

ENROLLED

Senate Bill No. 428

(BY SENATORS KESSLER (ACTING PRESIDENT) AND MILLER)

[Passed March 12, 2011; 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 fees collected by clerks of court to be used to enhance funding for civil legal services for victims of domestic violence and low income citizens in the state.

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.

§59-1-4. 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
2 charged by the Auditor, Secretary of State and Clerk of the
3 Supreme Court of Appeals, by virtue of this article or any
4 other law, are the property of the State of West Virginia. The
5 Auditor, Secretary of State and Clerk of the Supreme Court
6 of Appeals shall account for and pay into the State Treasury
7 at least once every thirty days all fees collected or appearing
8 to be due to the state, to the credit of the general state fund

9 or other fund as provided by law. The Auditor, Secretary of
10 State and Clerk of the Supreme Court of Appeals shall each
11 keep a complete and accurate itemized account of all fees
12 collected by them and the nature of the services rendered for
13 which all fees were charged and collected, in accordance
14 with generally accepted accounting principles, as provided
15 in article two, chapter five-a of this code. All accounts shall
16 be open to inspection and audit as provided in article two,
17 chapter four of this code.

§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 by the clerk the following fees which shall
3 be paid in advance by the parties for whom services are to be
4 rendered:

5 (1) For instituting any civil action under the Rules of Civil
6 Procedure, any statutory summary proceeding, any extraor-
7 dinary remedy, the docketing of civil appeals, or any other
8 action, cause, suit or proceeding, \$155, of which \$30 shall be
9 deposited in the Courthouse Facilities Improvement Fund
10 created by section six, article twenty-six, chapter twenty-
11 nine of this code and \$20 deposited in the special revenue
12 account created in section six hundred three, article twenty-
13 six, chapter forty-eight of this code to provide legal services
14 for domestic violence victims;

15 (2) For instituting an action for medical professional
16 liability, \$280, of which \$10 shall be deposited in the Court-
17 house Facilities Improvement Fund created by section six,
18 article twenty-six, chapter twenty-nine of this code;

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

21 (4) For petitioning for the modification of an order involv-
22 ing child custody, child visitation, child support or spousal
23 support, \$85; and

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

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

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

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

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

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

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

37 (6) For vacation or modification of a suggestee execution,
38 \$1;

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

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

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

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

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

54 (12) For administering funds deposited into a federally
55 insured interest-bearing account or interest-bearing instru-
56 ment pursuant to a court order, \$50, to be collected from the
57 party making the deposit. A fee collected pursuant to this
58 subdivision shall be paid into the general county fund.

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

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

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

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

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

72 (2) For recognizance bonds secured by real estate, the fee
73 shall be paid by the owner of the real estate serving as
74 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
81 bail 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
84 collected at the time of issuance of each bond instrument
85 processed by the clerk and all fees collected pursuant to this
86 subsection shall be deposited in the Courthouse Facilities
87 Improvement Fund created by section six, article twenty-six,
88 chapter twenty-nine of this code. Nothing in this subsection
89 authorizes the clerk to collect the above fee from any person
90 for the processing of a personal recognizance bond.

91 (e) The clerk of a circuit court shall charge and collect a fee
92 of \$10 for services rendered by the clerk for processing of

93 bailpiece and the fee shall be paid by the surety at the time
 94 of issuance. All fees collected pursuant to this subsection
 95 shall be deposited in the Courthouse Facilities Improvement
 96 Fund created by section six, article twenty-six, chapter
 97 twenty-nine of this code.

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

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

1 The Clerk of the Supreme Court of Appeals shall charge
 2 the following fees to be paid by the parties for whom the
 3 services are rendered:

4 For all copies of petitions, records, orders, opinions or
 5 other papers, per page 25¢

6 For each certificate under seal of the court \$5

7 For license to practice law, suitable for framing \$25

8 For docketing any civil appeals, including appeals from
 9 Family Courts, but not including, appeals in workers'
 10 compensations cases, any action in the Supreme Court's
 11 original jurisdiction or any other action, cause or
 12 proceeding \$200

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

16 Fees collected for docketing civil appeals shall be ex-
 17 pended, in the discretion of the West Virginia Supreme Court
 18 of Appeals, solely to provide grants to the federally desig-
 19 nated provider of civil legal services for low income citizens
 20 in the state.

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

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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Acting President of the Senate

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Speaker of the House of Delegates

The within this the
Day of, 2011.

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Governor