

Senate Bill No. 547

(By Senator Barnes)

[Introduced March 15, 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.

§50-3-1. Costs in civil actions.

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

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

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

8 Where the action is for more than \$500 but not more than
9 \$1,000.. . . . \$35.00

10 Where the action is for more than \$1,000 but not more than
11 \$2,000. \$40.00

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

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

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

17 Five dollars from each of the filing fees listed above 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 (b) For each service regarding enforcement of a judgment
22 including execution, suggestion, garnishment and suggestee
23 execution.. . . . \$5.00

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

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

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

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

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

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

16 **CHAPTER 59. FEES, ALLOWANCES AND COSTS;**
17 **NEWSPAPERS; LEGAL ADVERTISEMENTS.**

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

19 **§59-1-11. Fees to be charged by clerk of circuit courts.**

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

1 rendered:

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

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

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

17 (4) For petitioning for the modification of an order involving
18 child custody, child visitation, child support or spousal support,
19 \$85; and

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

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

- 1 (1) For preparing an abstract of judgment, \$5;
- 2 (2) For a transcript, copy or paper made by the clerk for use
3 in any other court or otherwise to go out of the office, for each
4 page, \$1;
- 5 (3) For issuing a suggestion and serving notice to the debtor
6 by certified mail, \$25;
- 7 (4) For issuing an execution, \$25;
- 8 (5) For issuing or renewing a suggestee execution and serving
9 notice to the debtor by certified mail, \$25;
- 10 (6) For vacation or modification of a suggestee execution, \$1;
- 11 (7) For docketing and issuing an execution on a transcript of
12 judgment from magistrate court, \$3;
- 13 (8) For arranging the papers in a certified question, writ of
14 error, appeal or removal to any other court, \$10, of which \$5 shall
15 be deposited in the Courthouse Facilities Improvement Fund created
16 by section six, article twenty-six, chapter twenty-nine of this
17 code;
- 18 (9) For each subpoena, on the part of either plaintiff or
19 defendant, to be paid by the party requesting the same, \$.50;
- 20 (10) For additional service, plaintiff or appellant, where any
21 case remains on the docket longer than three years, for each
22 additional year or part year, \$20; and
- 23 (11) For administering funds deposited into a federally

1 insured interest-bearing account or interest-bearing instrument
2 pursuant to a court order, \$50, to be collected from the party
3 making the deposit. A fee collected pursuant to this subdivision
4 shall be paid into the general county fund.

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

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

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

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

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

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

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

23 (3) For recognizance bonds secured by a surety company, the

1 fee shall be paid by the surety company;

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

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

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

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

23 (g) No clerk is required to handle or accept for disbursement

1 any fees, cost or amounts of any other officer or party not payable
2 into the county treasury except on written order of the court or in
3 compliance with the provisions of law governing such fees, costs or
4 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.