

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2014



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 458

(SENATORS KESSLER (MR. PRESIDENT), BARNES,
FITZSIMMONS, KIRKENDOLL, WALTERS, LAIRD, YOST,
COOKMAN AND STOLLINGS, *ORIGINAL SPONSORS*)

[PASSED MARCH 8, 2014; TO TAKE EFFECT JULY 1, 2014.]

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STOLLINGS, *original sponsors*)

[Passed March 8, 2014; to take effect July 1, 2014]

AN ACT to amend and reenact §59-1-11 of the Code of West Virginia, 1931, as amended, relating to certain fees in the circuit courts of the state to be dedicated to the support of civil legal services for low-income persons by depositing certain fees in the preexisting Fund for Civil Legal Services for Low Income Persons; requiring the civil action filing fee apply to removal of cases from magistrate court; increasing the civil action filing fee; creating a new fee associated with certain civil court filings; creating exceptions; and providing for the collection of certain fees by magistrate court.

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.

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

1 (a) The clerk of a circuit court shall charge and collect
2 for services rendered by the clerk the following fees which
3 shall be paid in advance by the parties for whom services are
4 to be rendered:

5 (1) Except as provided in subdivisions (2) and (3) of this
6 subsection, for instituting any civil action under the Rules of
7 Civil Procedure, any statutory summary proceeding, any
8 extraordinary remedy, the docketing of civil appeals or
9 removals of civil cases from magistrate court, or any other
10 action, cause, suit or proceeding, \$200, of which \$30 shall be
11 deposited in the Courthouse Facilities Improvement Fund
12 created by section six, article twenty-six, chapter twenty-nine
13 of this code and \$45 shall be deposited in the special revenue
14 account designated the Fund for Civil Legal Services for Low
15 Income Persons, established by paragraph (B), subdivision
16 (4), subsection (c), section ten of this article, and \$20
17 deposited in the special revenue account created in section six
18 hundred three, article twenty-six, chapter forty-eight of this
19 code to provide legal services for domestic violence victims;

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

24 (3) Beginning on and after July 1, 1999, for instituting
25 an action for divorce, separate maintenance or annulment,
26 \$135;

27 (4) For petitioning for the modification of an order
28 involving child custody, child visitation, child support or
29 spousal support, \$85;

30 (5) For petitioning for an expedited modification of a
31 child support order, \$35; and

32 (6) For filing any pleading that includes a counterclaim,
33 cross claim, third-party complaint or motion to intervene,
34 \$200, which shall be deposited in the special revenue account
35 designated the Fund for Civil Legal Services for Low Income
36 Persons, established by paragraph (B), subdivision (4),
37 subsection (c), section ten of this article: *Provided*, That this
38 subdivision and the fee it imposes does not apply in family
39 court cases nor may more than one such fee be imposed on
40 any one party in any one civil action.

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

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

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

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

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

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

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

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

56 (8) For arranging the papers in a certified question, writ
57 of error, appeal or removal to any other court, \$10, of which
58 \$5 shall be deposited in the Courthouse Facilities
59 Improvement Fund created by section six, article twenty-six,
60 chapter twenty-nine of this code;

61 (9) For each subpoena, on the part of either plaintiff or
62 defendant, to be paid by the party requesting the same, fifty
63 cents;

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

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

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

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

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

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

83 (e) The clerk of a circuit court shall charge and collect
84 a fee of \$25 per bond for services rendered by the clerk for
85 processing of criminal bonds and the fee shall be paid at the
86 time of issuance by the person or entity set forth below:

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

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

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

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

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

99 In instances in which the total of the bond is posted by
100 more than one bond instrument, the above fee shall be
101 collected at the time of issuance of each bond instrument
102 processed by the clerk and all fees collected pursuant to this
103 subsection shall be deposited in the Courthouse Facilities
104 Improvement Fund created by section six, article twenty-six,
105 chapter twenty-nine of this code. Nothing in this subsection
106 authorizes the clerk to collect the above fee from any person
107 for the processing of a personal recognizance bond.

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

112 be deposited in the Courthouse Facilities Improvement Fund
113 created by section six, article twenty-six, chapter twenty-nine
114 of this code.

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

120 (h) Fees for removal of civil cases from magistrate court
121 shall be collected by the magistrate court when the case is
122 still properly before the magistrate court. The magistrate
123 court clerk shall forward the fees collected to the circuit court
124 clerk.

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.

To take effect July 1, 2014.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this
the Day of, 2014.

.....
Governor