

HOUSE BILL 1791

By Lundberg

AN ACT to amend Tennessee Code Annotated, Title 8,
Chapter 21, relative to fees charged by public
officers and employees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-21-501, is amended by deleting the section in its entirety and substituting instead the following:

8-21-501.

(a) The clerk of the supreme court and the intermediate appellate courts and the board of judicial conduct, referred to in this section as the “clerk”, is authorized to charge and receive a fee for each individual service rendered by the clerk or may charge and receive a general filing fee for services related to each of the following types of cases and filings:

(1) Appeals to the supreme court, court of appeals, or court of criminal appeals, regardless of whether the appeal is instituted by a notice of appeal, petition, application, motion for review, or other means;

(2) Any original or other action instituted by a writ or other means filed with the supreme court, court of appeals, court of criminal appeals, or board of judicial conduct;

(3) Certification of questions from a federal court to the supreme court;

(4) Motions for full court review in a worker's compensation action;

(5) Motion for leave to file an amicus curiae brief;

(6) Motion to assume jurisdiction over an undecided case;

(7) Motion to waive the timely filing of a notice of appeal pursuant to Rule 4(a) of the Tennessee Rules of Appellate Procedure; and

(8) Motion to waive the timely filing of permission to appeal pursuant to Rule 11 of the Tennessee Rules of Appellate Procedure.

(b) In addition to any general filing fee, the clerk is authorized to collect fees for the following services:

(1) For certifying a copy of any papers of record in the court offices, including the affixing of a certificate and seal;

(2) For comparing any document with the original filed in the offices of the court for purposes of certification;

(3) For check in/check out of an appellate record following the mandate of a case;

(4) For issuing a *capias*, a *fi.fa.*, a writ of execution or any other type of writ;

(5) For issuing a subpoena or subpoena *duces tecum*;

(6) For processing a sheriff's return;

(7) For making copies as requested;

(8) For services related to the withdrawal of an archived record; and

(9) For any official service performed by the clerk not otherwise provided by this section.

(c) The supreme court shall set the amount of court costs and fees authorized by statute by court order or rule.

(d) Whenever the clerk is required by law or by a judge to send documents by certified or registered mail, the clerk is entitled to recover the clerk's actual costs for mailing the documents.

(e) In any extraordinary cases, the clerk may petition the appropriate appellate court to award reasonable costs, in excess of the amounts provided in this section, to

reimburse the clerk for the additional services demanded by the case. In such cases, the clerk may also petition the court to require an appropriate cost bond. The decision whether to assess additional costs shall be in the discretion of the appropriate appellate court which shall take into consideration factors such as the number of parties and the quantity of filings involved in the appeal.

(f) When electronic filing has been implemented in the appellate courts in accordance with rules promulgated by the supreme court, the clerk, with the approval of the supreme court, may charge transaction, subscription, or other types of fees to users of the clerk's electronic filing system or the clerk's electronic document retrieval system. As determined appropriate by the supreme court, these fees shall be set in an amount necessary to defray the expenses associated with implementation and maintenance of the clerk's electronic filing system and the clerk's document retrieval system. These fees shall not be assessed against the state.

(g) The clerk is hereby authorized to accept payment by electronic debit, credit, or other means of a fee, fine, court cost, or other charge and may collect a fee for processing the payment. The clerk shall set the processing fee in an amount that is reasonably related to the expense incurred by the clerk in processing the payment. However, the clerk may not set the processing fee in an amount that exceeds five percent (5%) of the amount of the fee, court cost, or other charge being paid. If a payment by electronic means is not honored by the entity on which the funds are drawn, the clerk may collect a service charge from the person who owes the fee, fine, court cost, or other charge. The service charge is in addition to the original fee, fine, court cost, or other charge and is for the collection of that original amount. The amount of the service charge shall not exceed the fee charged for the collection of a check drawn on an account with insufficient funds.

(h) Except as provided otherwise by law:

(1) The fees and costs provided in this statute are chargeable and may be collected at the time the services are requested from the clerk;

(2) No fee is refundable except pursuant to orders or policies of the supreme court; and

(3) Costs or fees taxed to a party pursuant to a judgment or mandate are to be settled between the parties.

(i) Through order or rule, the supreme court shall set all costs, fees, charges, and surcharges of the clerk at levels to produce revenue which shall not substantially exceed the total of the current proportion of the costs associated with administration of the judicial system defrayed by costs, fees, miscellaneous charges, and surcharges of the clerk.

(j) Upon entry of any order or rule of the supreme court setting the filing costs, fees, charges, and surcharges, the clerk shall file a copy of the order or rule with the appropriate legislative committees that exercise jurisdiction over the issue.

(k) Nothing in this section shall limit the ability of a party to initiate a judicial proceeding by filing a pauper's oath. If a party, other than a party who initiated a proceeding under a pauper's oath, pays costs at the time the services are requested, such payment shall be deemed to satisfy the requirement for security to be given for costs pursuant to Rule 6 of the Tennessee Rules of Appellate Procedure.

(l) The fees listed above do not include officer's fees as provided for in § 8-21-901 and elsewhere. These fees also do not include state litigation taxes.

(m) All fees and costs collected pursuant to this section shall be deposited in the state treasury and designated for the operation of the state court system.

SECTION 2. This act shall take effect on July 1, 2016, the public welfare requiring

it.