

NOTE: This version of the bill, signed by the Governor on April 13th, 2009 contains errors affecting the content of the bill. The language in this version does not accurately reflect the final decision of the Legislature. Corrected language is included in 2009 SB 336 passed during the Veto Session.

HOUSE BILL No. 2111

AN ACT concerning the Kansas commission on judicial performance; relating to sunset provisions; amending K.S.A. 20-3201 and K.S.A. 2008 Supp. 20-367, 28-172a, 59-104, 60-1621, 60-2001, 61-2704 and 61-4001 and repealing the existing sections.

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

Section 1. K.S.A. 20-3201 is hereby amended to read as follows: 20-3201. On and after July 1, 2006: (a) The commission on judicial performance is hereby established as an independent committee of the Kansas judicial council. The budget of the commission shall be a part of the budget of the judicial council. The judicial council shall provide administrative assistance to the commission. The commission on judicial qualifications and the office of judicial administration shall assist the commission, if requested by the commission.

(b) The provisions of K.S.A. 20-3201 through 20-3207, and amendments thereto shall expire on June 30, 2010 *2013*.

Sec. 2. K.S.A. 2008 Supp. 20-367 is hereby amended to read as follows: 20-367. (a) On and after July 1, 2008 *2009* through June 30, 2010 *2013*, 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:

- (1) 3.00% to the judicial performance fund;
 - (2) 4.17% to the access to justice fund;
 - (3) 2.31% to the juvenile detention facilities fund;
 - (4) 1.78% to the judicial branch education fund;
 - (5) .47% to the crime victims assistance fund;
 - (6) 2.27% to the protection from abuse fund;
 - (7) 3.60% to the judiciary technology fund;
 - (8) .29% to the dispute resolution fund;
 - (9) 1.05% to the Kansas juvenile delinquency prevention trust fund;
 - (10) .18% to the permanent families account in the family and children investment fund;
 - (11) 1.25% to the trauma fund;
 - (12) .94% to the judicial council fund;
 - (13) .57% to the child exchange and visitation centers fund;
 - (14) 15.29% to the judicial branch nonjudicial salary adjustment fund;
 - (15) 15.12% to the judicial branch nonjudicial salary initiative fund;
- and
- (16) the balance to the state general fund.

(b) On and after July 1, 2010 *2013*, 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:

- (1) 4.30% to the access to justice fund;
 - (2) 2.38% to the juvenile detention facilities fund;
 - (3) 1.83% to the judicial branch education fund;
 - (4) .48% to the crime victims assistance fund;
 - (5) 2.34% to the protection from abuse fund;
 - (6) 3.71% to the judiciary technology fund;
 - (7) .30% to the dispute resolution fund;
 - (8) 1.08% to the Kansas juvenile delinquency prevention trust fund;
 - (9) .19% to the the permanent families account in the family and children investment fund;
 - (10) 1.29% to the trauma fund;
 - (11) .97% to the judicial council fund;
 - (12) .59% to the child exchange and visitation centers fund;
 - (13) 15.75% to the judicial branch nonjudicial salary adjustment fund;
 - (14) 15.57% to the judicial branch nonjudicial salary incentive fund;
- and
- (15) the balance to the state general fund.

Sec. 3. K.S.A. 2008 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) On and after July 1, 2008 through June 30, 2010:

Murder or manslaughter	\$181.50
Other felony	172.00
Misdemeanor	137.00

Forfeited recognizance	73.50
Appeals from other courts	73.50
(2) On and after July 1, 2010:	
Murder or manslaughter	\$179.50
Other felony	170.00
Misdemeanor	135.00
Forfeited recognizance	71.50
Appeals from other courts	71.50

(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, on and after July 1, 2008 2009 through June 30, 2010 2013, a docket fee of \$75 shall be charged, and on and after July 1, 2010 2013, a docket fee of \$73 shall be charged. 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, on and after July 1, 2008 2009 through June 30, 2010 2013, the docket fee to be paid as court costs shall be \$75, and on and after July 1, 2010 2013, the docket fee to be paid as court costs shall be \$73.

(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, on and after July 1, 2008 2009 through June 30, 2010 2013, a docket fee of \$75 shall be charged, and on and after July 1, 2010 2013, a docket fee of \$73 shall be charged. 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, on and after July 1, 2008 2009 through June 30, 2010 2013, the docket fee to be paid as court costs shall be \$75, and on and after July 1, 2010 2013, the docket fee to be paid as court costs shall be \$73.

(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.

(f) The docket fee established in this section 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.

Sec. 4. K.S.A. 2008 Supp. 59-104 is hereby amended to read as follows: 59-104. (a) *Docket fee.* (1) 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:

(A) On and after July 1, 2008 <i>2009</i> through June 30, 2010 <i>2013</i> :	
Treatment of mentally ill	\$59.00
Treatment of alcoholism or drug abuse	36.50
Determination of descent of property	51.50
Termination of life estate	50.50
Termination of joint tenancy	50.50
Refusal to grant letters of administration	50.50
Adoption	50.50
Filing a will and affidavit under K.S.A. 59-618a	50.50
Guardianship	71.50
Conservatorship	71.50
Trusteeship	71.50
Combined guardianship and conservatorship	71.50
Certified probate proceedings under K.S.A. 59-213, and amendments thereto	25.50
Decrees in probate from another state	110.50
Probate of an estate or of a will	111.50
Civil commitment under K.S.A. 59-29a01 et seq.	35.50
(B) On and after July 1, 2010 <i>2013</i> :	
Treatment of mentally ill	34.50
Treatment of alcoholism or drug abuse	34.50
Determination of descent of property	49.50
Termination of life estate	48.50
Termination of joint tenancy	48.50
Refusal to grant letters of administration	48.50
Adoption	48.50
Filing a will and affidavit under K.S.A. 59-618a, <i>and amendments thereto</i>	48.50
Guardianship	69.50
Conservatorship	69.50
Trusteeship	69.50
Combined guardianship and conservatorship	69.50
Certified probate proceedings under K.S.A. 59-213, and amendments thereto	23.50
Decrees in probate from another state	108.50
Probate of an estate or of a will	109.50
Civil commitment under K.S.A. 59-29a01 et seq., <i>and amendments thereto</i>	33.50

(2) 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.

(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. 5. K.S.A. 2008 Supp. 60-1621 is hereby amended to read as follows: 60-1621. (a) No post-decree motion petitioning for a modification or termination of separate maintenance, 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 \$42 on and after July 1, 2008 ~~2009~~ through June 30, 2010 ~~2013~~, and \$40 on and after July 1, 2010 ~~2013~~, 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.

(d) The docket fee established in this section 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.

Sec. 6. K.S.A. 2008 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 \$156 on and after July 1, 2008 ~~2009~~ through June 30, 2010 ~~2013~~, and \$154 on and after July 1, 2010 ~~2013~~, to the clerk of the district court. 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.

(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 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.

Sec. 7. K.S.A. 2008 Supp. 61-2704 is hereby amended to read as follows: 61-2704. (a) An action seeking the recovery of a small claim shall be considered to have been commenced at the time a person files a written statement of the person's small claim with the clerk of the court if, within 90 days after the small claim is filed, service of process is obtained or the first publication is made for service by publication. Otherwise, the action is deemed commenced at the time of service of process or first publication. An entry of appearance shall have the same effect as service. (b) Upon the filing of a plaintiff's small claim, the clerk of the court shall require from the plaintiff a docket fee of \$39 on and after July 1, 2008 ~~2009~~ through June 30, 2010 ~~2013~~, and \$37 on and after July 1, 2010 ~~2013~~, if the claim does not exceed \$500; or \$59 on and after July 1, 2008 ~~2009~~ through June 30, 2010 ~~2013~~, and \$57 on and after July 1, 2010 ~~2013~~, if the claim exceeds \$500; unless for good cause shown the judge waives the fee. The docket fee shall be the only costs required in an action seeking recovery of a small claim. No person may file more than 20 small claims under this act in the same court during any calendar year. (c) The docket fee established in this section 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.

Sec. 8. K.S.A. 2008 Supp. 61-4001 is hereby amended to read as follows: 61-4001. (a) Docket fee. No case shall be filed or docketed pursuant to the code of civil procedure for limited actions without the payment of a docket fee in the amount of \$37 on and after July 1, 2008 ~~2009~~ through June 30, 2010 ~~2013~~, and \$35 on and after July 1, 2010 ~~2013~~, if the amount in controversy or claimed does not exceed \$500; \$57 on and after July 1, 2008 ~~2009~~ through June 30, 2010 ~~2013~~, and \$55 on and after July 1, 2010 ~~2013~~, if the amount in controversy or claimed exceeds \$500 but does not exceed \$5,000; or \$103 on and after July 1, 2008 ~~2009~~ through June 30, 2010 ~~2013~~, and \$101 on and after July 1, 2010 ~~2013~~, if the amount in controversy or claimed exceeds \$5,000. If judgment is rendered for the plaintiff, the court also may enter judgment for the plaintiff for the amount of the docket fee paid by the plaintiff. (b) Poverty affidavit; additional court costs; exemptions for the state and municipalities. The provisions of subsections (b), (c) and (d) of K.S.A. 60-2001 and 60-2005, and amendments thereto, shall be applicable to lawsuits brought under the code of civil procedure for limited actions. (c) The docket fee established in this section 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.

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Sec. 9. K.S.A. 20-3201 and K.S.A. 2008 Supp. 20-367, 28-172a, 59-104, 60-1621, 60-2001, 61-2704 and 61-4001 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.