

Tenn. Code Ann. § 8-21-401

TENNESSEE CODE ANNOTATED

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*** CURRENT THROUGH THE 2010 REGULAR SESSION ***

Title 8 Public Officers And Employees

Chapter 21 Fees Charged

Part 4 Clerks of Court

Tenn. Code Ann. § 8-21-401 (2011)

8-21-401. Schedule of fees.

(a) Except as otherwise provided by law, the costs provided in this section in civil cases are chargeable and may be collected at the time the services are requested from the clerk or other officer of the court; however, nothing in this section should be construed to limit the ability of a party to initiate a judicial proceeding by filing a pauper's oath. In cases where payment of the clerk's fees would create a substantial hardship for a party, judges are encouraged to use the discretion provided in Rule 29 of the Tennessee Rules of the Supreme Court to find that the party is indigent, even if that person does not meet the Legal Services Corporation's poverty guidelines. 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 § 20-12-120. In proceedings covered by subdivision (b)(1)(A), and in workers compensation complaints, the attorney filing the action shall have the option to sign a cost bond, in lieu of the party paying the clerk's fees at the time services are requested. These requirements for fees to be paid or security provided when services are requested from the clerk do not apply in criminal cases. The fees listed in this section do not include officer's fees as provided for in § 8-21-901 and elsewhere. These fees also do not include state and local litigation taxes.

(b) Fees in civil cases in circuit and chancery court. (1) (A) Unless otherwise provided, court clerks in civil cases in courts of record shall charge a standard court cost of two hundred twenty-five dollars (\$225) at the institution of a case. The types of cases covered by this fee would include, but not be limited to, actions for enforcement of contracts or breach of contract actions; injunctions; all torts, personal injury and property damage cases, including malpractice and wrongful death suits; employment discrimination suits; civil rights suits; tax disputes; special remedies; other property disputes; and any other type of actions not otherwise designated in this section or elsewhere by law.

(B) In divorce cases involving minor children, the clerk shall charge a standard court cost of two hundred dollars (\$200) at the institution of a case. In divorce cases that do not involve minor children, the clerk shall charge a standard court cost of one hundred twenty-five dollars (\$125) at the institution of a case.

(C) In the following specific types of civil actions, the clerk shall charge a standard court cost of one hundred fifty dollars (\$150) at the institution of a case:

(i) Appeals to the circuit or chancery court from juvenile court, general sessions court, probate courts, municipal courts or an administrative hearing; writs of certiorari from lower courts; or administrative hearings;

(ii) Transfers of cases from foreign counties;

(iii) Requests for writ of mandamus;

(iv) Worker's compensation actions;

(v) Condemnations and inverse condemnations; and

(vi) Quo warranto proceedings.

(D) In the following specific types of civil actions, the clerk shall charge a standard court cost of one hundred dollars (\$100) at the institution of a case:

(i) Adoptions;

(ii) Legitimations;

(iii) Paternity cases;

(iv) Restoration of citizenship;

(v) Termination of parental rights;

(vi) Other domestic relations matters not otherwise designated;

(vii) Name changes;

(viii) Minor settlements;

(ix) Enforcement of foreign judgments;

(x) Civil expungements where authorized by law; and

(xi) Orders of protection.

(E) In the following specific actions, the clerk shall charge a standard court cost of seventy-five dollars (\$75.00): child support enforcement and modification, including interstate support cases and civil contempt actions, and requests for modification of a parenting plan.

(F) In delinquent property tax cases, the clerk shall assess a filing fee of forty-two dollars (\$42.00) per parcel. For each parcel of property for which the judge issues an order to sell, there shall be a fee of one hundred dollars (\$100) for clerk's services related to that action.

(2) (A) For the purposes of determining the fees of the clerk of court, when any third party complaint in a civil case is filed, the party filing the complaint shall be charged the same fee as was charged at the initiation of the original civil proceeding.

(B) The fee for cross-filings and counter complaints in civil cases in courts of record shall be one hundred dollars (\$100).

(c) The clerks of the various courts administering estates, guardianships, conservatorships, and other probate matters are entitled to demand and shall receive for their services the following fees:

(1) For opening and closing an estate, other than a small estate, two hundred twenty-five dollars (\$225);

(A) For filing and docketing claims, giving notice and filing release on each claim for a decedent's estate, to be paid by claimant, eleven dollars (\$11.00);

(B) For filing exceptions to claims against estates, mailing notices and entering order, forty-two dollars (\$42.00);

(2) For filing small estate affidavits, thirty-six dollars (\$36.00);

(3) For filing a request for letters of guardianship and conservatorship; issuing all initial process and cost bond; entering order and issuing certificate of guardianship and conservatorship, not including fee of the sheriff; and including final accounting and order closing, regardless of court where filed, one hundred sixty dollars (\$160);

(4) For filing a new request for removal of disabilities of minority, and incompetence, filing affidavits and entering orders; for filing a new request to legitimate a person, change a name or correct a birth certificate and enter orders; for filing a new request for habeas corpus, filing cost bond, issuing process and enter orders, not including fee of the sheriff, one hundred dollars (\$100);

(5) For filing requests under the mental health law, compiled in title 33, issuing notices, entering return, and entering judgments after hearing, not including fee of the sheriff, fifty dollars (\$50.00);

(6) For filing and docketing any request on an existing case, other than a request to close the case, not otherwise provided for, eighteen dollars (\$18.00);

(7) For entering any order on an existing case, other than closing order, not otherwise provided for, twelve dollars (\$12.00);

(8) For issuing summons, subpoenas, citations, writs and notices, including copies of process when required by law, other than initial process, six dollars (\$6.00);

(9) For filing any document not otherwise provided for in probate court, seven dollars (\$7.00); and

(10) For filing, reviewing, recording annual or interim settlement or accounting and entering order approving settlement only, forty dollars (\$40.00).

(d) Fees in Criminal Cases in Courts of Record. (1) Unless otherwise provided in this section, court clerks in criminal cases in courts of record shall charge a standard court cost of three hundred dollars (\$300). This fee shall apply per case per defendant.

(2) The clerk shall charge a fee of one hundred dollars (\$100) for proceedings related to a violation of probation, any post-judgment actions, or expungements.

(3) The clerk shall charge a fee of seventy-five dollars (\$75.00) for criminal contempt actions, including criminal contempt proceedings in civil courts, for failure to appear, requests for bonding company release from final forfeiture, requests to reinstate a driver license, and requests for relief.

(4) Reimbursement from the state shall be limited to the fees as currently allowed by law.

(e) Fees for Proceedings in Juvenile Court. (1) Unless otherwise provided in this section, court clerks in juvenile proceedings shall charge a standard court cost of one hundred dollars (\$100). This fee shall apply to all juvenile proceedings not otherwise designated, including, but not limited to, requests to establish support or nonsupport, proceedings related to parentage, paternity cases, and legitimations.

(2) For requests for modification of child support, the clerk shall charge a fee of seventy-five dollars (\$75.00).

(3) In the following actions, the clerk of the juvenile court shall charge a fee of forty-two dollars (\$42.00): juvenile traffic cases, consent orders, diversion and nonjudicial disposition of juvenile cases, voluntary motions to grant custody, marriage waivers, attachment pro corpus, and bench warrants.

(4) In the following actions, the clerk of the juvenile court shall charge a fee of twenty-five dollars (\$25.00): restricted licenses, drug screenings, entering order of appeal and taking appeal bond, entering judgment from appellate court, entering order allowing rehearing, and special pleas.

(5) In the following actions, the clerk of the juvenile court shall charge a fee of sixty-two dollars (\$62.00): delinquency and unruly cases, and felony and misdemeanor cases in juvenile court.

(f) Actions in general sessions court. (1) General sessions civil filing fee, forty-two dollars (\$42.00). Unless otherwise provided elsewhere in this section, court clerks in civil cases in general sessions court shall charge a standard filing fee of forty-two dollars (\$42.00). This fee is intended to cover all initial court clerk's costs for initiating a civil proceeding in general sessions court, including, but not limited to, hearings regarding short term mental health commitments, appeals of decisions denying the issuance of handgun permits, and requests not otherwise provided for. This fee shall not apply to orders of protection, which shall have the same fee, when costs are adjudged, as in courts of record, of one hundred dollars (\$100).

(2) When a general sessions court is exercising concurrent civil jurisdiction with a court of record, the clerk shall charge the litigation taxes and court costs applicable in courts of record.

(g) Criminal actions in general sessions court. (1) General session criminal base fee, sixty-two dollars (\$62.00). This fee shall be charged per conviction per defendant. For cases involving traffic citations, instead of sixty-two dollars (\$62.00), the base court cost shall be forty-two dollars (\$42.00).

(2) Failure to appear, forty dollars (\$40.00). In cases where the defendant fails to appear or pay fines or costs and the court issues an attachment, bench warrant, capias or other process to compel the defendant's attendance at the court, the defendant shall be charged an additional fee for clerk's costs of forty dollars (\$40.00).

(3) Calling in surety, forty dollars (\$40.00). The clerk shall charge the defendant this fee each time a scire facias or other proceeding is instituted to bring in a surety, or make action against a bond in criminal cases for failure to appear.

(4) The clerk shall charge a fee of seventy-five dollars (\$75.00) for requests for bonding company release from final forfeiture, or requests to reinstate a driver license.

(5) The clerk shall charge a fee of one hundred dollars (\$100) for expungements.

(h) Clerk's commissions. (1) Except as provided in subdivisions (h)(2) and (3), for receiving and paying over all taxes, fines, forfeitures, fees and amercements, the clerk of the court is entitled to a five percent (5%) commission.

(2) In counties having a population of more than seven hundred thousand (700,000), according to the 1990 federal census or any subsequent federal census, the commission for receiving and paying over all taxes, fines, forfeitures, fees and amercements, shall be ten percent (10%), except as provided in subdivision (h)(3).

(3) For receiving and paying over all privilege taxes on litigation, the clerk of the court is entitled to a six and seventy-five hundredths percent (6.75%) commission. The total amount of commissions receivable by the clerk of the court during any fiscal year shall not be less than the amount received by such clerk during the fiscal year ending June 30, 2005; provided, that if the statewide amount of litigation tax collected during such fiscal year is less than the amount collected during the fiscal year ending June 30, 2005, then the total amount of commissions receivable by the clerk of the court for that fiscal year shall be reduced by a percentage equal to the percentage reduction in statewide litigation tax collections for that fiscal year.

(i) Other fees of court clerks. The following fees apply uniformly in all courts, general sessions, juvenile, probate, circuit or chancery, and may be charged in addition to the fees for cases listed in this section:

(1) Standard post-judgment fee. Unless otherwise provided, court clerks in criminal and civil cases in all courts shall charge a standard post-judgment fee of twenty-five dollars (\$25.00). This fee shall be charged per occurrence and shall be charged regardless of whether judgment is enforced by garnishment, execution, levy or other process. This fee shall also apply to post-judgment interrogatories, publications, motions to set installment payments, and orders and pleas.

(2) For issuing a subpoena or subpoena duces tecum, the fee shall be six dollars (\$6.00).

(3) (A) In all cases in all courts, the clerk shall charge a fee of five dollars (\$5.00) for each requested continuance.

(B) In addition to the fee provided for in subdivision (i)(3)(A), the clerk shall also collect a courtroom security enhancement fee of two dollars (\$2.00). The revenues from the two-dollar courtroom security enhancement fee shall be deposited into the county general fund. All revenue from this fee shall be used exclusively for the purposes of providing security and enhancing the security of court facilities in the county. For each fiscal year, the court security committee, created by § 16-2-505(d)(2), shall develop and submit recommendations to the county legislative body regarding how such funds shall be utilized.

(C) The fees for continuances shall be collected at the conclusion of the case. If multiple litigants request a continuance, the judge may assess these fees to one (1) or more parties.

(4) For making copies as requested, other than for an original filing and other than when preparing a record upon appeal, the fee shall be fifty cents (50cent(s)) per page.

(5) For making certification and seal, providing a copy of an abstract, or providing driver license certification, the fee shall be five dollars (\$5.00).

(6) For receiving funds paid into court on confirmation of private sales or other funds paid into the clerk pursuant to court order, and collecting and paying out the proceeds, the fee shall be forty dollars

(\$40.00). This fee also applies where there is a pre-judgment judicial attachment or similar process to bring property into the court's possession prior to judgment.

(7) For selling real or personal property under decree of court, and receiving, collecting, and paying out the proceeds, a commission not to exceed ten percent (10%) on the amount of sales up to six thousand dollars (\$6,000), and an additional amount to be fixed within such limits, in the discretion of the court. The clerk shall collect the sheriff's fee, plus the sheriff's fee for each additional defendant, in a proceeding to sell real estate.

(8) The clerks of the various courts have the authority to invest idle funds held under their control, not otherwise invested. Such investments shall be in banks or savings and loan associations operating under the laws of the state or under the laws of the United States; provided, that such deposits are insured under the federal deposit insurance corporation. Such investments shall not exceed the amounts that are federally insured, unless otherwise fully collateralized under a written collateral agreement, or unless the funds are deposited with an institution that is a member of the state collateral pool. The interest on such investments shall become part of the fees of the court clerk and the clerk shall be required to account for interest received, the same as with other fees received. Any funds authorized to be invested may be invested by the clerk in the local government investment pool administered by the state treasurer.

(9) Nothing in this section shall be construed to relieve the clerks of courts from the responsibility of investing funds held under their control, pursuant to court order or under the rules of court. The interest on those investments shall accrue to the benefit of those directed by the court or by agreement of the parties to the litigation.

(10) For investing funds, the clerk shall receive a fee of five percent (5%) of the earnings of such investment.

(11) For preparing a record on appeal from a court of record to an appellate court, the fee shall be three hundred dollars (\$300).

(12) 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.

(j) Earmarked funds for computerization. Out of all the general filing fees charged by court clerks, two dollars (\$2.00) of the amount collected shall be earmarked for computer hardware purchases or replacement, but may be used for other usual and necessary computer related expenses at the discretion of the clerk. Such amount shall be preserved for these purposes and shall not revert to the general fund at the end of a budget year if unexpended.

(k) Costs in extraordinary cases. In any extraordinary cases, the clerk may petition the judge 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 judge to require an appropriate cost bond. For the purposes of this subsection (k), an extraordinary case is defined as one in which there are ten (10) or more plaintiffs or ten (10) or more defendants.

(l) Charges to the state unchanged. Notwithstanding any provision of this section to the contrary, any fees increased by this section that are assessed against the state or that otherwise represent a cost to the state in criminal cases, child support actions, mental health proceedings, actions under the Tennessee Adult Protection Act, compiled in title 71, chapter 6, part 1, actions with regard to child care licensing, and collection efforts brought by the department of human services, shall be limited to the amounts chargeable prior to January 1, 2006.

(m) Indigent parties. No clerk shall be permitted to collect any fee authorized by this section without permitting any person the opportunity to institute a cause of action by means of a pauper's oath, in accordance with Rule 29 of the Rules of the Tennessee Supreme Court.

(n) The fees provided for in this section shall not apply to circuit court clerks, criminal court clerks, clerks and masters of chancery courts, clerks of courts of general sessions, county clerks, clerks of juvenile and probate courts, and clerks of law and equity courts in counties with a charter form of government that has a population of not less than three hundred and fifty thousand (350,000) nor more than four hundred and fifty thousand (450,000) according to the 2000 federal census or any subsequent federal census. In those counties, the clerks shall instead charge the fees provided for in § 8-21-409. For the purpose of administering court costs and clerk's fees in counties affected by this subsection (n), any statutory reference to § 8-21-401 shall be deemed to be a reference to § 8-21-409.

HISTORY: Code 1858, §§ 2306, 2844, 4551 (deriv. Acts 1837-1838, ch. 125, § 8); Acts 1897, ch. 6, § 5; 1897, ch. 9, § 2; 1897, ch. 96, § 1; 1899, ch. 96, §§ 67, 68; 1903, ch. 377, § 12; 1917, ch. 63, § 48; Shan., § 6388; Acts 1919, ch. 137, § 1; mod. Code 1932, § 10692; Acts 1951, ch. 157, § 1; 1957, ch. 59, § 1; 1961, ch. 131, § 1; 1961, ch. 202, § 1; 1965, ch. 355, § 1; 1972, ch. 813, §§ 1, 2; modified; 1974, ch. 556, § 1; impl. am. Acts 1976, ch. 529, § 23; Acts 1976, ch. 651, § 1; 1977, ch. 240, § 1; 1977, ch. 291, § 1; impl. am. Acts 1978, ch. 934, §§ 22, 36; T.C.A. (orig. ed.), § 8-2115; Acts 1980, ch. 612, § 1; 1981, ch. 427, § 1; 1981, ch. 488, § 6; 1984, ch. 665, § 1; 1985, ch. 143, § 2; 1985, ch. 304, § 1; 1985, ch. 305, §§ 1, 2; 1986, ch. 701, § 1; 1986, ch. 755, §§ 1, 2; 1987, ch. 135, § 2; 1987, ch. 282, § 8; 1987, ch. 327, § 1; 1987, ch. 414, §§ 1-5; 1991, ch. 415, §§ 1, 2, 6; 1992, ch. 924, § 1; 1995, ch. 456, §§ 1-4; 1996, ch. 675, § 12; 1997, ch. 384, §§ 1, 2; 1999, ch. 530, §§ 1-8; 2005, ch. 429, § 17; 2008, ch. 1047, § 1.

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