

COMMITTEE SUBSTITUTE

FOR

H. B. 3067

(BY DELEGATES FLEISCHAUER, LAWRENCE, POORE, BROWN,
MAHAN, GUTHRIE, MILEY, HUNT, T. CAMPBELL, REYNOLDS
AND MORGAN)

(Originating in the Committee on Finance)
[February 23, 2011]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. FEES AND ALLOWANCES.

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

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

17 code. ~~and~~ All accounts shall be open to inspection and audit
18 as provided in article two, chapter four of this code.

§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 any
8 other action, cause, suit or proceeding, ~~\$145~~, \$155, of which
9 ~~\$30 of that amount~~ shall be deposited in the Courthouse
10 Facilities Improvement Fund created by section six, article
11 twenty-six, chapter twenty-nine of this code and ~~\$10 shall be~~
12 \$20 deposited in the special revenue account created in
13 section six hundred three, article twenty-six, chapter forty-
14 eight of this code to provide legal services for domestic
15 violence victims;

16 (2) For instituting an action for medical professional
17 liability, \$260, of which \$10 ~~of that amount~~ shall be

18 deposited in the Courthouse Facilities Improvement Fund
19 created by section six, article twenty-six, chapter twenty-nine
20 of this code;

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

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

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

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

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

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

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

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

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

39 (6) For vacation or modification of a suggestee execution,
40 \$1;

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

43 (8) For arranging the papers in a certified question, writ
44 of error, appeal or removal to any other court, \$10, of which
45 \$5 ~~of that amount~~ shall be deposited in the Courthouse
46 Facilities Improvement Fund created by section six, article
47 twenty-six, chapter twenty-nine of this code;

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

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

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

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

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

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

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

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

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

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

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

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

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

84 In instances in which the total of the bond is posted by
85 more than one bond instrument, the above fee shall be
86 collected at the time of issuance of each bond instrument
87 processed by the clerk and all fees collected pursuant to this
88 subsection shall be deposited in the Courthouse Facilities
89 Improvement Fund created by section six, article twenty-six,
90 chapter twenty-nine of this code. Nothing in this subsection
91 ~~may be construed as authorizing~~ authorizes the clerk to
92 collect the above fee from any person for the processing of a
93 personal recognizance bond.

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

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

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

1 The Clerk of the Supreme Court of Appeals shall charge
2 the following fees to be paid by the parties for whom the
3 services are rendered:

4 For all copies of petitions, records, orders, opinions or
5 other papers, per page. 25¢

6 For each certificate under seal of the court \$5

7 For license to practice law, suitable for framing . . . \$25

8 For docketing any civil appeals, including appeals from
9 Family Courts, but not including, appeals in workers'
10 compensations cases, any action in the Supreme Court's
11 original jurisdiction or any other action, cause or
12 proceeding \$200

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

16 Fees collected for docketing civil appeals shall be
17 expended, in the discretion of the West Virginia Supreme
18 Court of Appeals, solely to provide grants to the federally
19 designated provider of civil legal services for low income
20 citizens in the state.