

1 SB30
2 196846-1
3 By Senator Ward
4 RFD: Judiciary
5 First Read: 05-MAR-19
6 PFD: 02/11/2019

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8 SYNOPSIS: Under existing law, fees allowed by law in
9 connection with proceedings before judges of
10 probate are collected at the time the pleading is
11 filed or at the termination of the suit. Under
12 existing law, fees for transcripts of papers filed
13 in the case are due upon performance of the
14 service. The probate court may order that security
15 deposits be deposited into the probate court to
16 cover expected court costs.

17 Also under existing law, when a complaint is
18 filed in a civil case in the circuit or district
19 court, the plaintiff pays a docket fee. If the
20 court finds that payment of the docket fee would
21 constitute a financial hardship, the court may
22 waive the docket fee initially and tax it as costs
23 at the conclusion of the case. Under existing law,
24 for the docket fee to be waived, a verified
25 statement of substantial hardship must be filed
26 with the clerk of court and approved by the court.

1 This bill would provide for the waiver of
2 fees in connection with proceedings before judges
3 of probate upon the filing of a verified statement
4 of substantial hardship and approval by the court.
5 This bill would specify that the pleading
6 accompanying the statement of substantial hardship
7 would be considered filed on the date the statement
8 of substantial hardship is filed with the court.
9 This bill would also specify that if the court
10 finds that no hardship exists, the party would have
11 30 days from the date of the written finding of the
12 court to submit payment or the case would be
13 dismissed.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 To amend Sections 12-19-43 and 12-19-70 of the Code
20 of Alabama 1975, to provide further for waiving the docket fee
21 in a civil or probate case due to financial hardship of the
22 filing party.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 12-19-43 and 12-19-70 of the
25 Code of Alabama 1975, are amended to read as follows:

26 "§12-19-43.

1 "(a) Fees allowed by law in connection with
2 proceedings before probate judges shall be collected either at
3 the time the pleading is filed in probate court or at the
4 termination of the suit, as determined by the court. Fees for
5 transcripts of papers filed in the case to which parties are
6 entitled as of course, shall be due when the service is
7 performed.

8 "(b) In cases where appropriate, the court may order
9 that security deposits be deposited into the probate court to
10 cover expected court costs. Any unused security deposits shall
11 be returned to the person who made the deposit.

12 "(c) The fees provided for under subsection (a) may
13 be waived initially and taxed as costs and fees at the
14 conclusion of the case if the court finds that payment of the
15 fees will constitute a substantial hardship pursuant to the
16 income guidelines provided in subdivision (a) (4) and
17 subsection (b) of Section 15-12-1. A verified statement of
18 substantial hardship, signed by the party claiming hardship,
19 shall be filed with the clerk of the court. The accompanying
20 pleading shall be considered filed on the date that the
21 verified statement of substantial hardship is filed with the
22 court. If, within 90 days of the filing, the court makes a
23 written finding that the party claiming hardship has the
24 resources to pay the fee without substantial hardship, the
25 party shall have 30 days from the date of the written finding
26 of the court to submit payment of the fee or the case shall be

1 dismissed for lack of jurisdiction. Until such time as the
2 plaintiff pays the fee, the court shall stay the proceedings.

3 "(d) If, within 90 days of the filing, the court
4 does not make a written finding that the party claiming
5 hardship has the resources to pay the fee without substantial
6 hardship, the hardship shall be deemed granted.

7 "§12-19-70.

8 "(a) There shall be a consolidated civil filing fee,
9 known as a docket fee, collected from a plaintiff at the time
10 a complaint is filed in circuit court or in district court.

11 "(b) The docket fee may be waived initially and
12 taxed as costs at the conclusion of the case if the court
13 finds that payment of the fee will constitute a substantial
14 hardship pursuant to the income guidelines provided in
15 subdivision (a) (4) and subsection (b) of Section 15-12-1. A
16 verified statement of substantial hardship, signed by the
17 ~~plaintiff and approved by the court~~ party claiming hardship,
18 shall be filed with the clerk of court. The accompanying
19 pleading shall be considered filed on the date that the
20 verified statement of substantial hardship is filed with the
21 court. If, within 90 days of the filing, the court makes a
22 written finding that the party claiming hardship has the
23 resources to pay the docket fee without substantial hardship,
24 the party shall have 30 days from the date of the written
25 finding of the court to submit payment of the docket fee or
26 the case shall be dismissed for lack of jurisdiction. Until
27 such time as the plaintiff pays the docket fee, the court

1 shall stay the proceedings and the summons or other process
2 for service shall not issue.

3 "(c) If, within 90 days of the filing, the court
4 does not make a written finding that the party claiming
5 hardship has the resources to pay the fee without substantial
6 hardship, the hardship shall be deemed granted."

7 Section 2. This act shall become effective
8 immediately following its passage and approval by the
9 Governor, or its otherwise becoming law.