

**Senate Bill No. 530**

(By Senators Kirkendoll, Cann, Jenkins, Tucker, Stollings and  
McCabe)

[Introduced March 14, 2013; referred to the Committee on the  
Judiciary; and then to the Committee on 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 authorizing circuit and magistrate  
courts to collect a fee of \$50 for each criminal case in which  
surety is required, the funds to be deposited into the county  
General Revenue Fund 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.**

1 **§50-3-1. Costs in civil actions.**

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

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

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

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

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

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

15 Where the action seeks relief other than money  
16 damage. . . . . \$30.00

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

20 Five dollars from each of the filing fees listed above shall  
21 be deposited in the Courthouse Facilities Improvement Fund created  
22 by section six, article twenty-six, chapter twenty-nine of this  
23 code.

1 (b) For each service regarding enforcement of a judgment  
 2 including execution, suggestion, garnishment and suggestion,  
 3 garnishment and suggestee execution.. . . . \$5.00

4 (c) For each bond filed in a case, \$50 of which shall be  
 5 deposited in the County General Fund to be designated for regional  
 6 jail expense. . . . . ~~.\$1.00~~ \$51.00

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

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

11 (f) For mailing any matter required or provided by law to be  
 12 mailed by certified or registered mail with return receipt  
 13 . . . . . \$1.00

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

15 Costs incurred in a civil action shall be reflected in any  
 16 judgment rendered thereon. The provisions of section one, article  
 17 two, chapter fifty-nine of this code, relating to the payment of  
 18 costs by poor persons, shall be applicable to all costs in civil  
 19 actions.

20 **CHAPTER 59. FEES, ALLOWANCES AND COSTS;**

21 **NEWSPAPERS; LEGAL ADVERTISEMENTS.**

22 **ARTICLE 1. FEES AND ALLOWANCES.**

23 **§59-1-11. Fees to be charged by clerk of circuit courts.**

1       (a) The clerk of a circuit court shall charge and collect for  
2 services rendered by the clerk the following fees which shall be  
3 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 extraordinary  
7 remedy, the docketing of civil appeals or any other action, cause,  
8 suit or proceeding, \$155, of which \$30 shall be deposited in the  
9 Courthouse Facilities Improvement Fund created by section six,  
10 article twenty-six, chapter twenty-nine of this code and \$20  
11 deposited in the special revenue account created in section six  
12 hundred three, article twenty-six, chapter forty-eight of this code  
13 to provide legal services for domestic violence victims;

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

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

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

23       (5) For petitioning for an expedited modification of a child

1 support order, \$35.

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

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

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

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

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

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

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

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

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

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

23 (10) For additional service, plaintiff or appellant, where any

1 case remains on the docket longer than three years, for each  
2 additional year or part year, \$20; and

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

8       (c) In addition to the foregoing fees, a fee for the actual  
9 amount of the postage and express may be charged and collected for  
10 sending decrees, orders or records that have not been ordered by  
11 the court to be sent by mail or express.

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

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

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

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

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

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

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

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

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

10       In instances in which the total of the bond is posted by more  
11 than one bond instrument, the above fee shall be collected at the  
12 time of issuance of each bond instrument processed by the clerk and  
13 ~~all fees~~ \$25 of each fee collected pursuant to this subsection  
14 shall be deposited in the Courthouse Facilities Improvement Fund  
15 created by section six, article twenty-six, chapter twenty-nine of  
16 this code and \$50 shall be deposited into the County General  
17 Revenue Fund and designated for regional jail expense. Nothing in  
18 this subsection authorizes the clerk to collect the above fee from  
19 any person for the processing of a personal recognizance bond.

20       (f) The clerk of a circuit court shall charge and collect a  
21 fee of \$10 for services rendered by the clerk for processing of  
22 bailpiece and the fee shall be paid by the surety at the time of  
23 issuance. All fees collected pursuant to this subsection shall be

1 deposited in the Courthouse Facilities Improvement Fund created by  
2 section six, article twenty-six, chapter twenty-nine of this code.

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

NOTE: The purpose of this bill is to provide additional money  
for regional jail expenses by placing a \$50 surcharge on bail  
bonds, to be collected by circuit and magistrate courts and  
deposited in county general revenue funds.

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