

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2980

BY DELEGATES MOORE, SUMMERS, SHOTT, HOLLEN,
SOBONYA, HANSHAW, MILLER, C., KESSINGER, FOSTER,
N., O'NEAL AND WESTFALL

[Introduced March 13, 2017; Referred
to the Committee on the Judiciary then Finance.]

1 A BILL to amend and reenact §59-1-11 of the Code of West Virginia, 1931, as amended, relating
2 to civil lawsuit filing fees for multiple defendant civil action; and requiring payment of an
3 additional filing fee for each additional defendant plead in a civil action.

Be it enacted by the Legislature of West Virginia:

1 That §59-1-11 of the Code of West Virginia, 1931, as amended, be amended and
2 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 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) For each defendant named in a civil action pleading, a fee of \$10 for each named
29 defendant in the action shall be paid by the plaintiff filing suit, which fee shall be deposited in the
30 general county fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: The purpose of this bill is to add a \$10 fee for each additional defendant plead in a civil action.

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