

SENATE BILL No. 297

AN ACT concerning civil procedure; relating to docket fees; amending K.S.A. 2003 Supp. 20-367, 28-172a, 59-104, 60-1621 and 60-2001 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 2003 Supp. 20-367 is hereby amended to read as follows: 20-367. ~~(a) On and after July 1, 2003, through June 30, 2005,~~ Of the remittance of the balance of docket fees received by the state treasurer from clerks of the district court pursuant to subsection (f) of K.S.A. 20-362, and amendments thereto, the state treasurer shall deposit and credit to the access to justice fund, a sum equal to 5.90% of the remittances of docket fees; to the juvenile detention facilities fund, a sum equal to 3.27% of the remittances of docket fees; to the judicial branch education fund, the state treasurer shall deposit and credit a sum equal to 2.52% of the remittances of docket fees; to the crime victims assistance fund, the state treasurer shall deposit and credit a sum equal to .67% of the remittances of the docket fees; to the protection from abuse fund, the state treasurer shall deposit and credit a sum equal to 3.22% of the remittances of the docket fees; to the judiciary technology fund, the state treasurer shall deposit and credit a sum equal to 5.10% of the remittances of docket fees; to the dispute resolution fund, the state treasurer shall deposit and credit a sum equal to .41% of the remittances of docket fees; to the Kansas juvenile delinquency prevention trust fund, the state treasurer shall deposit and credit a sum equal to 1.49% of the remittances of docket fees; to the permanent families account in the family and children investment fund, the state treasurer shall deposit and credit a sum equal to .25% of the remittances of docket fees; to the trauma fund, a sum equal to 1.77% of the remittance of docket fees; to the judicial council fund, a sum equal to 1.33% of the remittance of docket fees; and to the judicial branch nonjudicial salary initiative fund, the state treasurer shall deposit and credit a sum equal to 21.41% of the remittance of docket fees. The balance remaining of the remittances of docket fees shall be deposited and credited to the state general fund.

~~(b) On and after July 1, 2005, of the remittance of the balance of docket fees received by the state treasurer from clerks of the district court pursuant to subsection (f) of K.S.A. 20-362, and amendments thereto, the state treasurer shall deposit and credit to the access to justice fund, a sum equal to 5.98% of the remittances of docket fees; to the juvenile detention facilities fund, a sum equal to 3.32% of the remittances of docket fees; to the judicial branch education fund, the state treasurer shall deposit and credit a sum equal to 2.55% of the remittances of docket fees; to the crime victims assistance fund, the state treasurer shall deposit and credit a sum equal to .68% of the remittances of the docket fees; to the protection from abuse fund, the state treasurer shall deposit and credit a sum equal to 3.26% of the remittances of the docket fees; to the judiciary technology fund, the state treasurer shall deposit and credit a sum equal to 5.17% of the remittances of docket fees; to the dispute resolution fund, the state treasurer shall deposit and credit a sum equal to .42% of the remittances of docket fees; to the Kansas juvenile delinquency prevention trust fund, the state treasurer shall deposit and credit a sum equal to 1.51% of the remittances of docket fees; to the permanent families account in the family and children investment fund, the state treasurer shall deposit and credit a sum equal to .25% of the remittances of docket fees; to the trauma fund, a sum equal to 1.79% of the remittance of docket fees; and to the judicial branch nonjudicial salary initiative fund, the state treasurer shall deposit and credit a sum equal to 21.70% of the remittance of docket fees. The balance remaining of the remittances of docket fees shall be deposited and credited to the state general fund.~~

Sec. 2. K.S.A. 2003 Supp. 28-172a is hereby amended to read as follows: 28-172a. (a) Except as otherwise provided in this section, whenever the prosecuting witness or defendant is adjudged to pay the costs in a criminal proceeding in any county, a docket fee shall be taxed as follows:

~~(1) For the period commencing July 1, 2003, and ending June 30, 2005:~~

Murder or manslaughter .....	\$164.50
Other felony .....	147.00
Misdemeanor.....	112.00
Forfeited recognizance.....	62.50

Appeals from other courts .....	62.50
<del>(2) On and after July 1, 2005:</del>	
<del>Murder or manslaughter .....</del>	<del>\$164.50</del>
<del>Other felony .....</del>	<del>146.00</del>
<del>Misdemeanor .....</del>	<del>111.00</del>
<del>Forfeited recognizance .....</del>	<del>62.50</del>
<del>Appeals from other courts .....</del>	<del>62.50</del>

(b) (1) Except as provided in paragraph (2), in actions involving the violation of any of the laws of this state regulating traffic on highways (including those listed in subsection (c) of K.S.A. 8-2118, and amendments thereto), a cigarette or tobacco infraction, any act declared a crime pursuant to the statutes contained in chapter 32 of Kansas Statutes Annotated and amendments thereto or any act declared a crime pursuant to the statutes contained in article 8 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, a docket fee of \$55 shall be charged ~~during the period commencing July 1, 2003, and ending June 30, 2005, and \$54 shall be charged on or after July 1, 2005.~~ When an action is disposed of under subsections (a) and (b) of K.S.A. 8-2118 or subsection (f) of K.S.A. 79-3393, and amendments thereto, whether by mail or in person, the docket fee to be paid as court costs shall be \$55 ~~during the period commencing July 1, 2003, and ending June 30, 2005, and \$54 on or after July 1, 2005.~~

(2) In actions involving the violation of a moving traffic violation under K.S.A. 8-2118, and amendments thereto, as defined by rules and regulations adopted under K.S.A. 8-249, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, a docket fee of \$55 shall be charged ~~during the period commencing July 1, 2003, and ending June 30, 2005, and \$54 shall be charged on or after July 1, 2005.~~ When an action is disposed of under subsection (a) and (b) of K.S.A. 8-2118, and amendments thereto, whether by mail or in person, the docket fee to be paid as court costs shall be \$55 ~~during the period commencing July 1, 2003, and ending June 30, 2005, and \$54 on or after July 1, 2005.~~

(c) If a conviction is on more than one count, the docket fee shall be the highest one applicable to any one of the counts. The prosecuting witness or defendant, if assessed the costs, shall pay only one fee. Multiple defendants shall each pay one fee.

(d) Statutory charges for law library funds, the law enforcement training center fund, the prosecuting attorneys' training fund, the juvenile detention facilities fund, the judicial branch education fund, the emergency medical services operating fund and the judiciary technology fund shall be paid from the docket fee; the family violence and child abuse and neglect assistance and prevention fund fee shall be paid from criminal proceedings docket fees. All other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Additional fees shall include, but are not limited to, fees for Kansas bureau of investigation forensic or laboratory analyses, fees for detention facility processing pursuant to K.S.A. 12-16,119, and amendments thereto, fees for the sexual assault evidence collection kit, fees for conducting an examination of a sexual assault victim, fees for service of process outside the state, witness fees, fees for transcripts and depositions, costs from other courts, doctors' fees and examination and evaluation fees. No sheriff in this state shall charge any district court of this state a fee or mileage for serving any paper or process.

(e) In each case charging a violation of the laws relating to parking of motor vehicles on the statehouse grounds or other state-owned or operated property in Shawnee county, Kansas, as specified in K.S.A. 75-4510a, and amendments thereto, or as specified in K.S.A. 75-4508, and amendments thereto, the clerk shall tax a fee of \$2 which shall constitute the entire costs in the case, except that witness fees, mileage and expenses incurred in serving a warrant shall be in addition to the fee. Appearance bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amendments thereto, shall be \$3, unless a warrant is issued. The judge may order the bond forfeited upon the defendant's failure to appear, and \$2 of any bond so forfeited shall be regarded as court costs.

Sec. 3. K.S.A. 2003 Supp. 59-104 is hereby amended to read as fol-

laws: 59-104. (a) *Docket fee.* Except as otherwise provided by law, no case shall be filed or docketed in the district court under the provisions of chapter 59 of the Kansas Statutes Annotated or of articles 40 and 52 of chapter 65 of the Kansas Statutes Annotated without payment of an appropriate docket fee as follows:

~~(1) For the period commencing July 1, 2003, and ending June 30, 2005:~~

Treatment of mentally ill .....	\$25.50
Treatment of alcoholism or drug abuse.....	25.50
Determination of descent of property.....	40.50
Termination of life estate.....	39.50
Termination of joint tenancy.....	39.50
Refusal to grant letters of administration .....	39.50
Adoption .....	39.50
Filing a will and affidavit under K.S.A. 59-618a .....	39.50
Guardianship .....	60.50
Conservatorship .....	60.50
Trusteeship .....	60.50
Combined guardianship and conservatorship.....	60.50
Certified probate proceedings under K.S.A. 59-213, and amendments thereto.....	14.50
Decrees in probate from another state .....	99.50
Probate of an estate or of a will.....	100.50
Civil commitment under K.S.A. 59-29a01 et seq.....	24.50

~~(2) On and after July 1, 2005:~~

<del>Treatment of mentally ill .....</del>	<del>\$24.50</del>
<del>Treatment of alcoholism or drug abuse.....</del>	<del>24.50</del>
<del>Determination of descent of property.....</del>	<del>30.50</del>
<del>Termination of life estate.....</del>	<del>30.50</del>
<del>Termination of joint tenancy.....</del>	<del>30.50</del>
<del>Refusal to grant letters of administration .....</del>	<del>30.50</del>
<del>Adoption .....</del>	<del>30.50</del>
<del>Filing a will and affidavit under K.S.A. 59-618a .....</del>	<del>30.50</del>
<del>Guardianship .....</del>	<del>50.50</del>
<del>Conservatorship .....</del>	<del>50.50</del>
<del>Trusteeship .....</del>	<del>50.50</del>
<del>Combined guardianship and conservatorship.....</del>	<del>50.50</del>
<del>Certified probate proceedings under K.S.A. 59-213, and amendments thereto.....</del>	<del>14.50</del>
<del>Decrees in probate from another state .....</del>	<del>99.50</del>
<del>Probate of an estate or of a will.....</del>	<del>99.50</del>
<del>Civil commitment under K.S.A. 59-29a01 et seq.....</del>	<del>24.50</del>

(b) *Poverty affidavit in lieu of docket fee and exemptions.* The provisions of subsection (b) of K.S.A. 60-2001 and K.S.A. 60-2005, and amendments thereto, shall apply to probate docket fees prescribed by this section.

(c) *Disposition of docket fee.* Statutory charges for the law library and for the prosecuting attorneys' training fund shall be paid from the docket fee. The remainder of the docket fee shall be paid to the state treasurer 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 outside the state, fees for depositions, transcripts and publication of legal notice, executor or administrator fees, 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 or estate as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.

Sec. 4. K.S.A. 2003 Supp. 60-1621 is hereby amended to read as follows: 60-1621. (a) No post-decree motion petitioning for a change in legal custody, residency, visitation rights or parenting time, or for a modification of child support shall be filed or docketed in the district court without payment of a docket fee in the amount of \$21 ~~during the period commencing July 1, 2003, and ending June 30, 2005, and \$20 on or after July 1, 2005,~~ to the clerk of the district court.

(b) A poverty affidavit may be filed in lieu of a docket fee as established in K.S.A. 60-2001, and amendments thereto.

(c) The docket fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. The docket fee shall be disbursed in accordance with subsection (f) of K.S.A. 20-362, and amendments thereto.

Sec. 5. K.S.A. 2003 Supp. 60-2001 is hereby amended to read as follows: 60-2001. (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 \$106 ~~during the period commencing July 1, 2003, and ending June 30, 2005, and \$105 on or after July 1, 2005,~~ to the clerk of the district court.

(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 be in the following form and attached to the petition:

State of Kansas, \_\_\_\_\_ County.

In the district court of the county: I do solemnly swear that the claim set forth in the petition herein is just, and I do further swear that, by reason of my poverty, I am unable to pay a docket fee.

(c) *Disposition of docket fee.* The docket fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. 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 outside the state, 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 district court in this state a fee or mileage for serving any paper or process.

Sec. 6. K.S.A. 2003 Supp. 20-367, 28-172a, 59-104, 60-1621 and 60-2001 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

\_\_\_\_\_

SENATE concurred in  
HOUSE amendments \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*