

HOUSE BILL No. 2440

By Committee on Appropriations

3-12

AN ACT concerning courts; prescribing and fixing certain surcharges; establishing the judicial branch surcharge fund; relating to indigent defendants; application fee; amending K.S.A. 2002 Supp. 22-4529 and repealing the existing section.

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

New Section 1. (a) There is hereby created in the state treasury the judicial branch surcharge fund. The chief justice of the Kansas supreme court shall remit any moneys received that are attributable to surcharges imposed under section 2, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the judicial branch surcharge fund. Moneys in the judicial branch surcharge fund shall be used exclusively for the business of the judicial branch in the state of Kansas. All expenditures from the judicial branch surcharge fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chief justice of the Kansas supreme court or by a person or persons designated by the chief justice.

(b) The district court or appellate court, as the case may be, shall administer, charge and collect surcharges imposed by section 2, and amendments thereto.

(c) District and appellate courts may waive all or part of the surcharge imposed by section 2, and amendments thereto, upon motion of the party to be charged and upon showing that such surcharge will result in undue hardship to the petitioning party.

(d) Surcharges imposed by section 2, and amendments thereto, shall be assessed in the same manner as docket fees and court costs are collected pursuant to law in cases filed in, county or state courts.

New Sec. 2. (a) In addition to any other fees prescribed by law, there is hereby imposed a \$5 surcharge on persons filing or docketing a case pursuant to the code of civil procedure for limited actions, which shall be deposited to the credit of the judicial branch surcharge fund.

(b) In addition to any other fees prescribed by law, there is hereby

1 imposed a \$5 surcharge on persons filing a small claim pursuant to K.S.A.
2 61-2701, *et seq.*, and amendments thereto, which shall be deposited to
3 the credit of the judicial branch surcharge fund.

4 (c) In addition to any other fees prescribed by law, there is hereby
5 imposed a \$5 surcharge on a person filing a petition under article 16 of
6 chapter 60 of the Kansas Statutes Annotated, and amendments thereto,
7 which shall be deposited to the credit of the judicial branch surcharge
8 fund.

9 (d) In addition to any other fees prescribed by law, there is hereby
10 imposed a \$5 surcharge on persons filing a post-decree motion petitioning
11 for a change in legal custody, residency, visitation rights or parenting time
12 or for modification of child support, which shall be deposited to the credit
13 of the judicial branch surcharge fund.

14 (e) In addition to any other fees prescribed by law, there is hereby
15 imposed a \$5 surcharge on persons who request a hearing in aid of exe-
16 cution pursuant to K.S.A. 60-2419, and amendments thereto, which shall
17 be deposited to the credit of the judicial branch surcharge fund.

18 (f) In addition to any other fees prescribed by law, there is hereby
19 imposed a \$5 surcharge on a person who requests a hearing in aid of
20 execution, pursuant to K.S.A. 2002 Supp. 61-3604, and amendments
21 thereto, which shall be deposited to the credit of the judicial branch
22 surcharge fund.

23 (g) In addition to any other fees prescribed by law, there is hereby
24 imposed a \$5 surcharge on a person who requests an order or writ of
25 execution, pursuant to K.S.A. 60-2401, and amendments thereto, or an
26 alias order for hearing pursuant to K.S.A. 60-2419, and amendments
27 thereto, which shall be deposited to the credit of the judicial branch
28 surcharge fund.

29 (h) In addition to any other fees prescribed by law, there is hereby
30 imposed a \$5 surcharge on persons who request a writ or order of sale
31 pursuant to K.S.A. 2002 Supp. 61-3602, and amendments thereto, which
32 shall be deposited to the credit of the judicial branch surcharge fund.

33 (i) In addition to any other fees prescribed by law, there is hereby
34 imposed a \$5 surcharge on all cases in which a judgment is rendered
35 pursuant to the code of civil procedure for limited actions in which the
36 party in whose favor judgment is rendered files pursuant to K.S.A. 60-
37 2418 or 60-2202, and amendments thereto, which shall be deposited to
38 the credit of the judicial branch surcharge fund.

39 (j) In addition to any other fees prescribed by law, there is hereby
40 imposed a \$5 surcharge on a person who files a petition for attachment
41 under K.S.A. 60-703 or K.S.A. 2002 Supp. 61-3501, and amendments
42 thereto, which shall be deposited to the credit of the judicial branch
43 surcharge fund.

1 (k) In addition to any other fees prescribed by law, there is hereby
2 imposed a \$5 surcharge on a person requesting an order for garnishment
3 pursuant to K.S.A. 2002 Supp. 61-3503 and 61-3504, and amendments
4 thereto, which shall be deposited to the credit of the judicial branch
5 surcharge fund.

6 (l) In addition to any other fees prescribed by law, there is hereby
7 imposed a \$5 surcharge on a prosecuting witness or defendant adjudged
8 to pay the costs in a criminal proceeding in any county for a felony, mur-
9 der or manslaughter, a misdemeanor and forfeited recognizance, which
10 shall be deposited to the credit of the judicial branch surcharge fund.

11 (m) In addition to any other fees prescribed by law, there is hereby
12 imposed a \$50 surcharge on a person who files a petition for expungement
13 pursuant to K.S.A. 21-4619 or K.S.A. 2002 Supp. 22-2410, and amend-
14 ments thereto, which shall be deposited to the credit of the judicial branch
15 surcharge fund.

16 (n) In addition to any other fees prescribed by law, there is hereby
17 imposed a \$5 surcharge on persons filing or docketing a case pursuant to
18 article 40 or 52 of chapter 65 of the Kansas Statutes Annotated, and
19 amendments thereto, for treatment of alcoholism or drug abuse, which
20 shall be deposited to the credit of the judicial branch surcharge fund.

21 (o) In addition to any other fees prescribed by law, there is hereby
22 imposed a \$5 surcharge on persons filing or docketing a case under the
23 provisions of chapter 59 of the Kansas Statutes Annotated, and amend-
24 ments thereto, for treatment of mentally ill, determination of descent of
25 property, refusal to grant letters of administration, guardianship, conser-
26 vatorship, combined guardianship and coservatorship, annual reports, an-
27 nual accounting of coservatorship, closing coservatorship or closing guard-
28 ianship, termination of joint tenancy, termination of life estate, closing
29 trusteeship, trusteeship, probate of an estate or of a will and filing a will
30 and affidavit under K.S.A. 59-618a, and amendments thereto, which shall
31 be deposited to the credit of the judicial branch surcharge fund.

32 (p) In addition to any other fees prescribed by law, there is hereby
33 imposed a \$5 surcharge on a person adjudged to pay the costs in a pro-
34 ceeding under the Kansas juvenile justice code, which shall be deposited
35 to the credit of the judicial branch surcharge fund.

36 (q) In addition to any other fees prescribed by law, there is hereby
37 imposed a \$5 surcharge on a prosecuting witness or defendant adjudged
38 to pay the costs in a juvenile tobacco proceeding, which shall be deposited
39 to the credit of the judicial branch surcharge fund.

40 (r) In addition to any other fees prescribed by law, there is hereby
41 imposed a \$5 surcharge on persons entering and filing a lien statement
42 pursuant to K.S.A. 65-409, and amendments thereto, which shall be de-
43 posited to the credit of the judicial branch surcharge fund.

1 (s) In addition to any other fees prescribed by law, there is hereby
2 imposed a \$5 surcharge on persons filing, entering and releasing a notice
3 of intent to perform a mechanic's lien, a performance bond, an oil and
4 gas mechanic's lien or a bond on which execution or other process cannot
5 be issued, which shall be deposited to the credit of the judicial branch
6 surcharge fund.

7 (t) In addition to any other fees prescribed by law, there is hereby
8 imposed a \$5 surcharge on persons filing a notice of pendency of an action
9 pursuant to K.S.A. 60-2203a, and amendments thereto, which shall be
10 deposited to the credit of the judicial branch surcharge fund.

11 (u) In addition to any other fees prescribed by law, there is hereby
12 imposed a \$25 surcharge on an applicant for a marriage license pursuant
13 to K.S.A. 23-108a, and amendments thereto, which shall be deposited to
14 the credit of the judicial branch surcharge fund.

15 (v) In addition to any other fees prescribed by law, there is hereby
16 imposed a \$5 surcharge on all persons assessed a driver's license rein-
17 statement fee pursuant to K.S.A. 8-2110, and amendments thereto, which
18 shall be deposited to the credit of the judicial branch surcharge fund.

19 (w) In addition to any other fees prescribed by law, there is hereby
20 imposed a \$5 surcharge on a prosecuting witness or defendant adjudged
21 to pay the costs in an action involving violation of a traffic violation under
22 K.S.A. 8-2118, and amendments thereto, which shall be deposited to the
23 credit of the judicial branch surcharge fund.

24 (x) In addition to any other fees prescribed by law, there is hereby
25 imposed a \$5 surcharge on any prosecuting witness or defendant ad-
26 judged to pay the costs in an action involving a violation of any of the
27 wildlife and parks laws of this state or of the provisions of article 11 of
28 chapter 32, of the Kansas Statutes Annotated, and amendments thereto,
29 which shall be deposited to the credit of the judicial branch surcharge
30 fund.

31 (y) In addition to any other fees prescribed by law, there is hereby
32 imposed a \$5 surcharge on persons filing a municipal court appeal or
33 appeal under the code of civil procedure for limited action pursuant to
34 K.S.A. 60-2001, and amendments thereto, or an appeal to the appellate
35 courts, pursuant to K.S.A. 60-2103, and amendments thereto, which shall
36 be deposited to the credit of the judicial branch surcharge fund.

37 (z) In addition to any other fees prescribed by law, there is hereby
38 imposed a \$5 surcharge on persons filing or docketing a case pursuant to
39 the code of civil procedure pursuant to article 2 of chapter 60 of the
40 Kansas Statutes Annotated, and amendments thereto, which shall be de-
41 posited to the credit of the judicial branch surcharge fund.

42 Sec. 3. K.S.A. 2002 Supp. 22-4529 is hereby amended to read as
43 follows: 22-4529. The court ~~may~~ *shall* impose an administrative fee in the

1 amount of \$35 against any defendant entitled to counsel pursuant to
2 K.S.A. 22-4503, and amendments thereto. If it appears to the satisfaction
3 of the court that payment of the administrative fee will impose manifest
4 hardship on the defendant, the court may waive payment of all or part of
5 the administrative fee. All moneys received pursuant to this section shall
6 be remitted to the state treasurer in accordance with the provisions of
7 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
8 remittance, the state treasurer shall deposit the entire amount in the state
9 treasury to the credit of the indigents' defense services fund. If the de-
10 fendant is acquitted or the case is dismissed, any administrative fee paid
11 pursuant to this section shall be remitted to the defendant. The provisions
12 of this section shall take effect on and after July 1, 1997.

13 Sec. 4. K.S.A. 2002 Supp. 22-4529 is hereby repealed.

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

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