

Senate Bill No. 428

(By Senators Kessler (Acting President) and Miller)

[Introduced February 4, 2011; referred to
the Committee on the Judiciary; and then to
the Committee on Finance.]

A BILL to amend and reenact §59-1-11 of the Code of West Virginia, 1931, as amended, relating to increasing the fees charged by the clerk of a circuit court for medical professional liability actions.

Be it enacted by the Legislature of West Virginia:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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