

HOUSE BILL No. 2102

By Committee on Judiciary

1-24

1 AN ACT concerning courts; relating to the commission on judicial
2 performance; docket fees; judicial performance fund; amending K.S.A.
3 2012 Supp. 20-367, 20-3201, 28-172a, 28-179, 59-104, 60-2001, 61-
4 2704 and 61-4001 and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2012 Supp. 20-367 is hereby amended to read as
8 follows: 20-367. (a) On and after July 1, 2009 through June 30, ~~2013~~ 2017,
9 of the remittance of the balance of docket fees received by the state
10 treasurer from clerks of the district court pursuant to subsection (g) of
11 K.S.A. 20-362, and amendments thereto, the state treasurer shall deposit
12 and credit:

- 13 (1) ~~3.05%~~ 1.72% to the judicial performance fund;
- 14 (2) 4.24% to the access to justice fund;
- 15 (3) 2.35% to the juvenile detention facilities fund;
- 16 (4) 1.81% to the judicial branch education fund;
- 17 (5) .48% to the crime victims assistance fund;
- 18 (6) 2.31% to the protection from abuse fund;
- 19 (7) 3.66% to the judiciary technology fund;
- 20 (8) .29% to the dispute resolution fund;
- 21 (9) 1.07% to the Kansas juvenile delinquency prevention trust fund;
- 22 (10) .18% to the permanent families account in the family and
23 children investment fund;
- 24 (11) 1.27% to the trauma fund;
- 25 (12) .96% to the judicial council fund;
- 26 (13) .58% to the child exchange and visitation centers fund;
- 27 (14) 15.54% to the judicial branch nonjudicial salary adjustment
28 fund;
- 29 (15) 15.37% to the judicial branch nonjudicial salary initiative fund;
- 30 and
- 31 (16) the balance to the state general fund.

32 (b) On and after July 1, ~~2013~~ 2017, of the remittance of the balance
33 of docket fees received by the state treasurer from clerks of the district
34 court pursuant to subsection (g) of K.S.A. 20-362, and amendments
35 thereto, the state treasurer shall deposit and credit:

- 36 (1) 4.37% to the access to justice fund;

- 1 (2) 2.42% to the juvenile detention facilities fund;
- 2 (3) 1.87% to the judicial branch education fund;
- 3 (4) .50% to the crime victims assistance fund;
- 4 (5) 2.38% to the protection from abuse fund;
- 5 (6) 3.78% to the judiciary technology fund;
- 6 (7) .30% to the dispute resolution fund;
- 7 (8) 1.10% to the Kansas juvenile delinquency prevention trust fund;
- 8 (9) .19% to the permanent families account in the family and children
- 9 investment fund;
- 10 (10) 1.31% to the trauma fund;
- 11 (11) .99% to the judicial council fund;
- 12 (12) .60% to the child exchange and visitation centers fund;
- 13 (13) 16.03% to the judicial branch nonjudicial salary adjustment
- 14 fund;
- 15 (14) 15.85% to the judicial branch nonjudicial salary initiative fund;
- 16 and
- 17 (15) the balance to the state general fund.

18 Sec. 2. K.S.A. 2012 Supp. 20-3201 is hereby amended to read as
 19 follows: 20-3201. (a) The commission on judicial performance is hereby
 20 established as an independent committee of the Kansas judicial council.
 21 The budget of the commission shall be a part of the budget of the judicial
 22 council. The judicial council shall provide administrative assistance to the
 23 commission. The commission on judicial qualifications and the office of
 24 judicial administration shall assist the commission, if requested by the
 25 commission.

26 (b) The provisions of K.S.A. 20-3201 through 20-3207, and
 27 amendments thereto, shall expire on June 30, ~~2013~~ 2017.

28 Sec. 3. K.S.A. 2012 Supp. 28-172a is hereby amended to read as
 29 follows: 28-172a. (a) Except as otherwise provided in this section,
 30 whenever the prosecuting witness or defendant is adjudged to pay the costs
 31 in a criminal proceeding in any county, a docket fee shall be taxed as
 32 follows:

33 (1) On and after July 1, 2009 through June 30, ~~2013~~ 2017:

34 Murder or manslaughter.....	\$182.50
35 Other felony.....	173.00
36 Misdemeanor.....	138.00
37 Forfeited recognizance.....	74.50
38 Appeals from other courts.....	74.50

39

40 (2) On and after July 1, ~~2013~~ 2017:

41 Murder or manslaughter.....	\$180.50
42 Other felony.....	171.00
43 Misdemeanor.....	136.00

1 Forfeited recognizance.....72.50
 2 Appeals from other courts.....72.50

3
 4 (b) (1) Except as provided in paragraph (2), in actions involving the
 5 violation of any of the laws of this state regulating traffic on highways,
 6 including those listed in subsection (c) of K.S.A. 8-2118, and amendments
 7 thereto, a cigarette or tobacco infraction, any act declared a crime pursuant
 8 to the statutes contained in chapter 32 of the Kansas Statutes Annotated,
 9 and amendments thereto, or any act declared a crime pursuant to the
 10 statutes contained in article 8 of chapter 82a of the Kansas Statutes
 11 Annotated, and amendments thereto, whenever the prosecuting witness or
 12 defendant is adjudged to pay the costs in the action, on and after July 1,
 13 2009 through June 30, ~~2013~~ 2017, a docket fee of \$76 shall be charged,
 14 and on and after July 1, ~~2013~~ 2017, a docket fee of \$74 shall be charged.
 15 When an action is disposed of under subsections (a) and (b) of K.S.A. 8-
 16 2118 or subsection (f) of K.S.A. 79-3393, and amendments thereto, on and
 17 after July 1, 2009 through June 30, ~~2013~~ 2017, the docket fee to be paid as
 18 court costs shall be \$76, and on and after July 1, ~~2013~~ 2017, the docket fee
 19 to be paid as court costs shall be \$74.

20 (2) In actions involving the violation of a moving traffic violation
 21 under K.S.A. 8-2118, and amendments thereto, as defined by rules and
 22 regulations adopted under K.S.A. 8-249, and amendments thereto,
 23 whenever the prosecuting witness or defendant is adjudged to pay the costs
 24 in the action, on and after July 1, 2009 through June 30, ~~2013~~ 2017, a
 25 docket fee of \$76 shall be charged, and on and after July 1, ~~2013~~ 2017, a
 26 docket fee of \$74 shall be charged. When an action is disposed of under
 27 subsection (a) and (b) of K.S.A. 8-2118, and amendments thereto, on and
 28 after July 1, 2009 through June 30, ~~2013~~ 2017, the docket fee to be paid as
 29 court costs shall be \$76, and on and after July 1, ~~2013~~ 2017, the docket fee
 30 to be paid as court costs shall be \$74.

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

35 (d) Statutory charges for law library funds, the law enforcement
 36 training center fund, the prosecuting attorneys' training fund, the juvenile
 37 detention facilities fund, the judicial branch education fund, the emergency
 38 medical services operating fund and the judiciary technology fund shall be
 39 paid from the docket fee; the family violence and child abuse and neglect
 40 assistance and prevention fund fee shall be paid from criminal proceedings
 41 docket fees. All other fees and expenses to be assessed as additional court
 42 costs shall be approved by the court, unless specifically fixed by statute.
 43 Additional fees shall include, but are not limited to, fees for Kansas bureau

1 of investigation forensic or laboratory analyses, fees for detention facility
2 processing pursuant to K.S.A. 12-16,119, and amendments thereto, fees
3 for the sexual assault evidence collection kit, fees for conducting an
4 examination of a sexual assault victim, fees for service of process outside
5 the state, witness fees, fees for transcripts and depositions, costs from
6 other courts, doctors' fees and examination and evaluation fees. No sheriff
7 in this state shall charge any district court of this state a fee or mileage for
8 serving any paper or process.

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

20 (f) Except as provided further, the docket fee established in this
21 section shall be the only fee collected or moneys in the nature of a fee
22 collected for the docket fee. Such fee shall only be established by an act of
23 the legislature and no other authority is established by law or otherwise to
24 collect a fee. On and after the effective date of this act through June 30,
25 2013, the supreme court may impose an additional charge, not to exceed
26 \$22 per docket fee, to fund the costs of non-judicial personnel.

27 Sec. 4. K.S.A. 2012 Supp. 28-179 is hereby amended to read as
28 follows: 28-179. (a) No post-decree motion petitioning for a modification
29 or termination of separate maintenance, for a change in legal custody,
30 residency, visitation rights or parenting time or for a modification of child
31 support shall be filed or docketed in the district court without payment of a
32 docket fee in the amount of \$42 on and after July 1, 2009 through June 30,
33 ~~2013~~ 2017, and \$40 on and after July 1, ~~2013~~ 2017, to the clerk of the
34 district court.

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

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

41 (d) Except as provided further, the docket fee established in this
42 section shall be the only fee collected or moneys in the nature of a fee
43 collected for the docket fee. Such fee shall only be established by an act of

1 the legislature and no other authority is established by law or otherwise to
 2 collect a fee. On and after the effective date of this act through June 30,
 3 2013, the supreme court may impose an additional charge, not to exceed
 4 \$22 per docket fee, to fund the costs of non-judicial personnel.

5 Sec. 5. K.S.A. 2012 Supp. 59-104 is hereby amended to read as
 6 follows: 59-104. (a) *Docket fee.* (1) Except as otherwise provided by law,
 7 no case shall be filed or docketed in the district court under the provisions
 8 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto,
 9 or of articles 40 and 52 of chapter 65 of the Kansas Statutes Annotated,
 10 and amendments thereto, without payment of an appropriate docket fee as
 11 follows:

12 (A) On and after July 1, 2009 through June 30, ~~2013~~ 2017:

13	Treatment of mentally ill	\$59.00
14	Treatment of alcoholism or drug abuse	36.50
15	Determination of descent of property	51.50
16	Termination of life estate	50.50
17	Termination of joint tenancy	50.50
18	Refusal to grant letters of administration	50.50
19	Adoption.....	50.50
20	Filing a will and affidavit under K.S.A. 59-618a	50.50
21	Guardianship	71.50
22	Conservatorship	71.50
23	Trusteeship	71.50
24	Combined guardianship and conservatorship	71.50
25	Certified probate proceedings under K.S.A. 59-213,	
26	and amendments thereto	25.50
27	Decrees in probate from another state	110.50
28	Probate of an estate or of a will	111.50
29	Civil commitment under K.S.A. 59-29a01 et seq.	35.50

30
 31 (B) On and after July 1, ~~2013~~ 2017:

32	Treatment of mentally ill	34.50
33	Treatment of alcoholism or drug abuse	34.50
34	Determination of descent of property	49.50
35	Termination of life estate	48.50
36	Termination of joint tenancy	48.50
37	Refusal to grant letters of administration	48.50
38	Adoption.....	48.50
39	Filing a will and affidavit under K.S.A. 59-618a	48.50
40	Guardianship.....	69.50
41	Conservatorship.....	69.50
42	Trusteeship	69.50
43	Combined guardianship and conservatorship	69.50

1 Certified probate proceedings under K.S.A. 59-213,
 2 and amendments thereto23.50
 3 Decrees in probate from another state108.50
 4 Probate of an estate or of a will109.50
 5 Civil commitment under K.S.A. 59-29a01 et seq.33.50

6
 7 (2) Except as provided further, the docket fee established in this
 8 section shall be the only fee collected or moneys in the nature of a fee
 9 collected for the docket fee. Such fee shall only be established by an act of
 10 the legislature and no other authority is established by law or otherwise to
 11 collect a fee. On and after the effective date of this act through June 30,
 12 2013, the supreme court may impose an additional charge, not to exceed
 13 \$22 per docket fee, to fund the costs of non-judicial personnel.

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

18 (c) *Disposition of docket fee.* Statutory charges for the law library and
 19 for the prosecuting attorneys' training fund shall be paid from the docket
 20 fee. The remainder of the docket fee shall be paid to the state treasurer in
 21 accordance with K.S.A. 20-362, and amendments thereto.

22 (d) *Additional court costs.* Other fees and expenses to be assessed as
 23 additional court costs shall be approved by the court, unless specifically
 24 fixed by statute. Other fees shall include, but not be limited to, witness
 25 fees, appraiser fees, fees for service of process outside the state, fees for
 26 depositions, transcripts and publication of legal notice, executor or
 27 administrator fees, attorney fees, court costs from other courts and any
 28 other fees and expenses required by statute. All additional court costs shall
 29 be taxed and billed against the parties or estate as directed by the court. No
 30 sheriff in this state shall charge any district court in this state a fee or
 31 mileage for serving any paper or process.

32 Sec. 6. K.S.A. 2012 Supp. 60-2001 is hereby amended to read as
 33 follows: 60-2001. (a) *Docket fee.* Except as otherwise provided by law, no
 34 case shall be filed or docketed in the district court, whether original or
 35 appealed, without payment of a docket fee in the amount of \$156 on and
 36 after July 1, 2009 through June 30, ~~2013~~ 2017, and \$154 on and after July
 37 1, ~~2013~~ 2017, to the clerk of the district court. Except as provided further,
 38 the docket fee established in this subsection shall be the only fee collected
 39 or moneys in the nature of a fee collected for the docket fee. Such fee shall
 40 only be established by an act of the legislature and no other authority is
 41 established by law or otherwise to collect a fee. On and after the effective
 42 date of this act through June 30, 2013, the supreme court may impose an
 43 additional charge, not to exceed \$22 per docket fee, to fund the costs of

1 non-judicial personnel.

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

22 (2) *Form of affidavit.* The affidavit provided for in this subsection
23 shall be in the following form and attached to the petition:

24 State of Kansas, _____ County.

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

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

40 (d) *Additional court costs.* Other fees and expenses to be assessed as
41 additional court costs shall be approved by the court, unless specifically
42 fixed by statute. Other fees shall include, but not be limited to, witness
43 fees, appraiser fees, fees for service of process, fees for depositions,

1 alternative dispute resolution fees, transcripts and publication, attorney
2 fees, court costs from other courts and any other fees and expenses
3 required by statute. All additional court costs shall be taxed and billed
4 against the parties as directed by the court. No sheriff in this state shall
5 charge any mileage for serving any papers or process.

6 Sec. 7. K.S.A. 2012 Supp. 61-2704 is hereby amended to read as
7 follows: 61-2704. (a) An action seeking the recovery of a small claim shall
8 be considered to have been commenced at the time a person files a written
9 statement of the person's small claim with the clerk of the court if, within
10 90 days after the small claim is filed, service of process is obtained or the
11 first publication is made for service by publication. Otherwise, the action
12 is deemed commenced at the time of service of process or first publication.
13 An entry of appearance shall have the same effect as service.

14 (b) Upon the filing of a plaintiff's small claim, the clerk of the court
15 shall require from the plaintiff a docket fee of \$39 on and after July 1,
16 2009 through June 30, ~~2013~~ 2017, and \$37 on and after July 1, ~~2013~~ 2017,
17 if the claim does not exceed \$500; or \$59 on and after July 1, 2009
18 through June 30, ~~2013~~ 2017, and \$57 on and after July 1, ~~2013~~ 2017, if the
19 claim exceeds \$500; unless for good cause shown the judge waives the fee.
20 The docket fee shall be the only costs required in an action seeking
21 recovery of a small claim. No person may file more than 20 small claims
22 under this act in the same court during any calendar year.

23 (c) Except as provided further, the docket fee established in this
24 section shall be the only fee collected or moneys in the nature of a fee
25 collected for the docket fee. Such fee shall only be established by an act of
26 the legislature and no other authority is established by law or otherwise to
27 collect a fee. On and after the effective date of this act through June 30,
28 2013, the supreme court may impose an additional charge, not to exceed
29 \$12.50 per docket fee, to fund the costs of non-judicial personnel.

30 Sec. 8. K.S.A. 2012 Supp. 61-4001 is hereby amended to read as
31 follows: 61-4001. (a) Docket fee. (1) No case shall be filed or docketed
32 pursuant to the code of civil procedure for limited actions without the
33 payment of a docket fee in the amount of \$37 on and after July 1, 2009,
34 through June 30, ~~2013~~ 2017, and \$35 on and after July 1, ~~2013~~ 2017, if the
35 amount in controversy or claimed does not exceed \$500; \$57 on and after
36 July 1, 2009, through June 30, ~~2013~~ 2017, and \$55 on and after July 1,
37 ~~2013~~ 2017, if the amount in controversy or claimed exceeds \$500 but does
38 not exceed \$5,000; or \$103 on and after July 1, 2009, through June 30,
39 ~~2013~~ 2017, and \$101 on and after July 1, ~~2013~~ 2017, if the amount in
40 controversy or claimed exceeds \$5,000. If judgment is rendered for the
41 plaintiff, the court also may enter judgment for the plaintiff for the amount
42 of the docket fee paid by the plaintiff.

43 (2) Except as provided further, the docket fee established in this

1 section shall be the only fee collected or moneys in the nature of a fee
2 collected for the docket fee. Such fee shall only be established by an act of
3 the legislature and no other authority is established by law or otherwise to
4 collect a fee. On and after the effective date of this act through June 30,
5 2013, the supreme court may impose an additional charge, not to exceed
6 \$19 per docket fee, to fund the costs of non-judicial personnel.

7 (b) Poverty affidavit; additional court costs; exemptions for the state
8 and municipalities. The provisions of subsections (b), (c) and (d) of K.S.A.
9 60-2001 and 60-2005, and amendments thereto, shall be applicable to
10 lawsuits brought under the code of civil procedure for limited actions.

11 Sec. 9. K.S.A. 2012 Supp. 20-367, 20-3201, 28-172a, 28-179, 59-
12 104, 60-2001, 61-2704 and 61-4001 are hereby repealed.

13 Sec. 10. This act shall take effect and be in force from and after its
14 publication in the Kansas register.