

## SENATE BILL No. 20

By Committee on Judiciary

1-15

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1 AN ACT concerning civil procedure; relating to docket fees and costs;  
2 poverty affidavit; amending K.S.A. 2012 Supp. 60-2001 and repealing  
3 the existing section.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2012 Supp. 60-2001 is hereby amended to read as  
7 follows: 60-2001. (a) *Docket fee.* Except as otherwise provided by law, no  
8 case shall be filed or docketed in the district court, whether original or  
9 appealed, without payment of a docket fee in the amount of \$156 on and  
10 after July 1, 2009 through June 30, 2013, and \$154 on and after July 1,  
11 2013, to the clerk of the district court. Except as provided further, the  
12 docket fee established in this subsection shall be the only fee collected or  
13 moneys in the nature of a fee collected for the docket fee. Such fee shall  
14 only be established by an act of the legislature and no other authority is  
15 established by law or otherwise to collect a fee. On and after the effective  
16 date of this act through June 30, 2013, the supreme court may impose an  
17 additional charge, not to exceed \$22 per docket fee, to fund the costs of  
18 non-judicial personnel.

19 (b) *Poverty affidavit in lieu of docket fee.* (1) *Effect.* In any case  
20 where a plaintiff by reason of poverty is unable to pay a docket fee, and an  
21 affidavit so stating is filed, ~~no fee will be required~~ *the court may issue an*  
22 *order authorizing the filing of a petition and establishing the amount of*  
23 *the filing fee to be paid.* An inmate in the custody of the secretary of  
24 corrections may file a poverty affidavit only if the inmate attaches a  
25 statement disclosing the average account balance, or the total deposits,  
26 whichever is less, in the inmate's trust fund for each month in: (A) The six-  
27 month period preceding the filing of the action; or (B) the current period of  
28 incarceration, whichever is shorter. Such statement shall be certified by the  
29 secretary. On receipt of the affidavit and attached statement, the court shall  
30 determine the initial fee to be assessed for filing the action and in no event  
31 shall the court require an inmate to pay less than \$3. The secretary of  
32 corrections is hereby authorized to disburse money from the inmate's  
33 account to pay the costs as determined by the court. If the inmate has a  
34 zero balance in such inmate's account, the secretary shall debit such  
35 account in the amount of \$3 per filing fee as established by the court until  
36 money is credited to the account to pay such docket fee. Any initial filing

1 fees assessed pursuant to this subsection shall not prevent the court,  
2 pursuant to subsection (d), from taxing that individual for the remainder of  
3 the amount required under subsection (a) or this subsection.

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

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

7 ~~In the district court of the county: I do solemnly swear that the claim~~  
8 ~~set forth in the petition herein is just, and I do further swear that, by reason~~  
9 ~~of my poverty, I am unable to pay a docket fee. set forth a factual basis~~  
10 ~~upon which the plaintiff alleges by reason of poverty an inability to pay a~~  
11 ~~docket fee, including, but not limited to, the source and amount of the~~  
12 ~~plaintiff's weekly income. Such affidavit shall be signed and sworn to by~~  
13 ~~the plaintiff under oath, before one who has authority to administer the~~  
14 ~~oath, under penalty of perjury, K.S.A. 2012 Supp. 21-5903, and~~  
15 ~~amendments thereto. The form of the affidavit shall be deemed sufficient if~~  
16 ~~in substantial compliance with the form set forth by the judicial council.~~

17 (3) *Court review; grounds for dismissal; service of process.* The court  
18 shall review any petition authorized for filing under this subsection. Upon  
19 such review, the petition shall be dismissed by the court if the court finds  
20 that the plaintiff's allegation of poverty is untrue or the petition is  
21 frivolous, malicious or brought in bad faith, fails to state a claim on which  
22 relief may be granted or seeks monetary relief against a defendant who is  
23 immune from such relief. Notwithstanding K.S.A. 60-301, and  
24 amendments thereto, service of process shall not issue unless the court  
25 grants leave following its review.

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

38 (d) *Additional court costs.* Other fees and expenses to be assessed as  
39 additional court costs shall be approved by the court, unless specifically  
40 fixed by statute. Other fees shall include, but not be limited to, witness  
41 fees, appraiser fees, fees for service of process, fees for depositions,  
42 alternative dispute resolution fees, transcripts and publication, attorney  
43 fees, court costs from other courts and any other fees and expenses

1 required by statute. All additional court costs shall be taxed and billed  
2 against the parties as directed by the court. No sheriff in this state shall  
3 charge any mileage for serving any papers or process.

4 Sec. 2. K.S.A. 2012 Supp. 60-2001 is hereby repealed.

5 Sec. 3. This act shall take effect and be in force from and after its  
6 publication in the statute book.

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