

1 HB688
2 142098-10
3 By Representatives Hill and England
4 RFD: Ways and Means General Fund
5 First Read: 12-APR-12

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ENROLLED, An Act,

To increase the docket fees in certain civil and criminal cases in the circuit, district, and municipal courts in this state; to provide for distribution of the revenue; to provide for bail bond fees in certain amounts; to exempt bonds for certain traffic violations from the fees; to require the defendant to pay the fees; to provide for the clerks of the various courts to collect the fees; and to provide for distribution of the fees.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) In addition to the docket fees now authorized by law, additional docket fees shall be assessed in all circuit, district, and municipal courts as follows:

(1) In civil cases in the circuit and district courts, except child support cases and as further provided for small claims cases, an additional docket fee of forty-five dollars (\$45) and in small claims cases an additional docket fee of fifteen dollars (\$15).

(2) In criminal cases in the circuit, district, and municipal courts, except juvenile cases and as further provided for traffic cases, an additional docket fee of forty dollars (\$40) and in traffic cases, but excluding parking violations, an additional docket fee of twenty-six dollars (\$26).

1 (b) (1) Two dollars (\$2) of the traffic docket fee
2 shall be distributed to the Police Officers' Annuity Fund
3 before any distribution pursuant to subsections (c) and (d) of
4 this section.

5 (2) Ten dollars (\$10) of each fee in municipal court
6 shall be retained by the presiding municipal judge or the
7 municipal court clerk for operation of the municipal court
8 and, before any distribution in subsections (c) and (d),
9 distributed to the municipality for the operation of the
10 municipal courts.

11 (c) There is established in the State Treasury the
12 "State Judicial Administration Fund." Two-thirds of the docket
13 fees collected pursuant to subsection (a) shall be distributed
14 to the fund and used by the Administrative Office of Courts as
15 determined by the Administrative Director of Courts for the
16 operation of courts in this state.

17 (d) There is established in each judicial circuit of
18 this state the "Presiding Circuit Judge's Judicial
19 Administration Fund" and in each county in this state the
20 "Circuit Clerk's Judicial Administration Fund." One-sixth of
21 the docket fees collected in each circuit pursuant to
22 subsection (a) shall be distributed to the Presiding Circuit
23 Judge's Judicial Administration Fund in the circuit. One-sixth
24 of the docket fees collected in each county pursuant to

1 subsection (a) shall be distributed to the Circuit Clerk's
2 Judicial Administration Fund in the county.

3 (e) The funds distributed pursuant to subsection (d)
4 shall be expended for the support of local court operations,
5 including, but not limited to, salaries and benefits of court
6 employees where necessary for the efficient operations of the
7 courts in the circuit and for other expenses as individually
8 determined necessary by the presiding circuit judge or any
9 circuit clerk to promote efficient administration of justice.
10 Funds distributed pursuant to subsection (d) shall not reduce
11 the amount payable to the presiding circuit judge or any
12 circuit clerk under any local act or general act or reduce or
13 affect the amounts of funding allocated by the Administrative
14 Office of Courts to the budget of the presiding circuit judge
15 or any circuit clerk.

16 (f) All expenditures of funds pursuant to this
17 section shall be audited as all other state funds are audited.

18 (g) The docket fees assessed pursuant to this
19 section shall not be waived or remitted by the court unless
20 all docket fees associated with the case are waived or
21 remitted.

22 (h) The court clerk shall distribute the fees
23 provided for in this section on a monthly basis as other costs
24 and fees are distributed.

1 Section 2. (a) (1) In addition to all other charges,
2 costs, taxes, or fees levied by law on bail bonds, additional
3 fees as detailed in paragraph a. and paragraph b. shall be
4 imposed on every bail bond in all courts of this state.

5 The fee shall not be assessed in traffic cases,
6 except for those serious traffic offenses enumerated in Title
7 32, Chapter 5A, Article 9, Code of Alabama 1975. Where
8 multiple charges arise out of the same incident, the bond fee
9 pursuant to this section shall only be assessed on one charge.
10 Where the charge is negotiating a worthless negotiable
11 instrument, the fee shall not be assessed more than three
12 times annually per person charged. The fees shall be assessed
13 as follows:

14 a. A filing fee in the amount of thirty-five dollars
15 (\$35) on each bond executed.

16 b. For a misdemeanor offense, a bail bond fee in the
17 amount of 3.5 percent of the total face value of the bail bond
18 or one hundred dollars (\$100), whichever is greater, but not
19 to exceed four hundred fifty dollars (\$450). For a felony
20 offense, a bail bond fee of 3.5 percent of the total face
21 value of the bail bond or one hundred fifty dollars (\$150),
22 whichever is greater, but not to exceed seven hundred fifty
23 dollars (\$750). Except that if a person is released on a
24 judicial public bail, recognizance, or signature bond,
25 including a bond on electronic traffic and nontraffic

1 citations, the fee shall be affixed at twenty-five dollars
2 (\$25). For purposes of this act, face value of bond shall mean
3 the bond amount set by court or other authority at release,
4 not the amount posted at release on bail.

5 (2) The fees assessed pursuant to paragraph a. of
6 subdivision (1) of subsection (a) are required whether the
7 release from confinement or admittance to bail is based on
8 cash, judicial public bail, personal recognizance, a signature
9 bond, including a bond on electronic traffic and nontraffic
10 citations for those serious traffic offenses enumerated in
11 Title 32, Chapter 5A, Article 9, Code of Alabama 1975, an
12 appearance bond, a secured appearance bond utilizing security,
13 a bond executed by a professional surety company, or a
14 professional bail company using professional bondsmen;
15 provided, however that no fee shall be assessed pursuant to
16 paragraph a. of subdivision (1) of subsection (a) if a person
17 is released on judicial public bail or on personal
18 recognizance for a documented medical reason. The fee shall be
19 assessed at the issuance, reissuance, or reinstatement of the
20 bond.

21 (b) The fee in paragraph a. of subdivision (1) of
22 subsection (a) shall be collected by the official executing
23 the bond at the execution of the bond or within two business
24 days. If the fee is collected by an official other than the
25 clerk of the court, the official shall remit the fee to the

1 clerk of the court, attached to the executed bond, within ~~two~~
2 ~~business days~~; thirty (30) days or upon adjudication or
3 conviction of the underlying offense, whichever occurs first
4 if the fee is not collected by the official, the official
5 shall provide documentation of the nonpayment, attached to the
6 executed bond, to the clerk of the court within two business
7 days. The clerk of the court may accept the payment of the fee
8 if the clerk has the executed bond, together with proof of
9 nonpayment and charging instrument, in hand. This fee shall be
10 paid by the bondsman, surety, guaranty, or person signing as
11 surety for the undertaking of bail. If the person is released
12 on own recognizance, judicial public bail, or non-custodial
13 offense pursuant to Rule 20 of the Alabama Rules of Judicial
14 Administration, the fee shall be assessed at the time of
15 adjudication or at the time that any other fees and costs are
16 assessed.

17 (c) Upon the failure to pay the fee in paragraph a.
18 of subdivision (1) of subsection (a) and upon a finding of
19 contempt in subsection (d), the bondsman, surety, guaranty, or
20 individuals required to pay the fee shall be punished by a
21 fine of not less than five hundred dollars (\$500) in addition
22 to the fee imposed in paragraph a. of subdivision (1) of
23 subsection (a). The fine shall not be remitted, waived, or
24 reduced unless the person(s) fined can show cause to the court

1 that he or she cannot pay the fine in the reasonably
2 foreseeable future.

3 (d) If the fee in paragraph a. of subdivision (1) of
4 subsection (a) is not paid in full, the clerk of the court
5 shall provide notification of the delinquency to the district
6 attorney or prosecuting attorney within two days of the
7 clerk's entry of the case or if the case is pending then
8 within two days of the receipt of the executed bond. Upon
9 receipt of the certification of delinquency or failure to pay
10 from the court, the district attorney or prosecuting attorney
11 may take appropriate action which may include, but shall not
12 be limited to, contempt proceedings. If contempt proceedings
13 are initiated the district attorney or prosecuting attorney
14 shall send notice by U.S. Mail to the last known address of
15 the person charged with the crime, bondsman, surety, guaranty,
16 or person signing as surety for the undertaking of bail of the
17 failure to pay and provide them ten (10) days to remit payment
18 in full pursuant to this act. If the surety is the person
19 charged with the crime where the fee applies, the district
20 attorney or prosecuting attorney may file a petition for
21 contempt and the court shall set the contempt hearing on the
22 person's next regularly scheduled court appearance. If the
23 surety is not the person charged with the crime the district
24 attorney or prosecuting attorney may file a petition for
25 contempt with the court, which may, after hearing, find the

1 bondsman, surety, guaranty or person signing as surety the
2 undertaking of bail in contempt. The municipal court clerk
3 shall provide a list to the prosecuting attorney and district
4 attorney every sixty days that shall include, but not be
5 limited to, the name of every person who has failed to pay the
6 fee, the municipal case number, and the name of the person
7 signing as surety for the undertaking bail. If the prosecuting
8 authority of the municipality does not initiate contempt
9 proceedings pursuant to this section within thirty days of
10 receiving notice from the clerk of the court, the district
11 attorney with jurisdiction may file the contempt petition in
12 the municipal court. If the district attorney initiates
13 contempt proceedings in a municipal case and the person is
14 found in contempt, the fine shall be distributed as follows:
15 fifty percent (50%) to the general fund of the municipality
16 and fifty percent (50%) to the district attorney Solicitor's
17 Fund.

18 (e) (1) The fee imposed on bail bonds under paragraph
19 b. of subdivision (1) of subsection (a) shall be assessed to
20 the defendant and be imposed by the court when the defendant
21 appears in court for adjudication or sentencing.

22 (2) Notwithstanding (e) (1), if the bail bond has
23 been secured by cash, the conditions of release have been
24 performed, and the defendant has been discharged from all
25 obligations of the bond, or if the cash bail bond is forfeited

1 the clerk of the court shall, unless otherwise ordered by the
2 court, retain as the bail bond fee the amount pursuant to
3 paragraph b. of subdivision (1) of subsection (a) and disburse
4 the remainder as provided by law.

5 (3) Notwithstanding (e) (1), if the property bail
6 bond has been secured, the conditions of release have been
7 performed and the defendant has been discharged or released
8 from all obligations of the bond, or if the property bail bond
9 is forfeited, then the bond shall be reduced to the bail bond
10 fee amount pursuant to paragraph b. of subdivision (1) of
11 subsection (a) and the property shall not be discharged or
12 released by the court until the bail bond fee pursuant to
13 paragraph b. of subdivision (1) of subsection (a) has been
14 paid in full.

15 (4) The fees shall be collected pursuant to
16 paragraph b. of subdivision (1) of subsection (a) by the clerk
17 of the court. The fees pursuant to this act shall not be
18 remitted, waived, or reduced unless the defendant proves to
19 the reasonable satisfaction of the sentencing judge that the
20 defendant is not capable of paying the same within the
21 reasonably foreseeable future. The fees pursuant to this act
22 shall not be remitted, waived, or reduced unless all other
23 costs, fees, and charges of court are remitted or waived.

24 (5) The fees shall not reduce or affect the funds
25 allocated to the office of the court clerk, the sheriff, the

1 municipality, the district attorney, or the Alabama Department
2 of Forensic Sciences under any local act or other funding
3 mechanism under the law. These funds shall be in addition to
4 and not in lieu of any funds currently available to the office
5 of the court clerk, sheriff, municipality, the district
6 attorney, and the Alabama Department of Forensic Sciences.

7 (f) The court clerks shall distribute on a monthly
8 basis as other fees are distributed, the fees collected
9 pursuant to paragraph a. of subdivision (1) of subsection (a)
10 as follows: Ten percent from each fee shall be distributed
11 either to the county general fund to be earmarked and
12 distributed to the Sheriff's Fund, administered by the
13 sheriff, in the county where the bond was executed or, where
14 the bond is executed by the municipality, to the municipality;
15 45 percent of the fee to the court clerk's fund where the bond
16 was executed or where the bond is executed by the municipal
17 court, to the municipality; 45 percent of the fee to the
18 Solicitor's Fund in the county where the bond was executed.
19 The bail bond fee records shall be audited by the Department
20 of Examiners of Public Accounts.

21 (g) The court clerks shall distribute on a monthly
22 basis as other fees are distributed, the fees collected
23 pursuant to paragraph b. of subdivision (1) of subsection (a)
24 as follows: Twenty-one dollars and fifty cents (\$21.50) from
25 each fee shall be distributed to the county general fund which

1 shall be earmarked and distributed to the Sheriff's Fund,
2 administered by the sheriff, in the county where the bond was
3 executed or, where the bond was executed by a municipality, to
4 the municipality; 40 percent of the remainder of the fee to
5 the court clerk's fund where the bond was executed or where
6 the bond is executed by the municipal court, to the
7 municipality; 45 percent of the remainder of the fee to the
8 Solicitor's Fund in the county where the bond was executed;
9 five percent to the State General Fund and ten percent to the
10 Alabama Forensic Services Trust Fund. The bail bond fee
11 records shall be audited by the Department of Examiners of
12 Public Accounts.

13 Section 3. (a) The fee allocated to the Solicitor's
14 Fund shall be expended for the payment of any and all expenses
15 incurred by the district attorney in the discharge of the
16 duties of the office or for any legitimate law enforcement
17 purpose.

18 (b) The fee allocated for the court clerk's fund
19 shall be expended at the discretion of the clerk, to support
20 the functions of the office of the clerk.

21 (c) The fees allocated to the Sheriff's Fund,
22 administered by the sheriff, shall be expended at the
23 direction of the sheriff for the operation of the jail.

24 (d) The fees allocated to the Alabama Forensic
25 Services Trust Fund shall be expended for the objective

1 analysis of scientific evidence in pending criminal
2 investigations.

3 Section 4. If the charge against a defendant in a
4 case is disposed of by a finding of not guilty, no bill,
5 dismissal or nolle prosequi without conditions, the fees
6 imposed in the case pursuant to paragraph b. of subdivision
7 (1) of subsection (a) of Section 2 shall not be assessed. In
8 all other cases wherein the charge against a defendant is
9 disposed of by conviction, a finding of guilty, or dismissal
10 or nolle prosequi upon conditions to pay costs and fees, the
11 fees pursuant to paragraph b. of subdivision (1) of subsection
12 (a) of Section 2 shall be assessed. If the defendant is
13 admitted to a pretrial diversion program or to a specialty
14 court program, the fee shall be assessed as with other court
15 costs and fees.

16 Section 5. All fees or fines imposed pursuant to
17 this act shall be collected as provided for by the statute for
18 other court ordered monies in this state.

19 Section 6. The court shall maintain jurisdiction to
20 collect restitution, fees, fines, costs and other court
21 ordered monies beyond the termination of a defendant's
22 sentence or probation.

23 Section 7. The provisions of this act are repealed
24 on September 30, 2015, unless the Legislature enacts another
25 source of funding and repeals this act prior to that date.

1 Section 8. The provisions of this act are severable.
2 If any part of this act is declared invalid or
3 unconstitutional, that declaration shall not affect the part
4 which remains.

5 Section 9. All laws or parts of laws which conflict
6 with this act are repealed only to the extent they are in
7 direct conflict with the provisions of this act.

8 Section 10. This act shall become effective 30 days
9 following its passage and approval by the Governor, or its
10 otherwise becoming law, except Section 2 (a) (1) b., Section 2
11 (e), Section 2 (g), and Section 4 shall become effective on
12 the first day of the third month following its passage and
13 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 03-MAY-12.

Greg Pappas
Clerk

Senate	16-MAY-12	Amended and Passed
House	16-MAY-12	Concurred in Senate Amendment