WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 602

BY SENATOR TRUMP, original sponsor

[Passed March 12, 2016; to take effect July 1, 2016]
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AN ACT to amend and reenact §29-12B-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §29-12D-1 and §29-12D-3 of said code; to amend said code by adding thereto a new section, designated §29-12D-1a; to amend and reenact §55-7B-9 and §55-7B-9c of said code; and to amend and reenact §59-1-11 and §59-1-28a of said code, all relating generally to the Patient Injury Compensation Fund; transferring funds from Medical Liability Fund to Patient Injury Compensation Fund and thereafter closing Medical Liability Fund; prohibiting direct recovery of legal fees from Patient Injury Compensation Fund; providing that fund may not compensate claimants who have not filed a claim with the fund before July 1, 2016; imposing an assessment on medical licenses; providing exceptions to assessment on medical licenses; prohibiting granting or renewal of medical license for failure to pay assessment; imposing an assessment on trauma centers based upon the number of patients treated; imposing an assessment on claims filed under the Medical Professional Liability Act; defining “qualifying claim”; establishing a date for purposes of determining applicability of section; directing entities collecting assessments to remit payment to Board of Risk and Insurance Management; setting schedule for remittance of payments to Board of Risk and Insurance Management; providing for termination of assessments upon certain deadlines being met; limiting authority of court reviewing an award from the board to approval or disapproval of final award; clarifying authority of Board of Risk and Insurance Management make periodic payments or place claims in nonpayment status in its discretion; permitting trier of fact to consider fault of all alleged parties, including fault of persons who have settled claims with plaintiff arising out of same medical injury, in assessing percentages of fault; clarifying manner in which damages are to be determined with respect to each defendant for purposes of entering judgment when there is no pre-verdict settlement; providing for limit on liability for economic damages in causes of actions against a trauma facility to be adjusted for inflation annually beginning January 1, 2016; setting limit on inflation increase; authorizing plaintiff
who, as a result of an injury suffered prior to or after July 1, 2016, suffers or has suffered economic damages in excess of limit of liability to collect economic damages up to an additional $1 million; clarifying that additional economic liability limit is not subject to inflation; providing that a claimant’s attorney fees may not be paid out of the fund; providing that several liability applies in all cases under the Medical Professional Liability Act; increasing filing fee for causes of action under the Medical Professional Liability Act; and directing clerk of court to deposit a portion of the filing fee into Patient Injury Compensation Fund.

Be it enacted by the Legislature of West Virginia:

That §29-128-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §29-12D-1 and §29-12D-3 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §29-12D-1a; that §55-7B-9 and §55-7B-9c of said code be amended and reenacted; and that §59-1-11 and §59-1-28a of said code be amended and reenacted, all to read as follows:

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICES.

ARTICLE 12B. WEST VIRGINIA HEALTH CARE PROVIDER PROFESSIONAL LIABILITY INSURANCE AVAILABILITY ACT.

§29-12B-10. Deposit, expenditure and investment of premiums.

(a) The premiums charged and collected by the board under this article shall be deposited into a special revenue account hereby created in the state Treasury known as the "Medical Liability Fund", and shall not be part of the general revenues of the state. Disbursements from the special revenue fund shall be upon requisition of the executive director and in accordance with the provisions of chapter five-a of this code. Disbursements shall pay operating expenses of the board attributed to these programs and the board’s share of any judgments or settlements of medical malpractice claims. Funds shall be invested with the consolidated fund managed by the
West Virginia Investment Management Board and interest earned shall be used for purposes of this article.

(b) Start-up operating expenses of the medical liability fund, not to exceed $500,000, may be transferred to the medical liability fund pursuant to an appropriation by the Legislature from any special revenue funds available. The medical liability fund shall reimburse the board within twenty-four months of the date of the transfer.

(c) For purposes of establishing a pool from which settlements and judgments may be paid, notwithstanding any other provision of this code to the contrary, a portion of the initial capitalization of the pool may be provided through a transfer of no greater than $4,000,000 from the State Special Insurance Fund established in section five, article twelve of this chapter. All funds transferred pursuant to this section are to be repaid by transfer from the Medical Liability Fund to the State Special Insurance Fund, together with interest that would have accrued in the State Special Insurance Fund, by July 1, 2006. Funds are to be transferred only as needed for expenditures from the Medical Liability Fund created in this section. The Treasurer shall effect these transfers pursuant to this section upon written request of the Director of the Board of Risk and Insurance Management.

(d) On July 1, 2016, all funds in the Medical Liability Fund, including all funds currently invested pursuant to the terms of subsection (a) of this section, shall be transferred to the West Virginia Patient Injury Compensation Fund established by section one, article twelve-d of this chapter. Thereafter, the Medical Liability Fund established pursuant to this section shall be closed.

ARTICLE 12D. WEST VIRGINIA PATIENT INJURY COMPENSATION FUND.

§29-12D-1. Creation of the Patient Injury Compensation Fund; purpose; initial funding of Patient Injury Compensation Fund.

(a) There is created the West Virginia Patient Injury Compensation Fund, for the purpose of providing fair and reasonable compensation to claimants in medical malpractice actions for any portion of economic damages awarded that is uncollectible as a result of limitations on economic
damage awards for trauma care, or as a result of the operation of the joint and several liability
principles and standards, set forth in article seven-b, chapter fifty-five of this code. The fund shall
consist of all contributions, revenues and moneys which may be paid into the fund, from time to
time, by the State of West Virginia or from any other source whatsoever, together with any and
all interest, earnings, dividends, distributions, moneys or revenues of any nature whatsoever
accruing to the fund.

(b) Initial funding for the fund shall be provided as follows: during fiscal year 2005, $2,200,000 of the revenues that would otherwise be transferred to the tobacco account
established in subsection (b), section two, article eleven-a, chapter four of this code pursuant to
the provisions of section fourteen, article three, chapter thirty-three of this code shall be transferred to the fund; during fiscal year 2006, $2,200,000 of the revenues that would otherwise be transferred to the tobacco account established in subsection (b), section two, article eleven-a,
chapter four of this code pursuant to the provisions of section fourteen, article three, chapter thirty-
three of this code shall be transferred to the fund; and during fiscal year 2007, $2,200,000 of the
revenues that would otherwise be transferred to the tobacco account established in subsection
(b), section two, article eleven-a, chapter four of this code pursuant to the provisions of section
fourteen, article three, chapter thirty-three of this code shall be transferred to the fund.

(2) Beginning fiscal year 2008, if and to the extent additional funding for the fund is
required, from time to time, to maintain the actuarial soundness of the fund, the additional funding
may be provided by further act of the Legislature, either from the revenue stream identified in this
subsection or otherwise. Payments to the tobacco fund shall be extended until the tobacco fund
is repaid in full.

(c) The fund is not and shall not be considered a defendant in any civil action arising under
article seven-b, chapter fifty-five of this code.

(d) The fund is not and shall not be considered an insurance company or insurer for any
purpose under this code.
(e) Legal fees of claimants may not be recovered directly from the fund.

(f) The fund shall not provide compensation to claimants who file a claim with the Patient Injury Compensation Fund on or after July 1, 2016.

§29-12D-1a. Additional funding for Patient Injury Compensation Fund; assessment on licensed physicians; assessment on hospitals; assessment on certain awards.

(a) Annual assessment on licensed physicians. —

(1) The Board of Medicine and the Board of Osteopathic Medicine shall collect a biennial assessment in the amount of $125 from every physician licensed by each board for the privilege of practicing medicine in this state. The assessment is to be imposed and collected on forms prescribed by each licensing board. The assessment shall be collected as part of licensure or license renewal beginning July 1, 2016 for licenses issued or renewed in calendar year 2016 through calendar year 2019: Provided, That the following physicians shall be exempt from the assessment:

(A) A resident physician who is a graduate of a medical school or college of osteopathic medicine enrolled and who is participating in an accredited full-time program of post-graduate medical education in this state;

(B) A physician who has presented suitable proof that he or she is on active duty in the armed forces of the United States and who will not be reimbursed by the armed forces for the assessment;

(C) A physician who practices solely under a special volunteer medical license authorized by section ten-a, article three, chapter thirty of this code, or section twelve-b, article fourteen of said chapter;

(D) A physician who holds an inactive license pursuant to subsection (j), section twelve, article three, chapter thirty of this code or section ten, article fourteen, of said chapter, or a physician who voluntarily surrenders his or her license: Provided, That a retired osteopathic
physician who submits to the Board of Osteopathic Medicine an affidavit asserting that he or she receives no monetary remuneration for any medical services provided, executed under the penalty of perjury and if executed outside the State of West Virginia, verified, may be considered to be licensed on an inactive basis: Provided, however, That if a physician or osteopathic physician elects to resume an active license to practice in the state and the physician or osteopathic physician has not paid the assessments during his or her inactive status, then as a condition of receiving an active status license, the physician or osteopathic physician shall pay the assessment due in the year in which physicians or the osteopathic physician resumes an active license; and

(E) A physician who practices less than forty hours a year providing medical genetic services to patients within this state.

(2) The entire proceeds of the annual assessment collected pursuant to subsection (a) of this section shall be dedicated to the Patient Injury Compensation Fund. The Board of Medicine and the Board of Osteopathic Medicine shall promptly pay over to the Board of Risk and Insurance Management all amounts collected pursuant to this subsection for deposit in the fund.

(3) Notwithstanding any provision of the code to the contrary, a physician required to pay the annual assessment who fails to do so shall not be granted a license or renewal of an existing license by the Board of Medicine or the Board of Osteopathic Medicine. Any license which expires as a result of a failure to pay the required assessment shall not be reinstated or reactivated until the assessment is paid in full.

(b) Assessment on trauma centers. — From July 1, 2016 through June 30, 2020, an assessment of $25 shall be levied by the Board of Risk and Insurance Management on trauma centers for each trauma patient treated at a health care facility designated by the Office of Emergency Medical Services as a trauma center, as reported to the West Virginia Trauma Registry. Beginning July 1, 2016, and annually thereafter until June 30, 2020, the Board of Risk and Insurance Management shall assess each trauma center for trauma patients treated from
January 1 to December 31 of the previous year: Provided, That the assessment to be collected by the Board of Risk and Insurance Management on June 30, 2017, shall be based on each trauma patient treated from January 1, 2016, to December 31, 2016.

(c) Assessment on claims filed under the Medical Professional Liability Act. — From July 1, 2016, through June 30, 2020, an assessment of one percent of the gross amount of any settlement or judgment in a qualifying claim shall be levied.

(1) For purposes of this subsection, a qualifying claim is any claim for which a screening certificate of merit, as that term is defined in section six, article seven-b, chapter fifty-five of this code, is required.

(2) For any assessment levied pursuant to this subsection for which a judgment is entered by a court, the date of the entry of judgment shall be used to determine applicability of this provision. The defendant or defendants shall remit the assessment to the clerk of the court in which the qualified claim was filed. The clerk of the court shall then remit the assessment quarterly to the Board of Risk and Insurance Management to be deposited in the fund.

(3) For any assessment levied pursuant to this subsection on a settlement entered into by the parties, the date on which the agreement is formalized in writing by the parties shall be used to determine applicability of this provision. At the time that an action alleging a qualified claim is dismissed by the parties, the assessment shall be paid to the clerk of the court, who shall then remit the assessment to the Board of Risk and Insurance Management to be deposited in the fund. Collected assessments shall be remitted no less often than quarterly. If a qualifying claim is settled prior to the filing of an action, the plaintiff, or his or her counsel, shall remit the payment to the Board of Risk and Insurance Management within sixty days of the date of the settlement agreement to be paid into the fund.

(d) Termination of assessments. — The requirements of this section shall terminate on the dates set forth in this section or sooner if the liability of the Patient Injury Compensation Fund has been paid or has been funded in its entirety. The Board of Risk and Insurance Management
shall submit a report to the Joint Committee of Government and Finance each year beginning January 1, 2018, giving recommendations based on actuarial analysis of the fund’s liability. The recommendations shall include, but not be limited to, discontinuance of the assessments provided for in this section, closure of the fund and transfer of the fund’s liability.


(a) Other than payments in connection with the ongoing operation and administration of the fund, no payments may be made from the fund other than in satisfaction of claims for economic damages to qualified claimants who would have collected economic damages but for the operation of the limits on economic damages set forth in article seven-b, chapter fifty-five of this code.

(b) For purposes of this article, a qualified claimant must be both a “patient” and a “plaintiff” as those terms are defined in article seven-b, chapter fifty-five of this code.

(c) Any qualified claimant seeking payment from the fund must establish to the satisfaction of the board that he or she has exhausted all reasonable means to recover from all applicable liability insurance an award of economic damages, following procedures prescribed by the board by legislative rule.

(d) Upon a determination by the board that a qualified claimant to the fund for compensation has exhausted all reasonable means to recover from all applicable liability insurance an award of economic damages arising under article seven-b, chapter fifty-five of this code, the board shall make a payment or payments to the claimant for economic damages. The economic damages must have been awarded but be uncollectible after the exhaustion of all reasonable means of recovery of applicable insurance proceeds. In no event shall the amount paid by the board in respect to any one occurrence exceed $1 million or the maximum amount of money that could have been collected from all applicable insurance prior to the creation of the patient injury compensation fund under this article, regardless of the number of plaintiffs or the number of defendants or, in the case of wrongful death, regardless of the number of distributees.
(e) The board, in its discretion, may make payments to a qualified claimant in a lump sum amount or in the form of periodic payments. Periodic payments are to be based upon the present value of the total amount to be paid by the fund to the claimant by using federally approved qualified assignments.

(f) In its discretion, the board may make a payment or payments out of the fund to a qualified claimant in connection with the settlement of claims arising under article seven-b, chapter fifty-five of this code all according to rules promulgated by the board. The board shall prior to making payment determine that payment from the fund to a qualified claimant is in the best interests of the fund. When the claimant and the board agree upon a settlement amount, the following procedure shall be followed:

(1) A petition shall be filed by the claimant with the court in which the action is pending, or if none is pending, in a court of appropriate jurisdiction, for approval of the agreement between the claimant and the board.

(2) The court shall set the petition for hearing as soon as the court's calendar permits. Notice of the time, date and place of hearing shall be given to the claimant and to the board.

(3) The authority of the court is limited to denial of the final proposed settlement or, if the court finds it to be valid, just and equitable, approval of the proposed settlement.

(g) If and to the extent that any payment to one or more qualified claimants under this section would deplete the fund during any fiscal year, payments to and among qualified claimant's shall, at the discretion of the board, be prorated, made in periodic installments during the fiscal year according to the rules promulgated by the board or be placed in a nonpayment status until such time as sufficient moneys are received by the fund to initiate or resume payments. Any amounts due and unpaid to qualified claimants in any fiscal year shall be paid in subsequent fiscal years from available funds, but only to the extent funds are available in any fiscal year, according to the board's rules.
(h) The claimant may appeal a final decision made by the board pursuant to the provisions of article five, chapter twenty-nine-a of this code.

CHAPTER 55. ACTIONS, SUITS AND ARBITRATION; JUDICIAL SALE.

ARTICLE 7B. MEDICAL PROFESSIONAL LIABILITY.

§55-7B-9. Several liability.

(a) In the trial of a medical professional liability action involving multiple defendants, the trier of fact shall report its findings on a form provided by the court which contains each of the possible verdicts as determined by the court. Unless otherwise agreed by all the parties to the action, the jury shall be instructed to answer special interrogatories, or the court, acting without a jury, shall make findings as to:

1. The total amount of compensatory damages recoverable by the plaintiff;
2. The portion of the damages that represents damages for noneconomic loss;
3. The portion of the damages that represents damages for each category of economic loss;
4. The percentage of fault, if any, attributable to each plaintiff; and
5. The percentage of fault, if any, attributable to each of the defendants.

(b) The trier of fact shall, in assessing percentages of fault, consider the fault of all alleged parties, including the fault of any person who has settled a claim with the plaintiff arising out of the same medical injury.

(c) If the trier of fact renders a verdict for the plaintiff, the court shall enter judgment of several, but not joint, liability against each defendant in accordance with the percentage of fault attributed to the defendant by the trier of fact.

(d) To determine the amount of judgment to be entered against each defendant, the court shall first, after adjusting the verdict as provided in section nine-a of this article, reduce the adjusted verdict by the amount of any pre-verdict settlement arising out of the same medical
injury. The court shall then, with regard to each defendant, multiply the total amount of damages remaining, with prejudgment interest recoverable by the plaintiff, by the percentage of fault attributed to each defendant by the trier of fact. The resulting amount of damages, together with any post-judgment interest accrued, shall be the maximum recoverable against the defendant. To determine the amount of judgment to be entered against each defendant when there is no preverdict settlement, the court shall first, after adjusting the verdict as provided in section nine-a of this article, multiply the total amount of damages remaining with any prejudgment interest recoverable by the plaintiff, by the percentage of fault attributed to each defendant by the trier of fact. The resulting amount of damages, together with any post-judgment interest accrued, shall be the maximum amount recoverable damages against each defendant.

(e) When any defendant’s percentage of the verdict exceeds the remaining amounts due the plaintiff after the mandatory reductions, each defendant shall be liable only for the defendant’s pro rata share of the remainder of the verdict as calculated by the court from the remaining defendants to the action. The plaintiff’s total award may never exceed the jury’s verdict less any statutory or court-ordered reductions.

(f) Nothing in this section is meant to eliminate or diminish any defenses or immunities which exist as of the effective date of this section, except as expressly noted in this section.

(g) Nothing in this article is meant to preclude a health care provider from being held responsible for the portion of fault attributed by the trier of fact to any person acting as the health care provider’s agent or servant or to preclude imposition of fault otherwise imputable or attributable to the health care provider under claims of vicarious liability. A health care provider may not be held vicariously liable for the acts of a nonemployee pursuant to a theory of ostensible agency unless the alleged agent does not maintain professional liability insurance covering the medical injury which is the subject of the action in the aggregate amount of at least $1 million for each occurrence.
§55-7B-9c. Limit on liability for treatment of emergency conditions for which patient is admitted to a designated trauma center; exceptions; emergency rules.

(a) In any action brought under this article for injury to or death of a patient as a result of health care services or assistance rendered in good faith and necessitated by an emergency condition for which the patient enters a health care facility designated by the Office of Emergency Medical Services as a trauma center, including health care services or assistance rendered in good faith by a licensed emergency medical services authority or agency, certified emergency medical service personnel or an employee of a licensed emergency medical services authority or agency, the total amount of civil damages recoverable may not exceed $500,000, for each occurrence, exclusive of interest computed from the date of judgment, and regardless of the number of plaintiffs or the number of defendants or, in the case of wrongful death, regardless of the number of distributees.

(b) On January 1, 2016, and in each year thereafter, the limitation on the total amount of civil damages contained in subsection (a) of this section shall increase to account for inflation as determined by the Consumer Price Index published by the United States Department of Labor: Provided, That increases on the limitation of damages shall not exceed one hundred fifty percent of the amounts specified in said subsection.

(c) Beginning July 1, 2016, a plaintiff who, as a result of an injury suffered prior to or after said date, suffers or has suffered economic damages, as determined by the trier of fact or the agreement of the parties, in excess of the limitation of liability in section (a) of this section and for whom recovery from the Patient Injury Compensation Fund is precluded pursuant to section one, article twelve-d, chapter twenty-nine of this code may recover additional economic damages of up to $1 million. This amount is not subject to the adjustment for inflation set forth in subsection (b) of this section.

(d) The limitation of liability in subsection (a) of this section also applies to any act or omission of a health care provider in rendering continued care or assistance in the event that
surgery is required as a result of the emergency condition within a reasonable time after the patient’s condition is stabilized.

(e) The limitation on liability provided under subsection (a) of this section does not apply to any act or omission in rendering care or assistance which:

1. Occurs after the patient’s condition is stabilized and the patient is capable of receiving medical treatment as a nonemergency patient; or
2. Is unrelated to the original emergency condition.

(f) In the event that: (1) A physician provides follow-up care to a patient to whom the physician rendered care or assistance pursuant to subsection (a) of this section; and (2) a medical condition arises during the course of the follow-up care that is directly related to the original emergency condition for which care or assistance was rendered pursuant to the subsection, there is rebuttable presumption that the medical condition was the result of the original emergency condition and that the limitation on liability provided by the subsection applies with respect to that medical condition.

(g) There is a rebuttable presumption that a medical condition which arises in the course of follow-up care provided by the designated trauma center health care provider who rendered good faith care or assistance for the original emergency condition is directly related to the original emergency condition where the follow-up care is provided within a reasonable time after the patient’s admission to the designated trauma center.

(h) The limitation on liability provided under subsection (a) of this section does not apply where health care or assistance for the emergency condition is rendered:

1. In willful and wanton or reckless disregard of a risk of harm to the patient; or
2. In clear violation of established written protocols for triage and emergency health care procedures developed by the Office of Emergency Medical Services in accordance with subsection (e) of this section. In the event that the Office of Emergency Medical Services has not developed a written triage or emergency medical protocol by the effective date of this section, the
limitation on liability provided under subsection (a) of this section does not apply where health
care or assistance is rendered under this section in violation of nationally recognized standards
for triage and emergency health care procedures.

(i) The Office of Emergency Medical Services shall, prior to the effective date of this
section, develop a written protocol specifying recognized and accepted standards for triage and
emergency health care procedures for treatment of emergency conditions necessitating
admission of the patient to a designated trauma center.

(j) In its discretion, the Office of Emergency Medical Services may grant provisional trauma
center status for a period of up to one year to a health care facility applying for designated trauma
center status. A facility given provisional trauma center status is eligible for the limitation on liability
provided in subsection (i) of this section. If, at the end of the provisional period, the facility has not
been approved by the Office of Emergency Medical Services as a designated trauma center, the
facility is no longer eligible for the limitation on liability provided in subsection (a) of this section.

(k) The Commissioner of the Bureau for Public Health may grant an applicant for
designated trauma center status a one-time only extension of provisional trauma center status,
upon submission by the facility of a written request for extension, accompanied by a detailed
explanation and plan of action to fulfill the requirements for a designated trauma center. If, at the
end of the six-month period, the facility has not been approved by the Office of Emergency
Medical Services as a designated trauma center, the facility no longer has the protection of the
limitation on liability provided in subsection (a) of this section.

(l) If the Office of Emergency Medical Services determines that a health care facility no
longer meets the requirements for a designated trauma center, it shall revoke the designation, at
which time the limitation on liability established by subsection (a) of this section ceases to apply
to that health care facility for services or treatment rendered thereafter.

(m) The Legislature hereby finds that an emergency exists compelling promulgation of an
emergency rule, consistent with the provisions of this section, governing the criteria for
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77 designation of a facility as a trauma center or provisional trauma center and implementation of a
78 statewide trauma/emergency care system. The Legislature therefore directs the Secretary of the
79 Department of Health and Human Resources to file, on or before July 1, 2003, emergency rules
80 specifying the criteria for designation of a facility as a trauma center or provisional trauma center
81 in accordance with nationally accepted and recognized standards and governing the
82 implementation of a statewide trauma/emergency care system. The rules governing the statewide
83 trauma/emergency care system shall include, but not be limited to:
84 (1) System design, organizational structure and operation, including integration with the
85 existing emergency medical services system;
86 (2) Regulation of facility designation, categorization and credentialing, including the
87 establishment and collection of reasonable fees for designation; and
88 (3) System accountability, including medical review and audit to assure system quality.
89 Any medical review committees established to assure system quality shall include all levels of
90 care, including emergency medical service providers, and both the review committees and the
91 providers shall qualify for all the rights and protections established in article three-c, chapter thirty
92 of this code.

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.

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

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

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

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

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

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

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

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

(2) For a transcript, copy or paper made by the clerk for use in any other court or otherwise to go out of the office, for each page, $1;
(3) For issuing a suggestion and serving notice to the debtor by certified mail, $25;
(4) For issuing an execution, $25;
(5) For issuing or renewing a suggestee execution and serving notice to the debtor by certified mail, $25;
(6) For vacation or modification of a suggestee execution, $1;
(7) For docketing and issuing an execution on a transcript of judgment from magistrate court, $3;
(8) For arranging the papers in a certified question, writ of error, appeal or removal to any other court, $10, of which $5 shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code;
(9) For each subpoena, on the part of either plaintiff or defendant, to be paid by the party requesting the same, 50 cents;
(10) For additional service, plaintiff or appellant, where any case remains on the docket longer than three years, for each additional year or part year, $20; and
(11) For administering funds deposited into a federally insured interest-bearing account or interest-bearing instrument pursuant to a court order, $50, to be collected from the party making the deposit. A fee collected pursuant to this subdivision shall be paid into the general county fund.
(c) In addition to the foregoing fees, a fee for the actual amount of the postage and express may be charged and collected for sending decrees, orders or records that have not been ordered by the court to be sent by mail or express.
(d) The clerk shall tax the following fees for services in a criminal case against a defendant convicted in such court:
(1) In the case of a misdemeanor, $85; and
(2) In the case of a felony, $105, of which $10 shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code.
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(e) The clerk of a circuit court shall charge and collect a fee of $25 per bond for services rendered by the clerk for processing of criminal bonds and the fee shall be paid at the time of issuance by the person or entity set forth below:

1. For cash bonds, the fee shall be paid by the person tendering cash as bond;
2. For recognizance bonds secured by real estate, the fee shall be paid by the owner of the real estate serving as surety;
3. For recognizance bonds secured by a surety company, the fee shall be paid by the surety company;
4. For ten percent recognizance bonds with surety, the fee shall be paid by the person serving as surety; and
5. For ten percent recognizance bonds without surety, the fee shall be paid by the person tendering ten percent of the bail amount.

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

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

(g) No clerk is required to handle or accept for disbursement any fees, cost or amounts of any other officer or party not payable into the county treasury except on written order of the court or in compliance with the provisions of law governing such fees, costs or accounts.
(h) Fees for removal of civil cases from magistrate court shall be collected by the magistrate court when the case is still properly before the magistrate court. The magistrate court clerk shall forward the fees collected to the circuit court clerk.

§59-1-28a. Disposition of filing fees in civil actions and fees for services in criminal cases.

(a) Except for those payments to be made from amounts equaling filing fees received for the institution of divorce actions as prescribed in subsection (b) of this section, and except for those payments to be made from amounts equaling filing fees received for the institution of actions for divorce, separate maintenance and annulment as prescribed in said subsection, for each civil action instituted under the rules of civil procedure, any statutory summary proceeding, any extraordinary remedy, the docketing of civil appeals or any other action, cause, suit or proceeding in the circuit court the clerk of the court shall, at the end of each month, pay into the funds or accounts described in this subsection an amount equal to the amount set forth in this subsection of every filing fee received for instituting the action as follows:

(1) Into the Regional Jail and Correctional Facility Authority Fund in the State Treasury established pursuant to the provisions of section ten, article twenty, chapter thirty-one of this code the amount of $60;

(2) Into the Court Security Fund in the State Treasury established pursuant to the provisions of section fourteen, article three, chapter fifty-one of this code the amount of $5; and

(3) Into the Regional Jail Operations Partial Reimbursement Fund established pursuant to the provisions of section ten-b, article twenty, chapter thirty-one of this code the amount of $20.

(b) For each action for divorce, separate maintenance or annulment instituted in the circuit court, the clerk of the court shall, at the end of each month, report to the Supreme Court of Appeals the number of actions filed by persons unable to pay and pay into the funds or accounts in this subsection an amount equal to the amount set forth in this subsection of every filing fee received for instituting the divorce action as follows:
(1) Into the Regional Jail and Correctional Facility Authority Fund in the State Treasury established pursuant to the provisions of section ten, article twenty, chapter thirty-one of this code the amount of $10;

(2) Into the special revenue account of the State Treasury, established pursuant to section six hundred four, article two, chapter forty-eight of this code an amount of $30;

(3) Into the Family Court Fund established under section twenty-two, article two-a, chapter fifty-one of this code an amount of $70; and

(4) Into the Court Security Fund in the State Treasury, established pursuant to the provisions of section fourteen, article three, chapter fifty-one of this code the amount of $5.

(c) Notwithstanding any provision of subsection (a) or (b) of this section to the contrary, the clerk of the court shall, at the end of each month, pay into the Family Court Fund established under section twenty-two, article two-a, chapter fifty-one of this code an amount equal to the amount of every fee received for petitioning for the modification of an order involving child custody, child visitation, child support or spousal support as determined by subdivision (3), subsection (a), section eleven of this article and for petitioning for an expedited modification of a child support order as provided in subdivision (4) of said subsection.

(d) The clerk of the court from which a protective order is issued shall, at the end of each month, pay into the Family Court Fund established under section twenty-two, article two-a, chapter fifty-one of this code an amount equal to every fee received pursuant to the provisions of section five hundred eight, article twenty-seven, chapter forty-eight of this code.

(e) Of every fee for service received in any criminal case against any respondent convicted in circuit court, the clerk of each circuit court shall, at the end of each month, pay into the Regional Jail and Correctional Facility Authority Fund in the State Treasury an amount equal to $40, into the Court Security Fund in the State Treasury established pursuant to the provisions of section fourteen, article three, chapter fifty-one of this code an amount equal to $5 and into the Regional Jail and Correctional Facility Authority Fund in the State Treasury an amount equal to $10;
Jail Operations Partial Reimbursement Fund established pursuant to the provisions of section ten-b, article twenty, chapter thirty-one of this code an amount equal to $30.

(f) The clerk of the circuit court shall, at the end of each month, pay into the Medical Liability Fund established under article twelve-b, chapter twenty-nine of this code, an amount equal to $285 of every filing fee received for instituting a medical professional liability action: Provided, That effective July 1, 2016, payment shall be into the Patient Injury Compensation Fund created by the provisions of article twelve-d, chapter twenty-nine of this code.

(g) The clerk of the circuit court shall, at the end of each month, pay into the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code those amounts received by the clerk which are dedicated for deposit in the fund.

(h) The clerk of each circuit court shall, at the end of each month, pay into the Regional Jail Operations Partial Reimbursement Fund established in the State Treasury pursuant to the provisions of section ten-b, article twenty, chapter thirty-one of this code those amounts received by the clerk which are dedicated for deposit in the fund.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, Senate Committee

Chairman, House Committee

Originated in the Senate.

To take effect July 1, 2016.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ... approved ... this the 29th
Day of March ................................., 2016.

Governor
PRESENTED TO THE GOVERNOR

MAR 28 2015

Time  3:05 pm