

Senate Bill No. 458

(By Senators Kessler (Mr. President), Barnes, Fitzsimmons,
Kirkendoll, Walters, Laird, Yost, Cookman and Stollings)

[Introduced January 31, 2014; referred to the Committee on the
Judiciary; and then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §59-1-11 of the Code of West Virginia,
1931, as amended, relating to imposing additional fees in the
circuit courts of the state to be dedicated to the support of
civil legal services for low-income persons.

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.

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

(1) For instituting any civil action under the Rules of Civil
Procedure, any statutory summary proceeding, any extraordinary

1 remedy, the docketing of civil appeals, or removals of civil cases
2 from magistrate court, or any other action, cause, suit or
3 proceeding, ~~\$155~~ \$200, of which \$30 shall be deposited in the
4 Courthouse Facilities Improvement Fund created by section six,
5 article twenty-six, chapter twenty-nine of this code and \$45 shall
6 be deposited in the special revenue account created in subsection
7 (c) (4) (B), section ten of this article to provide civil legal
8 services for low income persons, and \$20 deposited in the special
9 revenue account created in section six hundred three, article
10 twenty-six, chapter forty-eight of this code to provide legal
11 services for domestic violence victims;

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

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

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

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

23 (6) For filing any pleading that includes a counterclaim,
24 cross claim, or third party or intervenor complaint, \$200, which

1 shall be deposited in the special revenue account created in
2 subsection (c) (4) (B), section ten of this article to provide civil
3 legal services for low income persons: *Provided*, that this
4 subsection and the fee it imposes does not apply in family court
5 cases nor may more than one such fee be imposed on any one party in
6 any one civil action.

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

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

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

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

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

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

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

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

21 (8) For arranging the papers in a certified question, writ of
22 error, appeal or removal to any other court, \$10, of which \$5 shall
23 be deposited in the Courthouse Facilities Improvement Fund created
24 by section six, article twenty-six, chapter twenty-nine of this

1 code;

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

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

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

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

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

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

19 (2) In the case of a felony, \$105, of which \$10 shall be
20 deposited in the Courthouse Facilities Improvement Fund created by
21 section six, article twenty-six, chapter twenty-nine of this code.

22 (e) The clerk of a circuit court shall charge and collect a
23 fee of \$25 per bond for services rendered by the clerk for
24 processing of criminal bonds and the fee shall be paid at the time

1 of issuance by the person or entity set forth below:

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

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

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

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

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

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

21 (f) The clerk of a circuit court shall charge and collect a
22 fee of \$10 for services rendered by the clerk for processing of
23 bailpiece and the fee shall be paid by the surety at the time of
24 issuance. All fees collected pursuant to this subsection shall be

1 deposited in the Courthouse Facilities Improvement Fund created by
2 section six, article twenty-six, chapter twenty-nine of this code.

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

NOTE: The purpose of this bill is to impose certain additional fees in circuit courts to fund civil legal services for low-income persons.

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