicating substance; the sum of
10 Fifty Dollars (\$50.00) shall be assessed and collected in every
11 felony case for each offense; and the sum of Fifty Dollars (\$50.00)
12 shall be assessed and collected in every felony case for each
13 offense for driving under the influence of alcohol or other
14 intoxicating substance.

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

20 E. In addition to the amount collected pursuant to paragraphs 1
21 through 6 of subsection A of this section, the sum of Ten Dollars
22 (\$10.00) shall be assessed and credited to the Sheriff's Service Fee
23 Account in the county in which the conviction occurred for the
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1 purpose of enhancing existing or providing additional courthouse
2 security.

3 F. In addition to the amounts collected pursuant to paragraphs
4 1 through 6 of subsection A of this section, the sum of Three
5 Dollars (\$3.00) shall be assessed and credited to the Office of the
6 Attorney General Victim Services Unit.

7 G. In addition to the amounts collected pursuant to paragraphs
8 1 through 6 of subsection A of this section, the sum of Three
9 Dollars (\$3.00) shall be assessed and credited to the Child Abuse
10 Multidisciplinary Account. This fee shall not be used for purposes
11 of hiring or employing any law enforcement officers.

12 H. In addition to the amount collected pursuant to paragraphs 5
13 and 6 of subsection A of this section, the sum of Fifteen Dollars
14 (\$15.00) shall be assessed in every misdemeanor or felony case for
15 each offense of driving under the influence of alcohol or other
16 intoxicating substance and credited to the Oklahoma Impaired Driver
17 Database Revolving Fund created pursuant to Section ~~8 of Enrolled~~
18 ~~House Bill No. 3146 of the 2nd Session of the 55th Oklahoma~~
19 Legislature 11-902d of Title 47 of the Oklahoma Statutes.

20 I. In addition to the amounts collected pursuant to paragraphs
21 1 through 6 of subsection A of this section, the sum of Five Dollars
22 (\$5.00) shall be assessed and credited to the Court Clerk's Records
23 Management and Preservation Fund created in Section 3 of this act.

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

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

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

10 1. The fee assessed for the Court Clerk's Records Management
11 and Preservation Fund, created pursuant to Section 3 of this act;

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

1 shall be deposited in its entirety into the Sheriff's Service Fee
2 Account of the sheriff in the county in which service is made or
3 attempted;

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

6 ~~3.~~ 4. The witness fees paid by the district attorney pursuant
7 to the provisions of Section 82 of this title which, if collected by
8 the court clerk, shall be transferred to the district attorney's
9 office in the county where witness attendance was required. Fees
10 transferred pursuant to this paragraph shall be deposited in the
11 district attorney's maintenance and operating expense account;

12 ~~4.~~ 5. The fees provided for in subsection C of this section
13 shall be forwarded to the District Attorneys Council Revolving Fund
14 to defray the costs of prosecution; and

15 ~~5.~~ 6. The following amounts of the fees provided for in
16 paragraphs 2, 3, 5 and 6 of subsection A of this section, when
17 collected, shall be deposited in the Trauma Care Assistance
18 Revolving Fund, created pursuant to the provisions of Section 1-
19 2530.9 of Title 63 of the Oklahoma Statutes:

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

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

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

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

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

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

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

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

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 31.3 of Title 28, unless there
6 is created a duplication in numbering, reads as follows:

7 A. For the purpose of preserving, maintaining, archiving and
8 protecting recorded instruments within the office of clerk of the
9 district court, including, but not limited to, records management,
10 preservation, automation and modernization and related lawful
11 expenditures, in addition to all other fees required by law, the
12 clerk of the district court in each county shall collect the fees
13 prescribed in subsection G of Section 152 of Title 28 of the
14 Oklahoma Statutes and subsection I of Section 153 of Title 28 of the
15 Oklahoma Statutes.

16 B. There is hereby created a fund in each county to be known as
17 the "Court Clerk's Records Management and Preservation Fund". Each
18 fund shall be a continuing fund, not subject to fiscal year
19 limitations, and shall consist of revenues from the fees prescribed
20 in subsection G of Section 152 of Title 28 of the Oklahoma Statutes
21 and subsection I of Section 153 of Title 28 of the Oklahoma
22 Statutes. All monies accruing to each fund shall be expended by the
23 clerk of the district court subject to the provisions of subsection
24 D of this section and shall not be transferred to any other fund.

1 Each fund shall be retained and used for the preservation of court
2 records maintained within the county in which such fees are
3 collected.

4 C. Each clerk of the district court shall compile a report to
5 the board of county commissioners within each county on a monthly
6 basis detailing the funds collected, funds expended and the nature
7 of each expenditure. The report shall constitute a full accounting
8 record of these transactions. A copy of the report shall be
9 furnished to the Administrative Director of the Courts for review.
10 Each fund shall be subject to audit and review by the Office of the
11 State Auditor and Inspector.

12 D. A Records Management and Preservation Board is hereby
13 created within each county to approve any expenditure from the fund.
14 No such expenditure may be made without the written approval of at
15 least two members of the Board, one of which shall be the clerk of
16 the district court within each county. Members of the Board shall
17 be the district court judge, the associate district court judge and
18 the clerk of the district court within each county.

19 E. The Administrative Director of the Courts shall annually
20 submit a report on the revenues and expenditures from each fund
21 created pursuant to the provisions of this section to the chairs of
22 the Senate and House of Representatives subcommittees charged with
23 appropriations for the judicial branch of state government.

24 SECTION 4. This act shall become effective July 1, 2017.

1 SECTION 5. It being immediately necessary for the preservation
2 of the public peace, health or safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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