

1 **SENATE FLOOR VERSION**

2 April 2, 2019

3 ENGROSSED HOUSE
4 BILL NO. 1091

By: Osburn and Hasenbeck of the
House

5 and

6 Smalley of the Senate

7
8
9 An Act relating to fees; amending 28 O.S. 2011,
10 Section 152, as last amended by Section 3, Chapter
11 362, O.S.L. 2016 (28 O.S. Supp. 2018, Section 152),
12 which relates to court fees; providing for certain
13 additional assessment for certain time period;
14 providing for crediting of the assessment to certain
15 fund; creating the Court Clerk's Records Management
16 and Preservation Fund; making funds nonfiscal;
17 stating source of revenue; prohibiting transfer to
18 other funds; stating purpose; requiring compilation
19 of monthly report on collections and expenditures;
20 providing for codification; and providing an
21 effective date.

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

23 SECTION 1. AMENDATORY 28 O.S. 2011, Section 152, as last
24 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

- 1 be the only charge for court costs, except as is otherwise
 2 specifically provided for by law:
- 3 1. Actions for divorce, alimony without
 4 divorce, separate maintenance, custody or
 5 support.....\$183.00
 - 6 2. Any ancillary proceeding to modify or
 7 vacate a divorce decree providing for
 8 custody or support.....\$43.00
 - 9 3. Probate and guardianship.....\$135.00
 - 10 4. Annual guardianship report.....\$33.00
 - 11 5. Any proceeding for sale or lease of real or
 12 personal property or mineral interest in
 13 probate or guardianship.....\$43.00
 - 14 6. Any proceeding to revoke the probate of a
 15 will.....\$43.00
 - 16 7. Judicial determination of death.....\$58.00
 - 17 8. Adoption.....\$105.00
 - 18 9. Civil actions for an amount of Ten Thousand
 19 Dollars (\$10,000.00) or less and
 20 condemnation.....\$150.00
 - 21 10. Civil actions for an amount of Ten
 22 Thousand One Dollars (\$10,001.00) or more.....\$163.00
 - 23 11. Garnishment.....\$23.00
 - 24 12. Continuing wage garnishment.....\$63.00

1 13. Any other proceeding after judgment.....\$33.00

2 14. All others, including but not limited to
3 actions for forcible entry and detainer,
4 judgments from all other courts, including
5 the Workers' Compensation Court.....\$85.00

6 15. Notice of renewal of judgment.....\$23.00

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

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

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

20 E. In addition to the amounts collected pursuant to subsection
21 A of this section, the sum of Two Dollars (\$2.00) shall be assessed
22 and credited as follows:
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1 1. One Dollar and fifty-five cents (\$1.55) of such amount shall
2 be credited to the Council on Judicial Complaints Revolving Fund;
3 and

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

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

17 G. Until November 1, 2023, in addition to the amounts collected
18 pursuant to subsection A of this section, the sum of Ten Dollars
19 (\$10.00) shall be assessed and credited to the Court Clerk's Records
20 Management and Preservation Fund created in Section 2 of this act.

21 H. In any case in which a litigant claims to have a just cause
22 of action and that, by reason of poverty, the litigant is unable to
23 pay the fees and costs provided for in this section and is
24 financially unable to employ counsel, upon the filing of an

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

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

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

23 A. For the purpose of preserving, maintaining, archiving and
24 protecting recorded instruments within the office of the clerk of

1 the district court, including, but not limited to, records
2 management, preservation, automation and modernization and related
3 lawful expenditures, in addition to all other fees required by law,
4 the clerk of the district court in each county shall collect the
5 fees prescribed in subsection G of Section 152 of Title 28 of the
6 Oklahoma Statutes.

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

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

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1 SECTION 3. This act shall become effective November 1, 2019.

2 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
3 April 2, 2019 - DO PASS
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