

1 **H. B. 4401**

2
3 (By Delegates D. Poling, Jones, Swartzmiller,
4 Marcum, Longstreth, Ferro, Diseario, Ellem,
5 Azinger and Boggs)
6

7 [Introduced February 4, 2014; referred to the
8 Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §49-1-6; and to amend
12 and reenact §59-1-10 of said code, all relating to requiring
13 each judicial circuit to have a court appointed special
14 advocate program and each county to have a special advocate
15 for children in abuse and neglect proceedings; raising the
16 price of a certified copy of a birth certificate, death
17 certificate or marriage license from \$5 to \$11; and creating
18 a fund within the State Treasury to pay for the implementation
19 of court appointed special advocate programs and the hiring of
20 special advocates.

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

22 That the Code of West Virginia, 1931, as amended, be amended
23 by adding thereto a new section, designated §49-1-6; and that §59-
24 1-10 of said code be amended and reenacted, all to read as follows:

25 **CHAPTER 49. CHILD WELFARE.**

1 **ARTICLE 1. PURPOSES; DEFINITIONS.**

2 **§49-1-6. Requirement for each county to have a special advocate.**

3 (a) Every judicial circuit shall have a court appointed
4 special advocate (CASA) program, as defined in section three of
5 this article. Each county in each judicial circuit shall have at
6 least one special advocate working exclusively in that county.

7 (b) The CASA program and the special advocates shall be paid
8 with funds from the Court Appointed Special Advocate (CASA) Fund
9 created under subsection (c) of this section.

10 (c) There is created within the State Treasury a special
11 revenue fund designated the Court Appointed Special Advocate Fund,
12 which consists of money collected under subdivision (4), subsection
13 (d), section ten, article one, chapter fifty-nine of this code.

14 (d) Upon written request to the State Treasurer, the Supreme
15 Court of Appeals may withdraw moneys from the Court Appointed
16 Special Advocate Fund to fund CASA programs and pay special
17 advocates.

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

19 **NEWSPAPERS; LEGAL ADVERTISEMENTS.**

20 **ARTICLE 1. FEES AND ALLOWANCES.**

21 **§59-1-10. Fees to be charged by clerk of county commission.**

22 For the purpose of this section, the word "page" is defined as
23 being a paper or electronic writing of not more than legal size, 8

1 1/2" x 14".

2 (a) When a writing is admitted to record, for receiving proof
3 of acknowledgment ~~thereof~~ of it, entering an order in connection
4 ~~therewith~~ with it, endorsing clerk's certificate of recordation
5 ~~thereon~~ on it and indexing in a proper index, the clerk of the
6 county commission shall charge and collect the following fees:

7 (1) Fifteen dollars for a deed of conveyance with or without
8 a plat, trust deed, fixture filing or security agreement concerning
9 real estate lease.

10 (2) Forty dollars for a trustee's report of sale for any
11 property for which additional information and filing requirements
12 are required by section eight-a, article one, chapter thirty-eight
13 of this code. Twenty dollars of each recording fee received
14 pursuant to this subdivision shall be deposited into the county's
15 General Revenue Fund and \$20 paid quarterly by the clerk of the
16 county commission to the West Virginia Housing Development Fund
17 established in article eighteen, chapter thirty-one of this code.

18 (3) Ten dollars for a financing, continuation, termination or
19 other statement or writing permitted to be filed under chapter
20 forty-six of this code.

21 (4) Ten dollars for a plat or map with no deed of conveyance.

22 (5) No charge for a service discharge record.

23 (6) Ten dollars for any document or writing other than those
24 referenced in subdivisions (1), (2), (3), (4) and (5) of this

1 subsection.

2 (7) One dollar for each additional page for documents or
3 writings containing more than five pages.

4 For any of the documents admitted to record pursuant to this
5 subsection, if the clerk of the county commission has the
6 technology available to receive these documents in electronic form
7 or other media, the clerk shall set a reasonable fee to record
8 these writings not to exceed the cost for filing paper documents.

9 (8) Of the fees collected pursuant to subdivision (1),
10 subsection (a) of this section, \$10 shall be deposited in the
11 county general fund in accordance with section twenty-eight of this
12 article and \$1 shall be deposited in the county general fund and
13 dedicated to the operation of the county clerk's office. Four
14 dollars of the fees collected pursuant to subdivision (1),
15 subsection (a) of this section and \$5 of the fees collected
16 pursuant to subdivision (6), subsection (a) of this section shall
17 be paid by the county clerk into the State Treasury and deposited
18 in equal amounts for deposit into the Farmland Protection Fund
19 created in article twelve, chapter eight-a of this code for the
20 benefit of the West Virginia Agricultural Land Protection Authority
21 and into the Outdoor Heritage Conservation Fund created in article
22 two-g, chapter five-b of this code. The funds deposited in the
23 State Treasury pursuant to this subdivision may only be used for
24 costs, excluding personnel costs, associated with purpose of land

1 conservation, as defined in subsection (f), section seven, article
2 two-g, chapter five-b of this code.

3 (b) Five dollars for administering any oath other than oaths
4 by officers and employees of the state, political subdivisions of
5 the state or a public or quasi-public entity of the state or a
6 political subdivision of the state, taken in his or her official
7 capacity.

8 (c) Fifty-five dollars for issuance of marriage license and
9 other duties pertaining to the marriage license (including
10 preparation of the application, administering the oath,
11 registering and recording the license, mailing acknowledgment of
12 minister's return to one of the licensees and notification to a
13 licensee after sixty days of the nonreceipt of the minister's
14 return). This fee is reduced to \$35 if the applicants present a
15 premarital education course completion certificate issued pursuant
16 to section seven hundred one, article two, chapter forty-eight of
17 this code, and dated within one year of the application for a
18 marriage license.

19 (1) One dollar of the marriage license fee received pursuant
20 to this subsection shall be paid by the county clerk into the State
21 Treasury as a state registration fee in the same manner that
22 license taxes are paid into the Treasury under article twelve,
23 chapter eleven of this code;

24 (2) Fifteen dollars of the marriage license fee received

1 pursuant to this subsection shall be paid by the county clerk into
2 the State Treasury for the Family Protection Shelter Support Act in
3 the same manner that license taxes are paid into the Treasury under
4 article twelve, chapter eleven of this code;

5 (3) Ten dollars of the marriage license fee received pursuant
6 to this subsection shall be deposited in the Courthouse Facilities
7 Improvement Fund created by section six, article twenty-six,
8 chapter twenty-nine of this code; and

9 (4) If a premarital education course completion certificate is
10 not presented, the county clerk shall, on or before the tenth day
11 of each month, transmit \$20 of the marriage license fee received
12 pursuant to this subsection to the State Treasurer for deposit in
13 the State Treasury as follows:

14 (A) Five dollars to the credit of the Family Protection
15 Shelter Support Act in the same manner that license taxes are paid
16 into the Treasury under article twelve, chapter eleven of this
17 code;

18 (B) Five dollars to the credit of the special revenue account,
19 hereby created, designated the "Fund for Civil Legal Services for
20 Low Income Persons," which ~~shall consist~~ consists of all gifts,
21 grants, bequests, transfers, appropriations or other donations or
22 payments which may be received and administered by the Division of
23 Justice and Community Services from any governmental entity or unit
24 or any person, firm, foundation, or corporation for the purposes of

1 this section, and all interest or other return earned from
2 investment of the fund. Expenditures from the fund shall be made by
3 the Director of the Division of Justice and Community Services and
4 shall be limited to grants to nonprofit agencies which provide
5 civil legal services to low income persons made at his or her
6 discretion. Any balance in the fund at the end of each fiscal year
7 shall not revert to the General Revenue Fund but shall remain in
8 the fund and be expended as provided by this section.

9 (C) Ten dollars to the credit of the Marriage Education Fund
10 created pursuant to section seven hundred two, article two, chapter
11 forty-eight of this code.

12 (d) (1) One dollar and fifty cents for a copy of any writing
13 or document, if it is not otherwise provided for.

14 (2) One dollar for each additional page if the writing or
15 documents contains more than two pages.

16 (3) One dollar for annexing the seal of the commission or
17 clerk to any paper.

18 (4) ~~Five~~ Eleven dollars for a certified copy of a birth
19 certificate, death certificate or marriage license. Six dollars of
20 each fee the county clerk collects for certified copies shall be
21 remitted quarterly to the Tax Commissioner. Upon remittance of the
22 fee, the county clerk is required to file returns on forms and in
23 the manner as prescribed by the Tax Commissioner. The Tax
24 Commissioner shall then remit accrued funds to the State Treasurer,

1 who shall place the collected funds in the Court Appointed Special
2 Advocate Fund created in section six, article one, chapter forty-
3 nine of this code.

4 (e) For copies of any record in electronic form or a medium
5 other than paper, a reasonable fee set by the clerk of the county
6 commission not to exceed the costs associated with document search
7 and duplication.

NOTE: The purpose of this bill is to provide for court appointed special advocate (CASA) program in each judicial circuit and court appointed special advocates in each county for child abuse and neglect cases, and to provide for a revenue stream to fund CASA programs and the hiring of special advocates.

§49-1-6 is new; therefore, it has been completely underscored. In §59-1-10, strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.