

1 **ENROLLED**

2 **Senate Bill No. 428**

3 (BY SENATORS KESSLER (ACTING PRESIDENT) AND MILLER)

4 _____
5 [Passed March 12, 2011; in effect ninety days from passage.]
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10 AN ACT to amend and reenact §59-1-11 of the Code of West Virginia,
11 1931, as amended, all relating to fees collected by clerks of
12 court to be used to enhance funding for civil legal services
13 for victims of domestic violence and low income citizens in
14 the state.

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

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

18 **ARTICLE 1. FEES AND ALLOWANCES.**

**§59-1-4. Fees collected by Secretary of State, Auditor and Clerk
of Supreme Court of Appeals to be paid into State Treasury;
accounts; reports.**

1 Except as otherwise provided by law, the fees to be charged by
2 the Auditor, Secretary of State and Clerk of the Supreme Court of

1 Appeals, by virtue of this article or any other law, are the
2 property of the State of West Virginia. The Auditor, Secretary of
3 State and Clerk of the Supreme Court of Appeals shall account for
4 and pay into the State Treasury at least once every thirty days all
5 fees collected or appearing to be due to the state, to the credit
6 of the general state fund or other fund as provided by law. The
7 Auditor, Secretary of State and Clerk of the Supreme Court of
8 Appeals shall each keep a complete and accurate itemized account of
9 all fees collected by them and the nature of the services rendered
10 for which all fees were charged and collected, in accordance with
11 generally accepted accounting principles, as provided in article
12 two, chapter five-a of this code. All accounts shall be open to
13 inspection and audit as provided in article two, chapter four of
14 this code.

15 **§59-1-11. Fees to be charged by clerk of circuit court.**

16 (a) The clerk of a circuit court shall charge and collect for
17 services rendered by the clerk the following fees which shall be
18 paid in advance by the parties for whom services are to be
19 rendered:

20 (1) For instituting any civil action under the Rules of Civil
21 Procedure, any statutory summary proceeding, any extraordinary
22 remedy, the docketing of civil appeals, or any other action, cause,
23 suit or proceeding, \$155, of which \$30 shall be deposited in the
24 Courthouse Facilities Improvement Fund created by section six,

1 article twenty-six, chapter twenty-nine of this code and \$20
2 deposited in the special revenue account created in section six
3 hundred three, article twenty-six, chapter forty-eight of this code
4 to provide legal services for domestic violence victims;

5 (2) For instituting an action for medical professional
6 liability, \$280, of which \$10 shall be deposited in the Courthouse
7 Facilities Improvement Fund created by section six, article twenty-
8 six, chapter twenty-nine of this code;

9 (3) Beginning on and after July 1, 1999, for instituting an
10 action for divorce, separate maintenance or annulment, \$135;

11 (4) For petitioning for the modification of an order involving
12 child custody, child visitation, child support or spousal support,
13 \$85; and

14 (5) For petitioning for an expedited modification of a child
15 support order, \$35.

16 (b) In addition to the foregoing fees, the following fees
17 shall be charged and collected:

18 (1) For preparing an abstract of judgment, \$5;

19 (2) For a transcript, copy or paper made by the clerk for use
20 in any other court or otherwise to go out of the office, for each
21 page, \$1;

22 (3) For issuing a suggestion and serving notice to the debtor
23 by certified mail, \$25;

24 (4) For issuing an execution, \$25;

1 (5) For issuing or renewing a suggestee execution and serving
2 notice to the debtor by certified mail, \$25;

3 (6) For vacation or modification of a suggestee execution, \$1;

4 (7) For docketing and issuing an execution on a transcript of
5 judgment from magistrate court, \$3;

6 (8) For arranging the papers in a certified question, writ of
7 error, appeal or removal to any other court, \$10, of which \$5 shall
8 be deposited in the Courthouse Facilities Improvement Fund created
9 by section six, article twenty-six, chapter twenty-nine of this
10 code;

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

14 (10) For each subpoena, on the part of either plaintiff or
15 defendant, to be paid by the party requesting the same, 50¢;

16 (11) For additional service, plaintiff or appellant, where any
17 case remains on the docket longer than three years, for each
18 additional year or part year, \$20; and

19 (12) For administering funds deposited into a federally
20 insured interest-bearing account or interest-bearing instrument
21 pursuant to a court order, \$50, to be collected from the party
22 making the deposit. A fee collected pursuant to this subdivision
23 shall be paid into the general county fund.

24 (c) The clerk shall tax the following fees for services in a

1 criminal case against a defendant convicted in such court:

2 (1) In the case of a misdemeanor, \$85; and

3 (2) In the case of a felony, \$105, of which \$10 shall be
4 deposited in the Courthouse Facilities Improvement Fund created by
5 section six, article twenty-six, chapter twenty-nine of this code.

6 (d) The clerk of a circuit court shall charge and collect a
7 fee of \$25 per bond for services rendered by the clerk for
8 processing of criminal bonds and the fee shall be paid at the time
9 of issuance by the person or entity set forth below:

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

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

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

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

18 (5) For ten-percent recognizance bonds without surety, the fee
19 shall be paid by the person tendering ten percent of the bail
20 amount.

21 In instances in which the total of the bond is posted by more
22 than one bond instrument, the above fee shall be collected at the
23 time of issuance of each bond instrument processed by the clerk and
24 all fees collected pursuant to this subsection shall be deposited

1 in the Courthouse Facilities Improvement Fund created by section
2 six, article twenty-six, chapter twenty-nine of this code. Nothing
3 in this subsection authorizes the clerk to collect the above fee
4 from any person for the processing of a personal recognizance bond.

5 (e) The clerk of a circuit court shall charge and collect a
6 fee of \$10 for services rendered by the clerk for processing of
7 bailpiece and the fee shall be paid by the surety at the time of
8 issuance. All fees collected pursuant to this subsection shall be
9 deposited in the Courthouse Facilities Improvement Fund created by
10 section six, article twenty-six, chapter twenty-nine of this code.

11 (f) No clerk is required to handle or accept for disbursement
12 any fees, cost or amounts of any other officer or party not payable
13 into the county treasury except on written order of the court or in
14 compliance with the provisions of law governing such fees, costs or
15 accounts.

16 **§59-1-13. Fees to be charged by Clerk of Supreme Court of Appeals.**

17 The Clerk of the Supreme Court of Appeals shall charge the
18 following fees to be paid by the parties for whom the services are
19 rendered:

- 20 For all copies of petitions, records, orders, opinions or
21 other papers, per page.. 25¢
22 For each certificate under seal of the court.. . . . \$5
23 For license to practice law, suitable for framing... . \$25
24 For docketing any civil appeals, including appeals from Family

1 Courts, but not including, appeals in workers' compensations cases,
2 any action in the Supreme Court's original jurisdiction or any other
3 action, cause or proceeding \$200

4 For any other work or services not herein enumerated, the clerk
5 shall charge the fees prescribed for similar services by clerks of
6 circuit courts.

7 Fees collected for docketing civil appeals shall be expended,
8 in the discretion of the West Virginia Supreme Court of Appeals,
9 solely to provide grants to the federally designated provider of
10 civil legal services for low income citizens in the state.

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