

60-2001. Docket fee; authorized only by legislative enactment; poverty affidavit, court review; additional costs; certain sheriff's charges prohibited. (a) *Docket fee.* Except as otherwise provided by law, no case shall be filed or docketed in the district court, whether original or appealed, without payment of a docket fee in the amount of \$173 on and after July 1, 2014, to the clerk of the district court. Except as provided further, the docket fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2015, through June 30, 2017, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

(b) *Poverty affidavit in lieu of docket fee.* (1) *Effect.* In any case where a plaintiff by reason of poverty is unable to pay a docket fee, and an affidavit so stating is filed, no fee will be required. An inmate in the custody of the secretary of corrections may file a poverty affidavit only if the inmate attaches a statement disclosing the average account balance, or the total deposits, whichever is less, in the inmate's trust fund for each month in: (A) The six-month period preceding the filing of the action; or (B) the current period of incarceration, whichever is shorter. Such statement shall be certified by the secretary. On receipt of the affidavit and attached statement, the court shall determine the initial fee to be assessed for filing the action and in no event shall the court require an inmate to pay less than \$3. The secretary of corrections is hereby authorized to disburse money from the inmate's account to pay the costs as determined by the court. If the inmate has a zero balance in such inmate's account, the secretary shall debit such account in the amount of \$3 per filing fee as established by the court until money is credited to the account to pay such docket fee. Any initial filing fees assessed pursuant to this subsection shall not prevent the court, pursuant to subsection (d), from taxing that individual for the remainder of the amount required under subsection (a) or this subsection.

(2) *Form of affidavit.* The affidavit provided for in this subsection shall set forth a factual basis upon which the plaintiff alleges by reason of poverty an inability to pay a docket fee, including, but not limited to, the source and amount of the plaintiff's weekly income. Such affidavit shall be signed and sworn to by the plaintiff under oath, before one who has authority to administer the oath, under penalty of perjury, K.S.A. 2016 Supp. 21-5903, and amendments thereto. The form of the affidavit shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council.

(3) *Court review; grounds for dismissal; service of process.* The court shall review any petition authorized for filing under this subsection. Upon such review, if the court finds that the plaintiff's allegation of poverty is untrue, the court shall direct the plaintiff to pay the docket fee or dismiss the petition without prejudice. Notwithstanding K.S.A. 60-301, and amendments thereto, service of process shall not issue unless the court grants leave following its review.

(c) *Disposition of fees.* The docket fees and the fees for service of process shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. For every person to be served by the sheriff, the persons requesting service of process shall provide proper payment to the clerk and the clerk of the district court shall forward the service of process fee to the sheriff in accordance with K.S.A. 28-110, and amendments thereto. The service of process fee, if paid by check or money order, shall be made payable to the sheriff. Such service of process fee shall be submitted by the sheriff at least monthly to the county treasurer for deposit in the county treasury and credited to the county general fund. The docket fee shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.

(d) *Additional court costs.* Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process, fees for depositions, alternative dispute resolution fees, transcripts and publication, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties as directed by the court. No sheriff in this state shall charge any mileage for serving any papers or process.

History: L. 1963, ch. 303, 60-2001; L. 1974, ch. 168, § 3; L. 1975, ch. 218, § 3; L. 1976, ch. 251, § 27; L. 1982, ch. 116, § 8; L. 1990, ch. 202, § 33; L. 1991, ch. 173, § 1; L. 1992, ch. 128, § 14; L. 1994, ch. 227, § 7; L. 1995, ch. 257, § 7; L. 1996, ch. 148, § 5; L. 1996, ch. 234, § 15; L. 2000, ch. 177, § 6; L. 2002, ch. 51, § 2; L. 2003, ch. 101, § 12; L. 2004, ch. 118, § 6; L. 2004, ch. 180, § 7; L. 2006, ch. 195, § 17; L. 2007, ch. 195, § 31; L. 2008, ch. 95, § 13; L. 2009, ch. 116, § 23; L. 2009, ch. 143, § 20; L. 2010, ch. 62, § 15; L. 2011, ch. 87, § 15; L. 2012, ch. 66, § 16; L. 2013, ch. 123, § 2; L. 2014, ch. 82, § 36; L. 2015, ch. 81, § 24; July 1.

Revisor's Note:

Section was amended twice in the 2006 session, see also 60-2001a.

Section was also amended by L. 2009, ch. 82, § 6, but that version was repealed by L. 2009, ch. 143, § 37.

Section was amended twice in the 2013 session, see also 60-2001b.

L. 2014, ch. 82, was held to be an invalid enactment, see *Solomon v. State*, 303 K. 512, 364 P.3d 536 (2015).