

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 2980**

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FOSTER, N. AND O'NEAL

[Originating in the Committee on Finance;

March 22, 2017]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §15-2-24d; and to amend and reenact §59-1-11 of said code, all relating to  
3 fees for services rendered by circuit clerks in certain civil actions; imposing additional fees  
4 in certain civil actions that include two or more named defendants, respondents or third-  
5 party defendants; providing for distribution of the additional fees; and creating a special  
6 revenue account for the purpose of the deposit of portion of the fees.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
2 section, designated §15-2-24d; and that §59-1-11 of said code be amended and reenacted, all to  
3 read as follows:

## **CHAPTER 15. PUBLIC SAFETY.**

### **ARTICLE 2. WEST VIRGINIA STATE POLICE.**

#### **§15-2-24d. State Police Forensic Laboratory Fund.**

1 The State Police Forensic Laboratory Fund is hereby created within the treasury of the  
2 state. The fund shall be administered by the superintendent and shall consist of all moneys made  
3 available for the operations of the State Police forensic laboratory from any source, including, but  
4 not limited to, all fees, all gifts, grants, bequests or transfers from any source, any moneys that  
5 may be appropriated and designated for the forensic laboratory by the Legislature and all interest  
6 or other return earned from investment of the fund. Expenditures from the fund shall be for the  
7 operations of the State Police forensic laboratory and are not authorized from collections but are  
8 to be made only in accordance with appropriation by the Legislature and in accordance with the  
9 provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions  
10 set forth in article two, chapter eleven-b of this code: *Provided*, That for the fiscal years ending  
11 June 30, 2018, expenditures are authorized from collections rather than pursuant to an explicit  
12 appropriation by the Legislature.

**CHAPTER 59. FEES, ALLOWANCES AND COSTS;NEWSPAPERS;  
LEGAL ADVERTISEMENTS.**

**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 services rendered by the clerk  
2 the following fees which shall be paid in advance by the parties for whom services are to be  
3 rendered:

4 (1) Except as provided in subdivisions (2) and (3) of this subsection, for instituting any civil  
5 action under the Rules of Civil Procedure, any statutory summary proceeding, any extraordinary  
6 remedy, the docketing of civil appeals or removals of civil cases from magistrate court, or any  
7 other action, cause, suit or proceeding, \$200, of which \$30 shall be deposited in the Courthouse  
8 Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this  
9 code and \$45 shall be deposited in the special revenue account designated the Fund for Civil  
10 Legal Services for Low Income Persons, established by paragraph (B), subdivision (4), subsection  
11 (c), section ten of this article, and \$20 deposited in the special revenue account created in section  
12 six hundred three, article twenty-six, chapter forty-eight of this code to provide legal services for  
13 domestic violence victims;

14 (2) For instituting an action for medical professional liability, \$400, of which \$10 shall be  
15 deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-  
16 six, chapter twenty-nine of this code;

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

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

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

22           (6) For filing any pleading that includes a counterclaim, cross claim, third-party complaint  
23 or motion to intervene, \$200, which shall be deposited in the special revenue account designated  
24 the Fund for Civil Legal Services for Low Income Persons, established by paragraph (B),  
25 subdivision (4), subsection (c), section ten of this article: *Provided*, That this subdivision and the  
26 fee it imposes does not apply in family court cases nor may more than one such fee be imposed  
27 on any one party in any one civil action; and

28           (7) Except for civil actions within the jurisdiction of family courts, for each defendant or  
29 respondent named in the initial pleading upon the institution of a civil action in which there are  
30 two or more named defendants, and for each additional defendant, respondent or third-party  
31 defendant subsequently named in a pleading filed in the civil action, \$15, payable upon the  
32 institution of the civil action or upon the filing of the initial pleading that names the additional  
33 defendant, respondent or third-party defendant, of which fee \$10 shall be deposited in the general  
34 fund of the county in which the office of the circuit clerk is located, and \$5 shall be deposited in  
35 the State Police Forensic Laboratory Fund, of which fee \$10 shall be deposited in the general  
36 county fund, and \$5 shall be deposited in the State Police Forensic Laboratory Fund established  
37 under section twenty-four-d, article two, chapter fifteen of this code: *Provided*, That for purposes  
38 of this subdivision, “defendant or respondent named” does not include those defendants or  
39 respondents identified as “John/Jane Doe.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

88           (f) The clerk of a circuit court shall charge and collect a fee of \$10 for services rendered  
89 by the clerk for processing of bail piece and the fee shall be paid by the surety at the time of  
90 issuance. All fees collected pursuant to this subsection shall be deposited in the Courthouse  
91 Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this  
92 code.

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

96           (h) Fees for removal of civil cases from magistrate court shall be collected by the  
97 magistrate court when the case is still properly before the magistrate court. The magistrate court  
98 clerk shall forward the fees collected to the circuit court clerk.