

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 458**

5 (SENATORS KESSLER (MR. PRESIDENT), BARNES, FITZSIMMONS, KIRKENDOLL, WALTERS,
6 LAIRD, YOST, COOKMAN AND STOLLINGS, *original sponsors*)

7 _____
8 [Passed March 8, 2014; to take effect July 1, 2014]
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12 AN ACT to amend and reenact §59-1-11 of the Code of West Virginia,
13 1931, as amended, relating to certain fees in the circuit
14 courts of the state to be dedicated to the support of civil
15 legal services for low-income persons by depositing certain
16 fees in the preexisting Fund for Civil Legal Services for Low
17 Income Persons; requiring the civil action filing fee apply to
18 removal of cases from magistrate court; increasing the civil
19 action filing fee; creating a new fee associated with certain
20 civil court filings; creating exceptions; and providing for
21 the collection of certain fees by magistrate court.

22 *Be it enacted by the Legislature of West Virginia:*

23 That §59-1-11 of the Code of West Virginia, 1931, as amended,
24 be amended and reenacted to read as follows:

25 **ARTICLE 1. FEES AND ALLOWANCES.**

26 **§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 be
3 paid in advance by the parties for whom services are to be
4 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 removals of
9 civil cases from magistrate court, or any other action, cause, suit
10 or proceeding, \$200, of which \$30 shall be deposited in the
11 Courthouse Facilities Improvement Fund created by section six,
12 article twenty-six, chapter twenty-nine of this code and \$45 shall
13 be deposited in the special revenue account designated the Fund for
14 Civil Legal Services for Low Income Persons, established by
15 paragraph (B), subdivision (4), subsection (c), section ten of this
16 article, and \$20 deposited in the special revenue account created
17 in section six hundred three, article twenty-six, chapter forty-
18 eight of this code to provide legal services for domestic violence
19 victims;

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

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

26 (4) For petitioning for the modification of an order involving

1 child custody, child visitation, child support or spousal support,
2 \$85;

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

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

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

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

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

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

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

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

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

26 (7) For docketing and issuing an execution on a transcript of

1 judgment from magistrate court, \$3;

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

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

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

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

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

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

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

25 (2) In the case of a felony, \$105, of which \$10 shall be
26 deposited in the Courthouse Facilities Improvement Fund created by

1 section six, article twenty-six, chapter twenty-nine of this code.

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

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

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

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

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

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

17 In instances in which the total of the bond is posted by more
18 than one bond instrument, the above fee shall be collected at the
19 time of issuance of each bond instrument processed by the clerk and
20 all fees collected pursuant to this subsection shall be deposited
21 in the Courthouse Facilities Improvement Fund created by section
22 six, article twenty-six, chapter twenty-nine of this code. Nothing
23 in this subsection authorizes the clerk to collect the above fee
24 from any person for the processing of a personal recognizance bond.

25 (f) The clerk of a circuit court shall charge and collect a
26 fee of \$10 for services rendered by the clerk for processing of

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

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

10 (h) Fees for removal of civil cases from magistrate court
11 shall be collected by the magistrate court when the case is still
12 properly before the magistrate court. The magistrate court clerk
13 shall forward the fees collected to the circuit court clerk.