

H. B. 3070

(By Delegates Swartzmiller, Barill, Perry, Ferro,
Perdue, Diserio and Storch)

[Introduced March 22, 2013; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §50-3-1 of the Code of West Virginia,
1931, as amended; and to amend and reenact §59-1-11 of said
code, all relating to bail bond surcharge, providing for
collection of a surcharge deposited to the General County
Revenue Fund, and designating this surcharge to be used to
offset regional jail costs.

Be it enacted by the Legislature of West Virginia:

That §50-3-1 of the Code of West Virginia, 1931, as amended,
be amended and reenacted; and that §59-1-11 of said code be amended
and reenacted, all to read as follows:

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 3. COSTS, FINES AND RECORDS.

§50-3-1. Costs in civil actions.

The following costs shall be charged in magistrate courts in
civil actions and shall be collected in advance:

1 (a) For filing and trying any civil action and for all
2 services connected therewith, but excluding services regarding
3 enforcement of judgment, the following amounts dependent upon the
4 amount of damages sought in the complaint:

5 Where the action is for \$500 or less.. . . . \$30.00

6 Where the action is for more than \$500 but not more than
7 \$1,000. \$35.00

8 Where the action is for more than \$1,000 but not more than
9 \$2,000. \$40.00

10 Where the action is for more than \$2,000.. . . . \$50.00

11 Where the action seeks relief other than money damage \$30.00

12 Five dollars from each of the filing fees listed above shall
13 be deposited in the Court Security Fund created by the provisions
14 of section fourteen, article three, chapter fifty-one of this code.

15 Five dollars from each of the filing fees listed above shall
16 be deposited in the Courthouse Facilities Improvement Fund created
17 by section six, article twenty-six, chapter twenty-nine of this
18 code.

19 (b) For each service regarding enforcement of
20 a judgment including execution, suggestion,
21 garnishment and suggestee execution.. . . . \$5.00

22 (c) For each bond filed in a case. ~~\$1.00~~

23 \$51, \$50 of which shall be deposited in the County General Fund to
24 be designated for regional jail expenses.

1 (d) For taking deposition of witness
2 for each hour or portion thereof. \$1.00

3 (e) For taking and certifying acknowledgment of a deed or
4 other writing or taking oath upon an affidavit. \$.50

5 (f) For mailing any matter required or provided by law to be
6 mailed by certified or registered mail with return receipt \$1.00

7 (g) For filing and trying any civil action.. . . . \$20.00

8 Costs incurred in a civil action shall be reflected in any
9 judgment rendered thereon. The provisions of section one, article
10 two, chapter fifty-nine of this code, relating to the payment of
11 costs by poor persons, shall be applicable to all costs in civil
12 actions.

13 **CHAPTER 59. FEES, ALLOWANCES AND COSTS;**
14 **NEWSPAPERS; LEGAL ADVERTISEMENTS.**

15 **ARTICLE 1. FEES AND ALLOWANCES.**

16 **§59-1-11. Fees to be charged by clerk of circuit court.**

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

21 (1) For instituting any civil action under the Rules of Civil
22 Procedure, any statutory summary proceeding, any extraordinary
23 remedy, the docketing of civil appeals or any other action, cause,

1 suit or proceeding, \$155, of which \$30 shall be deposited in the
2 Courthouse Facilities Improvement Fund created by section six,
3 article twenty-six, chapter twenty-nine of this code and \$20
4 deposited in the special revenue account created in section six
5 hundred three, article twenty-six, chapter forty-eight of this code
6 to provide legal services for domestic violence victims;

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

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

13 (4) For petitioning for the modification of an order involving
14 child custody, child visitation, child support or spousal support,
15 \$85; and

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

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

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

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

24 (3) For issuing a suggestion and serving notice to the debtor

1 by certified mail, \$25;

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

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

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

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

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

13 (9) For each subpoena, on the part of either plaintiff or
14 defendant, to be paid by the party requesting the same, \$0.50;

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

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

23 (c) In addition to the foregoing fees, a fee for the actual
24 amount of the postage and express may be charged and collected for

1 sending decrees, orders or records that have not been ordered by
2 the court to be sent by mail or express.

3 (d) The clerk shall tax the following fees for services in a
4 criminal case against a defendant convicted in such court:

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

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

9 (e) The clerk of a circuit court shall charge and collect a
10 fee of ~~\$25~~ \$75 per bond for services rendered by the clerk for
11 processing of criminal bonds and the fee shall be paid at the time
12 of issuance by the person or entity set forth below:

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

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

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

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

21 (5) For ten percent recognizance bonds without surety, the fee
22 shall be paid by the person tendering ten percent of the bail
23 amount.

24 In instances in which the total of the bond is posted by more

1 than one bond instrument, the above fee shall be collected at the
2 time of issuance of each bond instrument processed by the clerk and
3 ~~all fees~~ \$25 of each fee collected pursuant to this subsection
4 shall be deposited in the Courthouse Facilities Improvement Fund
5 created by section six, article twenty-six, chapter twenty-nine of
6 this code and \$50 shall be deposited into the General County
7 Revenue Fund to be designated for regional jail expenses. Nothing
8 in this subsection authorizes the clerk to collect the above fee
9 from any person for the processing of a personal recognizance bond.

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

16 (g) No clerk is required to handle or accept for disbursement
17 any fees, cost or amounts of any other officer or party not payable
18 into the county treasury except on written order of the court or in
19 compliance with the provisions of law governing such fees, costs or
20 accounts.

NOTE: The purpose of this bill is to provide for a surcharge on bail bonds in Magistrate and Circuit Court to be deposited into the County General Revenue Fund to offset regional jail expense.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would

be added.