

1 **Senate Bill No. 428**

2 (By Senators Kessler (Acting President) and Miller)

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4 [Introduced February 4, 2011; referred to the Committee on the
5 Judiciary; and then to the Committee on Finance.]
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10 A BILL to amend and reenact §59-1-11 of the Code of West Virginia,
11 1931, as amended, relating to increasing the fees charged by
12 the clerk of a circuit court for medical professional
13 liability actions.

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

15 That §59-1-11 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

17 **ARTICLE 1. FEES AND ALLOWANCES.**

18 **§59-1-11. Fees to be charged by clerk of circuit court.**

19 (a) The clerk of a circuit court shall charge and collect for
20 services rendered by the clerk the following fees which shall be
21 paid in advance by the parties for whom services are to be
22 rendered:

23 (1) For instituting any civil action under the Rules of Civil

1 Procedure, any statutory summary proceeding, any extraordinary
2 remedy, the docketing of civil appeals or any other action, cause,
3 suit or proceeding, \$145, of which \$30 of that amount shall be
4 deposited in the Courthouse Facilities Improvement Fund created by
5 section six, article twenty-six, chapter twenty-nine of this code
6 and \$10 shall be deposited in the special revenue account created
7 in section six hundred three, article twenty-six, chapter forty-
8 eight of this code to provide legal services for domestic violence
9 victims;

10 (2) For instituting an action for medical professional
11 liability, ~~\$260~~ \$280, of which \$10 of that amount shall be
12 deposited in the Courthouse Facilities Improvement Fund created by
13 section six, article twenty-six, chapter twenty-nine of this code;

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

16 (4) For petitioning for the modification of an order involving
17 child custody, child visitation, child support or spousal support,
18 \$85; and

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

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

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

24 (2) For any transcript, copy or paper made by the clerk for

1 use in any other court or otherwise to go out of the office, for
2 each page, \$1;

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

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

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

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

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

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

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

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

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

24 (12) For administering funds deposited into a federally

1 insured interest-bearing account or interest-bearing instrument
2 pursuant to a court order, \$50, to be collected from the party
3 making the deposit. A fee collected pursuant to this subdivision
4 shall be paid into the general county fund.

5 (c) The clerk shall tax the following fees for services in any
6 criminal case against any defendant convicted in such court:

7 (1) In the case of any misdemeanor, \$85; and

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

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

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

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

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

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

24 (5) For ten-percent recognizance bonds without surety, the fee

1 shall be paid by the person tendering ten percent of the bail
2 amount.

3 In instances in which the total of the bond is posted by more
4 than one bond instrument, the above fee shall be collected at the
5 time of issuance of each bond instrument processed by the clerk and
6 all fees collected pursuant to this subsection shall be deposited
7 in the Courthouse Facilities Improvement Fund created by section
8 six, article twenty-six, chapter twenty-nine of this code. Nothing
9 in this subsection may be construed as authorizing the clerk to
10 collect the above fee from any person for the processing of a
11 personal recognizance bond.

12 (e) The clerk of a circuit court shall charge and collect a
13 fee of \$10 for services rendered by the clerk for processing of
14 bailpiece and the fee shall be paid by the surety at the time of
15 issuance. All fees collected pursuant to this subsection shall be
16 deposited in the Courthouse Facilities Improvement Fund created by
17 section six, article twenty-six, chapter twenty-nine of this code.

18 (f) No clerk shall be required to handle or accept for
19 disbursement any fees, cost or amounts of any other officer or
20 party not payable into the county treasury except on written order
21 of the court or in compliance with the provisions of law governing
22 such fees, costs or accounts.

(NOTE: The purpose of this bill is to increase the fees

charged by the clerk of the circuit court for medical professional liability actions from \$260 to \$280.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)