

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3172

By Delegates Mallow, Fast, DeVault, C. Pritt, Adkins,

Marple, Forsht, and Miller

[Introduced January 31, 2023; Referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §59-1-11 of the Code of West Virginia, 1931, as amended, relating to
2 prohibiting the practice of charging the full filing fee for every plaintiff listed in a civil action.

Be it enacted by the Legislature of West Virginia:

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

3 (1) Except as provided in §59-1-11(a)(2) and §59-1-11(a)(3) of this code, for instituting any
4 civil action under the Rules of Civil Procedure, any statutory summary proceeding, any
5 extraordinary remedy, the docketing of civil appeals or removals of civil cases from magistrate
6 court, or any other action, cause, suit or proceeding, \$200, of which \$30 shall be deposited in the
7 Courthouse Facilities Improvement Fund created by §29-26-6 of this code and \$45 shall be
8 deposited in the special revenue account designated the Fund for Civil Legal Services for Low
9 Income Persons, established by §59-1-10(c)(4)(B) of this code, and \$20 deposited in the special
10 revenue account created in §48-26-603 of this code to provide legal services for domestic violence
11 victims;

12 (2) For instituting an action for medical professional liability, \$400, of which \$10 shall be
13 deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code:
14 *Provided, That after December 31, 2021, the filing fee for instituting an action for medical*
15 *professional liability shall be \$280, of which \$10 shall be deposited in the Courthouse Facilities*
16 *Improvement Fund created by §29-26-6 of this code;*

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

19 (4) For petitioning for the modification of an order involving child custody, child visitation,
20 child support, or spousal support, \$85;

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

22 (6) For filing any pleading that includes a counterclaim, cross claim, third-party complaint,
23 or motion to intervene, \$200, which shall be deposited in the special revenue account designated
24 the Fund for Civil Legal Services for Low Income Persons, established by §59-1-10(c)(4)(B) of this
25 code: Provided, That this subdivision and the fee it imposes does not apply in family court cases
26 nor may more than one such fee be imposed on any one party in any one civil action; and

27 (7) Except for civil actions within the jurisdiction of family courts, for each defendant or
28 respondent named in the initial pleading upon the institution of a civil action in which there are two
29 or more named defendants, and for each additional defendant, respondent, or third-party
30 defendant subsequently named in a pleading filed in the civil action, \$15, payable upon the
31 institution of the civil action or upon the filing of the initial pleading that names the additional
32 defendant, respondent, or third-party defendant, of which \$10 shall be deposited in the general
33 fund of the county in which the office of the circuit clerk is located, and \$5 shall be deposited in the
34 State Police Forensic Laboratory Fund, established under §15-2-24d of this code: Provided, That
35 for purposes of this subdivision, "defendant or respondent named" does not include those
36 defendants or respondents identified as "John/Jane Doe";

37 (8) Except for civil actions within the jurisdiction of the family courts, for all civil actions
38 involving multiple plaintiffs with common allegations against the same defendant, the circuit clerk
39 shall collect only one filing fee per civil action and docket only one civil action.

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

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

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

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

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

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

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

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

51 (8) For arranging the papers in a certified question, writ of error, appeal, or removal to any
52 other court, \$10, of which \$5 shall be deposited in the Courthouse Facilities Improvement Fund
53 created by §29-26-6 of this code;

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

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

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

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

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

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

67 (2) In the case of a felony, \$105, of which \$10 shall be deposited in the Courthouse
68 Facilities Improvement Fund created by §29-26-6 of this code.

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

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

73 (2) For recognizance bonds secured by real estate, the fee shall be paid by the owner of

74 the real estate serving as surety;

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

77 (4) For 10 percent recognizance bonds with surety, the fee shall be paid by the person
78 serving as surety; and

79 (5) For 10 percent recognizance bonds without surety, the fee shall be paid by the person
80 tendering 10 percent of the bail amount.

81 In instances in which the total of the bond is posted by more than one bond instrument, the
82 above fee shall be collected at the time of issuance of each bond instrument processed by the
83 clerk and all fees collected pursuant to this subsection shall be deposited in the Courthouse
84 Facilities Improvement Fund created by §29-26-6 of this code. Nothing in this subsection
85 authorizes the clerk to collect the above fee from any person for the processing of a personal
86 recognizance bond.

87 (f) The clerk of a circuit court shall charge and collect a fee of \$10 for services rendered by
88 the clerk for processing of bail piece and the fee shall be paid by the surety at the time of issuance.
89 All fees collected pursuant to this subsection shall be deposited in the Courthouse Facilities
90 Improvement Fund created by §29-26-6 of this code.

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

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

NOTE: The purpose of this bill is to prohibit the practice of charging the full filing fee for every plaintiff listed in a civil action.

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