

1 **H. B. 4348**

2  
3 (By Delegates Fleischauer, Ellem, Guthrie,  
4 Shott, Skaff, Storch, Barill, Ferro,  
5 Skinner and Ireland)  
6

7 [Introduced January 28, 2014; referred to the  
8 Committee on the Judiciary then Finance.]

**FISCAL  
NOTE**

9  
10 A BILL to amend and reenact §59-1-11 of the Code of West Virginia,  
11 1931, as amended, relating to imposing additional fees in the  
12 circuit courts of the state to be dedicated to the support of  
13 civil legal services for low-income persons.

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

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

17 **ARTICLE 1. FEES AND ALLOWANCES.**

18 **§59-1-11. Fees to be charged by clerk of circuit court.**

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

23 (1) For instituting any civil action under the Rules of Civil  
24 Procedure, any statutory summary proceeding, any extraordinary  
25 remedy, the docketing of civil appeals, or removals of civil cases

1 from magistrate court, or any other action, cause, suit or  
2 proceeding, ~~\$155~~ \$200, of which \$30 shall be deposited in the  
3 Courthouse Facilities Improvement Fund created by section six,  
4 article twenty-six, chapter twenty-nine of this code and \$45 shall  
5 be deposited in the special revenue account created in subsection  
6 (c)(4)(B), section ten of this article to provide civil legal  
7 services for low income persons, and \$20 deposited in the special  
8 revenue account created in section six hundred three, article  
9 twenty-six, chapter forty-eight of this code to provide legal  
10 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; and

22 (6) For filing any pleading that includes a counterclaim,  
23 cross claim, or third party or intervenor complaint, \$200, which  
24 shall be deposited in the special revenue account created in

1 subsection (c) (4) (B), section ten of this article to provide civil  
2 legal services for low income persons: Provided, that this  
3 subsection and the fee it imposes does not apply in family court  
4 cases nor may more than one such fee be imposed on any one party in  
5 any one civil action.

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

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

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

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

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

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

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

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

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

1 (9) For each subpoena, on the part of either plaintiff or  
2 defendant, to be paid by the party requesting the same, 50¢;

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

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

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

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

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

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

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

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

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

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

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

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

12           In instances in which the total of the bond is posted by more  
13 than one bond instrument, the above fee shall be collected at the  
14 time of issuance of each bond instrument processed by the clerk and  
15 all fees collected pursuant to this subsection shall be deposited  
16 in the Courthouse Facilities Improvement Fund created by section  
17 six, article twenty-six, chapter twenty-nine of this code. Nothing  
18 in this subsection authorizes the clerk to collect the above fee  
19 from 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  
24 deposited in the Courthouse Facilities Improvement Fund created by

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

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

NOTE: The purpose of this bill is to enhance civil legal services for low-income persons.

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