

H. B. 2898

(By Delegate Azinger (By Request))

[Introduced February 24, 2015; referred to the
Committee on the Judiciary then Finance.]

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

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 49. CHILD WELFARE.

ARTICLE 1. PURPOSES; DEFINITIONS.

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

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

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

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

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

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

14 **NEWSPAPERS; LEGAL ADVERTISEMENTS.**

15 **ARTICLE 1. FEES AND ALLOWANCES.**

16 **§59-1-10. Fees to be charged by clerk of county commission.**

17 For the purpose of this section, the word "page" is defined as being a paper or electronic
18 writing of not more than legal size, 8 1/2" x 14".

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

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

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

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

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

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

13 (6) Ten dollars for any document or writing other than those referenced in subdivisions (1),
14 (2), (3), (4) and (5) of this subsection.

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

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

21 (8) Of the fees collected pursuant to subdivision (1), subsection (a) of this section, \$10 shall
22 be deposited in the county general fund in accordance with section twenty-eight of this article and

1 \$1 shall be deposited in the county general fund and dedicated to the operation of the county clerk's
2 office. Four dollars of the fees collected pursuant to subdivision (1), subsection (a) of this section
3 and \$5 of the fees collected pursuant to subdivision (6), subsection (a) of this section shall be paid
4 by the county clerk into the State Treasury and deposited in equal amounts for deposit into the
5 Farmland Protection Fund created in article twelve, chapter eight-a of this code for the benefit of the
6 West Virginia Agricultural Land Protection Authority and into the Outdoor Heritage Conservation
7 Fund created in article two-g, chapter five-b of this code. The funds deposited in the State Treasury
8 pursuant to this subdivision may only be used for costs, excluding personnel costs, associated with
9 purpose of land conservation, as defined in subsection (f), section seven, article two-g, chapter five-b
10 of this code.

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

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

21 (1) One dollar of the marriage license fee received pursuant to this subsection shall be paid
22 by the county clerk into the State Treasury as a state registration fee in the same manner that license

1 taxes are paid into the Treasury under article twelve, chapter eleven of this code;

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

6 (3) Ten dollars of the marriage license fee received pursuant to this subsection shall be
7 deposited in the Courthouse Facilities 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 not presented, the county clerk
10 shall, on or before the tenth day of each month, transmit \$20 of the marriage license fee received
11 pursuant to this subsection to the State Treasurer for deposit in the State Treasury as follows:

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

14 (B) Five dollars to the credit of the special revenue account, hereby created, designated the
15 "Fund for Civil Legal Services for Low Income Persons," which ~~shall consist~~ consists of all gifts,
16 grants, bequests, transfers, appropriations or other donations or payments which may be received and
17 administered by the Division of Justice and Community Services from any governmental entity or
18 unit or any person, firm, foundation, or corporation for the purposes of this section, and all interest
19 or other return earned from investment of the fund. Expenditures from the fund shall be made by the
20 Director of the Division of Justice and Community Services and shall be limited to grants to
21 nonprofit agencies which provide civil legal services to low income persons made at his or her
22 discretion. Any balance in the fund at the end of each fiscal year shall not revert to the General

1 Revenue Fund but shall remain in the fund and be expended as provided by this section.

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

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

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

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

9 (4) ~~Five~~ Eleven dollars for a certified copy of a birth certificate, death certificate or marriage
10 license. Six dollars of each fee the county clerk collects for certified copies shall be remitted
11 quarterly to the Tax Commissioner. Upon remittance of the fee, the county clerk is required to file
12 returns on forms and in the manner as prescribed by the Tax Commissioner. The Tax Commissioner
13 shall then remit accrued funds to the State Treasurer, who shall place the collected funds in the Court
14 Appointed Special Advocate Fund created in section six, article one, chapter forty-nine of this code.

15 (e) For copies of any record in electronic form or a medium other than paper, a reasonable
16 fee set by the clerk of the county commission not to exceed the costs associated with document
17 search 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 by increasing the fee for a certified copy of a birth certificate, death certificate or

marriage license from \$5 to \$11.

§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.