

FILED

2004 MAR 22 P 4: 49

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004



# ENROLLED

## House Bill No. 4097

(By Delegates Staton, Amores, Kominar and Pino)



Passed March 9, 2004

In Effect Ninety Days from Passage

FILED

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### H. B. 4097

(BY DELEGATES STATON, AMORES, KOMINAR AND PINO)

[Passed March 9, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §59-1-11 of the code of West Virginia, 1931, as amended, relating to clarifying those persons or entities responsible for paying certain fees assessed by the clerk of a circuit court for processing of criminal bonds and bailpiece.

*Be it enacted by the Legislature of West Virginia:*

That §59-1-11 of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

#### ARTICLE 1. FEES AND ALLOWANCES.

##### **§59-1-11. Fees to be charged by clerk of circuit court.**

1           (a) The clerk of a circuit court shall charge and collect for  
2 services rendered as such clerk the following fees, and such  
3 fees shall be paid in advance by the parties for whom such  
4 services are to be rendered:

5           (1) For instituting any civil action under the rules of civil  
6 procedure, any statutory summary proceeding, any extraordi-

7 nary remedy, the docketing of civil appeals or any other action,  
8 cause, suit or proceeding, one hundred twenty-five dollars, of  
9 which thirty dollars of that amount shall be deposited in the  
10 courthouse facilities improvement fund created by section six,  
11 article twenty-six, chapter twenty-nine of this code and ten  
12 dollars shall be deposited in the special revenue account created  
13 in section six hundred three, article twenty-six, chapter  
14 forty-eight of this code to provide legal services for domestic  
15 violence victims;

16 (2) For instituting an action for medical professional  
17 liability, two hundred sixty dollars, of which ten dollars of that  
18 amount shall be deposited in the courthouse facilities improve-  
19 ment fund created by section six, article twenty-six, chapter  
20 twenty-nine of this code;

21 (3) Beginning on and after the first day of July, one  
22 thousand nine hundred ninety-nine, for instituting an action for  
23 divorce, separate maintenance or annulment, one hundred  
24 thirty-five dollars;

25 (4) For petitioning for the modification of an order involv-  
26 ing child custody, child visitation, child support or spousal  
27 support, eighty-five dollars; and

28 (5) For petitioning for an expedited modification of a child  
29 support order, thirty-five dollars.

30 (b) In addition to the foregoing fees, the following fees  
31 shall likewise be charged and collected:

32 (1) For preparing an abstract of judgment, five dollars;

33 (2) For any transcript, copy or paper made by the clerk for  
34 use in any other court or otherwise to go out of the office, for  
35 each page, fifty cents;

36 (3) For action on suggestion, ten dollars;

37 (4) For issuing an execution, ten dollars;

38 (5) For issuing or renewing a suggestee execution, includ-  
39 ing copies, postage, registered or certified mail fees and the fee  
40 provided by section four, article five-a, chapter thirty-eight of  
41 this code, three dollars;

42 (6) For vacation or modification of a suggestee execution,  
43 one dollar;

44 (7) For docketing and issuing an execution on a transcript  
45 of judgment from magistrate's court, three dollars;

46 (8) For arranging the papers in a certified question, writ of  
47 error, appeal or removal to any other court, ten dollars, of which  
48 five dollars of that amount shall be deposited in the courthouse  
49 facilities improvement fund created by section six, article  
50 twenty-six, chapter twenty-nine of this code;

51 (9) For postage and express and for sending or receiving  
52 decrees, orders or records, by mail or express, three times the  
53 amount of the postage or express charges;

54 (10) For each subpoena, on the part of either plaintiff or  
55 defendant, to be paid by the party requesting the same, fifty  
56 cents;

57 (11) For additional service (plaintiff or appellant) where  
58 any case remains on the docket longer than three years, for each  
59 additional year or part year, twenty dollars.

60 (c) The clerk shall tax the following fees for services in any  
61 criminal case against any defendant convicted in such court:

62 (1) In the case of any misdemeanor, fifty-five dollars;

63       (2) In the case of any felony, seventy-five dollars, of which  
64       ten dollars of that amount shall be deposited in the courthouse  
65       facilities improvement fund created by section six, article  
66       twenty-six, chapter twenty-nine of this code.

67       (d) The clerk of a circuit court shall charge and collect a fee  
68       of twenty-five dollars per bond for services rendered by the  
69       clerk for processing of criminal bonds, and the fee shall be paid  
70       at the time of issuance by the person or entity set forth below:

71       (1) For cash bonds, the fee shall be paid by the person  
72       tendering cash as bond;

73       (2) For recognizance bonds secured by real estate, the fee  
74       shall be paid by the owner of the real estate serving as surety;

75       (3) For recognizance bonds secured by a surety company,  
76       the fee shall be paid by the surety company;

77       (4) For ten percent recognizance bonds with surety, the fee  
78       shall be paid by the person serving as surety; and

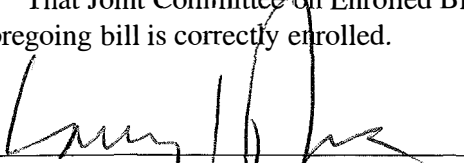
79       (5) For ten percent recognizance bonds without surety, the  
80       fee shall be paid by the person tendering ten percent of the bail  
81       amount.

82       In instances in which the total of the bond is posted by  
83       more than one bond instrument, the above fee shall be collected  
84       at the time of issuance of each bond instrument processed by  
85       the clerk, and all fees collected pursuant to this subsection (d)  
86       shall be deposited in the courthouse facilities improvement fund  
87       created by section six, article twenty-six, chapter twenty-nine  
88       of this code. Nothing in this subsection (d) may be construed as  
89       authorizing the clerk to collect the above fee from any person  
90       for the processing of a personal recognizance bond; and

91 (e) The clerk of a circuit court shall charge and collect a fee  
92 of ten dollars for services rendered by the clerk for processing  
93 of bailpiece, and the fee shall be paid by the surety at the time  
94 of issuance. All fees collected pursuant to this subsection (e)  
95 shall be deposited in the courthouse facilities improvement fund  
96 created by section six, article twenty-six, chapter twenty-nine  
97 of this code.

98 (f) No such clerk shall be required to handle or accept for  
99 disbursement any fees, cost or amounts, of any other officer or  
100 party not payable into the county treasury, except it be on order  
101 of the court or in compliance with the provisions of law  
102 governing such fees, costs or accounts.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

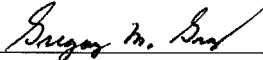
  
Chairman Senate Committee

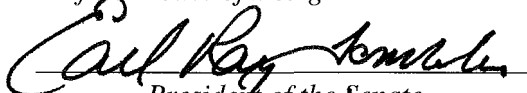
  
Chairman House Committee

Originating in the House.

In effect ninety days from passage

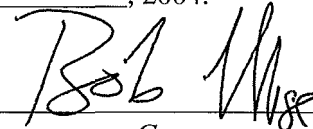
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 22nd  
day of March, 2004.

  
Governor

PRESENTED TO THE

GOVERNOR

DATE

5/16/04

TIME

10:25 am