

As Introduced

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H. B. No. 226

Representatives Hoops, C. Evans, Flowers, Kearns, Martin, McGregor, Seitz,
Setzer, Wagoner, Brown, Hartnett, Koziura

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A BILL

To amend section 1901.26 of the Revised Code to
authorize the legislative authority of a municipal
corporation to establish a schedule of fees to be
taxed as costs in a civil, criminal, or traffic
proceeding in a municipal court for services
performed by officers or employees of the
municipal corporation's police department or
marshal's office.

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

Section 1. That section 1901.26 of the Revised Code be
amended to read as follows:

Sec. 1901.26. (A) Subject to division (E) of this section,
costs in a municipal court shall be fixed and taxed as follows:

(1)(a) The municipal court shall require an advance deposit
for the filing of any new civil action or proceeding when required
by division ~~(A)(9)~~(C) of this section, and in all other cases, by
rule, shall establish a schedule of fees and costs to be taxed in
any civil or criminal action or proceeding.

(b)(i) The legislative authority of a municipal corporation
may by ordinance establish a schedule of fees to be taxed as costs

in any civil, criminal, or traffic action or proceeding in a
municipal court for the performance by officers or other employees
of the municipal corporation's police department or marshal's
office of any of the services specified in sections 311.17 and
509.15 of the Revised Code. If a fee established in the schedule
conflicts with a fee for the same service established in another
section of the Revised Code or a rule of court, the fee
established in the other section of the Revised Code or the rule
of court shall apply.

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(ii) When an officer or employee of a municipal police
department or marshal's office performs in a civil, criminal, or
traffic action or proceeding in a municipal court a service
specified in section 311.17 or 509.15 of the Revised Code for
which a taxable fee has been established under this or any other
section of the Revised Code, the court shall tax as costs in the
action or proceeding the applicable legal fees and any other
extraordinary expenses, including overtime, provided for the
service. The clerk of the court shall pay those legal fees and
other expenses, when collected, into the general fund of the
municipal corporation that employs the officer or employee.

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(iii) If a bailiff of a municipal court performs in a civil,
criminal, or traffic action or proceeding in that court a service
specified in section 311.17 or 509.15 of the Revised Code for
which a taxable fee has been established under this section or any
other section of the Revised Code, the fee for the service is the
same and is taxable to the same extent as if the service had been
performed by an officer or employee of the police department or
marshal's office of the municipal corporation in which the court
is located. The clerk of that court shall pay the fee, when
collected, into the general fund of the municipal corporation.

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(iv) Division (A)(1)(b) of this section does not authorize or
require any officer or employee of a police department or

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marshal's office of a municipal corporation or any bailiff of a
municipal court to perform any service not otherwise authorized by
law.

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(2) The municipal court, by rule, may require an advance
deposit for the filing of any civil action or proceeding and
publication fees as provided in section 2701.09 of the Revised
Code. The court may waive the requirement for advance deposit upon
affidavit or other evidence that a party is unable to make the
required deposit.

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(3) When a jury trial is demanded in any civil action or
proceeding, the party making the demand may be required to make an
advance deposit as fixed by rule of court, unless, upon affidavit
or other evidence, the court concludes that the party is unable to
make the required deposit. If a jury is called, the fees of a jury
shall be taxed as costs.

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(4) In any civil or criminal action or proceeding, witnesses'
fees shall be fixed in accordance with sections 2335.06 and
2335.08 of the Revised Code.

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(5) A reasonable charge for driving, towing, carting,
storing, keeping, and preserving motor vehicles and other personal
property recovered or seized in any proceeding may be taxed as
part of the costs in a trial of the cause, in an amount that shall
be fixed by rule of court.

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(6) Chattel property seized under any writ or process issued
by the court shall be preserved pending final disposition for the
benefit of all persons interested and may be placed in storage
when necessary or proper for that preservation. The custodian of
any chattel property so stored shall not be required to part with
the possession of the property until a reasonable charge, to be
fixed by the court, is paid.

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(7) The municipal court, as it determines, may refund all

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deposits and advance payments of fees and costs, including those 83
for jurors and summoning jurors, when they have been paid by the 84
losing party. 85

(8) Charges for the publication of legal notices required by 86
statute or order of court may be taxed as part of the costs, as 87
provided by section 7.13 of the Revised Code. 88

(B)(1) The municipal court may determine that, for the 89
efficient operation of the court, additional funds are necessary 90
to acquire and pay for special projects of the court including, 91
but not limited to, the acquisition of additional facilities or 92
the rehabilitation of existing facilities, the acquisition of 93
equipment, the hiring and training of staff, community service 94
programs, mediation or dispute resolution services, the employment 95
of magistrates, the training and education of judges, acting 96
judges, and magistrates, and other related services. Upon that 97
determination, the court by rule may charge a fee, in addition to 98
all other court costs, on the filing of each criminal cause, civil 99
action or proceeding, or judgment by confession. 100

If the municipal court offers a special program or service in 101
cases of a specific type, the municipal court by rule may assess 102
an additional charge in a case of that type, over and above court 103
costs, to cover the special program or service. The municipal 104
court shall adjust the special assessment periodically, but not 105
retroactively, so that the amount assessed in those cases does not 106
exceed the actual cost of providing the service or program. 107

All moneys collected under division (B) of this section shall 108
be paid to the county treasurer if the court is a county-operated 109
municipal court or to the city treasurer if the court is not a 110
county-operated municipal court for deposit into either a general 111
special projects fund or a fund established for a specific special 112
project. Moneys from a fund of that nature shall be disbursed upon 113

an order of the court in an amount no greater than the actual cost 114
to the court of a project. If a specific fund is terminated 115
because of the discontinuance of a program or service established 116
under division (B) of this section, the municipal court may order 117
that moneys remaining in the fund be transferred to an account 118
established under this division for a similar purpose. 119

(2) As used in division (B) of this section: 120

(a) "Criminal cause" means a charge alleging the violation of 121
a statute or ordinance, or subsection of a statute or ordinance, 122
that requires a separate finding of fact or a separate plea before 123
disposition and of which the defendant may be found guilty, 124
whether filed as part of a multiple charge on a single summons, 125
citation, or complaint or as a separate charge on a single 126
summons, citation, or complaint. "Criminal cause" does not include 127
separate violations of the same statute or ordinance, or 128
subsection of the same statute or ordinance, unless each charge is 129
filed on a separate summons, citation, or complaint. 130

(b) "Civil action or proceeding" means any civil litigation 131
that must be determined by judgment entry. 132

(c) The municipal court shall collect in all its divisions 133
except the small claims division the sum of fifteen dollars as 134
additional filing fees in each new civil action or proceeding for 135
the charitable public purpose of providing financial assistance to 136
legal aid societies that operate within the state. The municipal 137
court shall collect in its small claims division the sum of seven 138
dollars as additional filing fees in each new civil action or 139
proceeding for the charitable public purpose of providing 140
financial assistance to legal aid societies that operate within 141
the state. This division does not apply to any execution on a 142
judgment, proceeding in aid of execution, or other post-judgment 143
proceeding arising out of a civil action. The filing fees required 144

to be collected under this division shall be in addition to any 145
other court costs imposed in the action or proceeding and shall be 146
collected at the time of the filing of the action or proceeding. 147
The court shall not waive the payment of the additional filing 148
fees in a new civil action or proceeding unless the court waives 149
the advanced payment of all filing fees in the action or 150
proceeding. All such moneys shall be transmitted on the first 151
business day of each month by the clerk of the court to the 152
treasurer of state. The moneys then shall be deposited by the 153
treasurer of state to the credit of the legal aid fund established 154
under section 120.52 of the Revised Code. 155

The court may retain up to one per cent of the moneys it 156
collects under this division to cover administrative costs, 157
including the hiring of any additional personnel necessary to 158
implement this division. 159

(D) In the Cleveland municipal court, reasonable charges for 160
investigating titles of real estate to be sold or disposed of 161
under any writ or process of the court may be taxed as part of the 162
costs. 163

(E) Under the circumstances described in sections 2969.21 to 164
2969.27 of the Revised Code, the clerk of the municipal court 165
shall charge the fees and perform the other duties specified in 166
those sections. 167

Section 2. That existing section 1901.26 of the Revised Code 168
is hereby repealed. 169