

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 458

(By Senators Kessler (Mr. President), Barnes, Fitzsimmons,
Kirkendoll, Walters, Laird, Yost, Cookman and Stollings)

[Originating in the Committee on the Judiciary;
reported February 7, 2014.]

A BILL 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 pre-existing 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; and creating exceptions.

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 for
2 services rendered by the clerk the following fees which shall
3 be paid in advance by the parties for whom services are to be
4 rendered:

5 (1) For instituting any civil action under the Rules of
6 Civil Procedure, any statutory summary proceeding, any
7 extraordinary remedy, the docketing of civil appeals or
8 removals of civil cases from magistrate court, or any other
9 action, cause, suit or proceeding, ~~\$155~~ \$200, of which \$30
10 shall be deposited in the Courthouse Facilities Improvement
11 Fund created by section six, article twenty-six, chapter
12 twenty-nine of this code and \$45 shall be deposited in the
13 special revenue account designated the Fund for Civil Legal
14 Services for Low Income Persons, which was previously

15 created in paragraph (B), subdivision (4), subsection (c),
16 section ten of this article, and \$20 deposited in the special
17 revenue account created in section six hundred three, article
18 twenty-six, chapter forty-eight of this code to provide legal
19 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 an
25 action for divorce, separate maintenance or annulment, \$135;

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

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

31 (6) For filing any pleading that includes a third-party
32 complaint or motion to intervene, \$200, which shall be
33 deposited in the special revenue account designated the Fund

34 for Civil Legal Services for Low Income Persons, which was
35 previously created in paragraph (B), subdivision (4),
36 subsection (c), section ten of this article: *Provided, That this*
37 subdivision and the fee it imposes does not apply in family
38 court cases nor may more than one such fee be imposed on
39 any one party in any one civil action.

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

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

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

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

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

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

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

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

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

60 (9) For each subpoena, on the part of either plaintiff or
61 defendant, to be paid by the party requesting the same, \$0.50;

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

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

70 (c) In addition to the foregoing fees, a fee for the actual
71 amount of the postage and express may be charged and

72 collected for sending decrees, orders or records that have not
73 been ordered by the court to be sent by mail or express.

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

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

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

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

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

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

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

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

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

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

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

110 Fund created by section six, article twenty-six, chapter
111 twenty-nine of this code.

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