

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 3067**

4 (By Delegates Fleischauer, Lawrence, Poore, Brown, Mahan,  
5 Guthrie, Miley, Hunt, T. Campbell, Reynolds and Morgan)

6  
7 (Originating in the Committee on Finance)

8 [February 23, 2011]

9  
10 A BILL to amend and reenact §59-1-4, §59-1-11 and §59-1-13 of the  
11 Code of West Virginia, 1931, as amended, all relating to fees  
12 collected by clerks of court to be used to enhance funding for  
13 civil legal services for victims of domestic violence and low  
14 income citizens in the state.

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

16 That §59-1-4, §59-1-11 and §59-1-13 of the Code of West  
17 Virginia, 1931, as amended, be amended and reenacted, all to read  
18 as follows:

19 **ARTICLE 1. FEES AND ALLOWANCES.**

20 **§59-1-4. Fees collected by Secretary of State, Auditor and Clerk**  
21 **of Supreme Court of Appeals to be paid into State**  
22 **Treasury; accounts; reports.**

23 Except as otherwise provided by law, the fees to be charged by  
24 the Auditor, Secretary of State and Clerk of the Supreme Court of  
25 Appeals, by virtue of this article or any other law, ~~shall be~~ are  
26 the property of the State of West Virginia. ~~and they and each of~~

1 ~~them~~ The Auditor, Secretary of State and Clerk of the Supreme Court  
2 of Appeals shall account for and pay into the State Treasury at  
3 least once every thirty days all fees ~~by any of them~~ collected or  
4 appearing to be due to the state, to the credit of the general  
5 state fund or other fund as provided by law. The Auditor,  
6 Secretary of State and Clerk of the Supreme Court of Appeals shall  
7 each keep a complete and accurate ~~account by items~~ itemized account  
8 of all fees collected by them and the nature of the services  
9 rendered for which all fees were charged and collected, in  
10 accordance with generally accepted accounting principles, as  
11 provided in article two, chapter five-a of this code. ~~and~~ All  
12 accounts shall be open to inspection and audit as provided in  
13 article two, chapter four of this code.

14 **§59-1-11. Fees to be charged by clerk of circuit court.**

15 (a) The clerk of a circuit court shall charge and collect for  
16 services rendered by the clerk the following fees which shall be  
17 paid in advance by the parties for whom services are to be  
18 rendered:

19 (1) For instituting any civil action under the Rules of Civil  
20 Procedure, any statutory summary proceeding, any extraordinary  
21 remedy, the docketing of civil appeals, or any other action, cause,  
22 suit or proceeding, ~~\$145,~~ \$155, of which \$30 ~~of that amount~~ shall  
23 be deposited in the Courthouse Facilities Improvement Fund created  
24 by section six, article twenty-six, chapter twenty-nine of this  
25 code and ~~\$10 shall be~~ \$20 deposited in the special revenue account  
26 created in section six hundred three, article twenty-six, chapter

1 forty-eight of this code to provide legal services for domestic  
2 violence victims;

3 (2) For instituting an action for medical professional  
4 liability, \$260, of which \$10 ~~of that amount~~ shall be deposited in  
5 the Courthouse Facilities Improvement Fund created by section six,  
6 article twenty-six, chapter twenty-nine of this code;

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

9 (4) For petitioning for the modification of an order involving  
10 child custody, child visitation, child support or spousal support,  
11 \$85; and

12 (5) For petitioning for an expedited modification of a child  
13 support order, \$35.

14 (b) In addition to the foregoing fees, the following fees  
15 shall ~~likewise~~ be charged and collected:

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

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

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

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

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

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

26 (7) For docketing and issuing an execution on a transcript of

1 judgment from magistrate court, \$3;

2 (8) For arranging the papers in a certified question, writ of  
3 error, appeal or removal to any other court, \$10, of which \$5 ~~of~~  
4 ~~that amount~~ shall be deposited in the Courthouse Facilities  
5 Improvement Fund created by section six, article twenty-six,  
6 chapter twenty-nine of this code;

7 (9) For postage and express and for sending or receiving  
8 decrees, orders or records, by mail or express, three times the  
9 amount of the postage or express charges;

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

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

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

20 (c) The clerk shall tax the following fees for services in ~~any~~  
21 a criminal case against ~~any~~ a defendant convicted in such court:

22 (1) In the case of ~~any~~ a misdemeanor, \$85; and

23 (2) In the case of ~~any~~ a felony, \$105, of which \$10 ~~of that~~  
24 ~~amount~~ shall be deposited in the Courthouse Facilities Improvement  
25 Fund created by section six, article twenty-six, chapter twenty-  
26 nine of this code.

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

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

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

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

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

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

16 In instances in which the total of the bond is posted by more  
17 than one bond instrument, the above fee shall be collected at the  
18 time of issuance of each bond instrument processed by the clerk and  
19 all fees collected pursuant to this subsection shall be deposited  
20 in the Courthouse Facilities Improvement Fund created by section  
21 six, article twenty-six, chapter twenty-nine of this code. Nothing  
22 in this subsection ~~may be construed as authorizing~~ authorizes the  
23 clerk to collect the above fee from any person for the processing  
24 of a personal recognizance bond.

25 (e) The clerk of a circuit court shall charge and collect a  
26 fee of \$10 for services rendered by the clerk for processing of

1 bailpiece and the fee shall be paid by the surety at the time of  
2 issuance. All fees collected pursuant to this subsection shall be  
3 deposited in the Courthouse Facilities Improvement Fund created by  
4 section six, article twenty-six, chapter twenty-nine of this code.

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

10 **§59-1-13. Fees to be charged by Clerk of Supreme Court of Appeals.**

11 The Clerk of the Supreme Court of Appeals shall charge the  
12 following fees to be paid by the parties for whom the services are  
13 rendered:

- 14 For all copies of petitions, records, orders, opinions or
- 15 other papers, per page.. . . . . 25¢
- 16 For each certificate under seal of the court.. . . . \$5
- 17 For license to practice law, suitable for framing... \$25
- 18 For docketing any civil appeals, including appeals from Family
- 19 Courts, but not including, appeals in workers' compensations cases,
- 20 any action in the Supreme Court's original jurisdiction or any other
- 21 action, cause or proceeding . . . . . \$200

22 For any other work or services not herein enumerated, the clerk  
23 shall charge the fees prescribed for similar services by clerks of  
24 circuit courts.

25 Fees collected for docketing civil appeals shall be expended,  
26 in the discretion of the West Virginia Supreme Court of Appeals,

1 solely to provide grants to the federally designated provider of  
2 civil legal services for low income citizens in the state.