

**FILED**  
MADISON COUNTY

IN THE CIRCUIT COURT OF MADISON COUNTY, MISSISSIPPI

JAN 30 2020

ORDER ALLOWING CLERK \$5,000 PER ANNUM FOR PUBLIC SERVICE  
SECTION 25-7-13(2)(k)

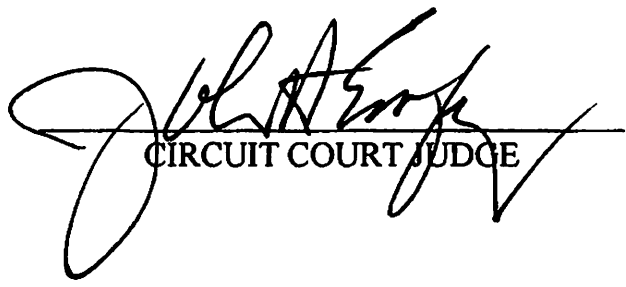
ANITA WRAY, CIRCUIT CLERK

BY Awray D.C.

On Motion Ore Tenus of the Circuit Clerk to be allowed \$5,000 per annum for public service not particularly provided for, by or order of the Court, in accordance with Section 25-7-13(2)(k), Mississippi Code of 1972, Annotated, the Courts finds that said motion is well taken and should be granted.

IT IS THEREFORE, THE ORDER OF THE court THAT Madison County shall pay to the Circuit Clerk the sum of \$5,000 per annum for public service not particularly provided for, as provided in the above referenced statute.

ORDERED this the 30<sup>th</sup> day of January, 2020, 2018.

  
CIRCUIT COURT JUDGE

314  
515


[Miss. Code Ann. § 25-7-13](#)

Current through the 2019 Regular Session.

*Mississippi Code 1972 Annotated > Title 25. Public Officers and Employees; Public Records (Chs. 1 — 65) > Chapter 7. Fees (§§ 25-7-1 — 25-7-89)*

**Notice**

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 This section has more than one version with varying effective dates.

**§ 25-7-13. Clerks of the circuit court.**

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[Effective from and after January 1, 2020, this section shall read as follows:]

(1)The clerks of the circuit court shall charge the following fees:

(a)Docketing, filing, marking and registering each complaint, petition and indictment ..... \$ 85.00

The fee set forth in this paragraph shall be the total fee for all services performed by the clerk up to and including entry of judgment with respect to each complaint, petition or indictment, including all answers, claims, orders, continuances and other papers filed therein, issuing each writ, summons, subpoena or other such instruments, swearing witnesses, taking and recording bonds and pleas, and recording judgments, orders, fiats and certificates; the fee shall be payable upon filing and shall accrue to the clerk at the time of collection. The clerk or his successor in office shall perform all duties set forth above without additional compensation or fee.

(b)Docketing and filing each motion to renew judgment, notice of renewal of judgment, suggestion for a writ of garnishment, suggestion for a writ of execution and judgment debtor actions and issuing all process, filing and recording orders or other papers and swearing witnesses ..... \$ 35.00

(c)For every civil case filed, an additional fee to be deposited to the credit of the Comprehensive Electronic Court Systems Fund established in [Section 9-21-14](#) ..... \$ 10.00

(d)For every civil case filed, an additional fee to be deposited to the credit of the Judicial System Operation Fund established in [Section 9-21-45](#) ..... \$ 40.00

(2)Except as provided in subsection (1) of this section, the clerks of the circuit court shall charge the following fees:

(a)Filing and marking each order or other paper and

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recording and indexing same ..... \$ 2.00

(b) Issuing each writ, summons, subpoena, citation, capias and other such instruments ..... \$ 1.00

(c) Administering an oath and taking bond ..... \$ 2.00

(d) Certifying copies of filed documents, for each complete document ..... \$ 1.00

(e) Recording orders, fiats, licenses, certificates, oaths and bonds:

First page ..... \$ 2.00

Each additional page ..... \$ 1.00

(f) Furnishing copies of any papers of record or on file and entering marginal notations on documents of record:

If performed by the clerk or his employee, per page ..... \$1.00

If performed by any other person, per page ..... \$.25

(g) Judgment roll entry ..... \$ 5.00

(h) Taxing cost and certificate ..... \$ 1.00

(i) For taking and recording application for marriage license, for filing and recording consent of parents when required by law, for filing and recording medical certificate, filing and recording proof of age, recording and issuing license, recording and filing returns ..... \$ 35.00

The clerk shall deposit Fourteen Dollars (\$14.00) of each fee collected for a marriage license in the Victims of Domestic Violence Fund established in [Section 93-21-117](#), on a monthly basis.

(j) For certified copy of marriage license and search of record, the same fee charged by the Bureau of Vital Statistics of the State Board of Health.

(k) For public service not particularly provided for, the circuit court may allow the clerk, per annum, to be paid by the county on presentation of the circuit court's order, the following amount ..... \$5,000.00

However, in the counties having two (2) judicial districts, such above allowance shall be made for each judicial district.

(l) For drawing jurors and issuing venire, to be paid by the county ..... \$ 5.00

(m) For each day's attendance upon the circuit court term, for himself and necessary deputies allowed by the court, each to be paid by the county ..... \$ 75.00

(n) Summons, each juror to be paid by the county upon the allowance of the court ..... \$ 1.00

(o) For issuing each grand jury subpoena, to be paid by the county on allowance by the court, not to exceed Twenty-five

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Dollars (\$25.00) in any one (1) term of court ..... \$ 1.00

(p) For each civil filing, to be deposited into the Civil

Legal Assistance Fund ..... \$ 5.00

(3) On order of the court, clerks and deputies may be allowed five (5) extra days for attendance upon the court to get up records.

(4) The clerk's fees in state cases where the state fails in the prosecution, or in cases of felony where the defendant is convicted and the cost cannot be made out of his estate, in an amount not to exceed Four Hundred Dollars (\$400.00) in one (1) year, shall be paid out of the county treasury on approval of the circuit court, and the allowance thereof by the board of supervisors of the county. In counties having two (2) judicial districts, such allowance shall be made in each judicial district; however, the maximum thereof shall not exceed Eight Hundred Dollars (\$800.00). Clerks in the circuit court, in cases where appeals are taken in criminal cases and no appeal bond is filed, shall be allowed by the board of supervisors of the county after approval of their accounts by the circuit court, in addition to the above fees, for making such transcript the rate of Two Dollars (\$2.00) per page.

(5) The clerk of the circuit court may retain as his commission on all money coming into his hands, by law or order of the court, a sum to be fixed by the court not exceeding one-half of one percent (1/2 of 1%) on all such sums.

(6) For making final records required by law, including, but not limited to, circuit and county court minutes, and furnishing transcripts of records, the circuit clerk shall charge Two Dollars (\$2.00) per page. The same fees shall be allowed to all officers for making and certifying copies of records or papers which they are authorized to copy and certify.

(7) The circuit clerk shall prepare an itemized statement of fees for services performed, cost incurred, or for furnishing copies of any papers of record or on file, and shall submit the statement to the parties or, if represented, to their attorneys within sixty (60) days. A bill for same shall accompany the statement.

## History

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Codes, 1880, § 443; 1892, § 1993; 1906, § 2169; Hemingway's 1917, § 1850; 1930, §§ 1788, 1804; 1942, §§ 3934, 3952; Laws, 1928, chs. 87, 227; Laws, 1938, ch. 292; Laws, 1940, ch. 230; Laws, 1948, ch. 237; Laws, 1950, ch. 239; Laws, 1958, ch. 330; Laws, 1968, ch. 361, § 65; Laws, 1968, ch. 398, §§ 1, 2; Laws, 1978, ch. 361, § 1; Laws, 1985, ch. 461, § 2; Laws, 1993, ch. 481, § 3; Laws, 1994, ch. 406, § 1; Laws, 1995, ch. 537, § 1; Laws, 1999, ch. 485, § 1; Laws, 2001, ch. 344, § 1; Laws, 2004, ch. 505, § 9; Laws, 2006, ch. 327, § 1; Laws, 2006, ch. 573, § 3; Laws, 2006, ch. 577, § 2; Laws, 2008, ch. 473, § 1; Laws, 2012, ch. 329, § 5; Laws, 2012, ch. 355, § 1, eff from and after July 1, 2012; [Laws, 2019, ch. 385, § 1](#), eff from and after July 1, 2019; [Laws, 2019, ch. 485, § 6](#), eff from and after January 1, 2020.

Annotations

### RESEARCH REFERENCES

ALR.

Am. Jur.

Joint Legislative Committee Note —

## Miss. Code Ann. § 25-7-13

Section 1 of ch. 327, Laws, 2006, effective from and after passage (approved March 09, 2006), amended this section. Section 1 of ch. 577, Laws, 2006, effective from and after July 1, 2006 (approved April 21, 2006), also amended this section. Section 3 of ch. 573, Laws, 2006, effective July 1, 2006 (approved April 24, 2006), also amended this section. As set out above, this section reflects the language of both amendments pursuant to [Section 1-1-109](#) which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the May 31, 2006 meeting of the Committee.

Section 5 of ch. 329, Laws, 2012, effective July 1, 2012, amended this section. Section 1 of ch. 355, Laws, 2012, effective from and after July 1, 2012, also amended this section. As set out above, this section reflects the language of both amendments pursuant to [Section 1-1-109](#) which gives the Joint Legislative Committee on Compilation, Revision, and Publication authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication ratified the integration of these amendments as consistent with the legislative intent at the August 16, 2012, meeting of the Committee.

Section 1 of Chapter 385, Laws of 2019, effective July 1, 2019 (approved March 22, 2019), amended this section. Section 6 of Chapter 485, Laws of 2019, effective January 1, 2020 (approved April 18, 2019), also amended this section. As set out above, this section reflects the language of both amendments pursuant to [Section 1-1-109](#) which gives the Joint Legislative Committee on Compilation, Revision, and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the August 12, 2019, meeting of the Committee.

**Editor's Note —**

On August 19, 2004, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the amendment of this section by Laws of 2004, ch. 505, § [9](#).

On July 1, 2008, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the amendment of this section by [Laws of 2008, ch. 473, § 1](#).

Laws of 2006, ch. 573, § [4](#) provides as follows:

“SECTION 4. It is the intent of the Legislature that the amendments contained in Sections 2 and 3 of this act shall be integrated with the amendments to the corresponding code sections contained in [Laws of 2006, ch. 327](#), [Laws of 2006, ch. 447](#), and [Laws of 2006, ch. 577](#) without regard to the effective date of such acts.”

Laws of 2012, ch. 329, § [11](#), provides:

“SECTION 11. Sections 1 and 8 of this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, or January 1, 2013, whichever occurs later; and the remainder of this act shall take effect and be in force from and after July 1, 2012.”

[Laws of 2019, ch. 485, § 14](#), provides as follows:

“SECTION 14. This act shall take effect and be in force from and after January 1, 2020, except for Section 11, which shall take effect and be in force from and after July 1, 2019, and Sections 12 and 13, which shall take effect and be in force from and after the passage of this act [approved April 18, 2019].”

**Amendment Notes —**

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The 2004 amendment substituted "\$50.00" for "30.00" in (2)(m).

The first 2006 amendment (ch. 327) inserted "motion to renew judgment" following "Docketing and filing each" at the beginning of (1)(b).

The second 2006 amendment (ch. 573) added (1)(c).

The third 2006 amendment, (ch. 577) added (2)(p).

The 2008 amendment substituted "\$85.00" for "\$75.00" in (1)(a); and substituted "\$35.00" for "\$30.00" in (1)(b).

The first 2012 amendment, (ch. 329), added (1)(d).

The second 2012 amendment (ch. 355), inserted "notice of renewal of judgment" following "each motion to renew judgment" near the beginning of (1)(b).

The first 2019 amendment (ch. 385) substituted "\$35.00" for "\$25.00" in (2)(i).

The second 2019 amendment (ch. 485), effective January 1, 2020, substituted "\$75.00" for "\$50.00" in (2)(m).

**Cross References —**

Oath and bond of circuit clerk, see § [9-7-121](#).

Circuit clerk's allowance for attendance in quo warranto proceedings, see § [11-39-59](#).

Fees not being payable until bill produced, see § [11-53-67](#).

Requirement that clerk of court post table of fees, see § [11-53-79](#).

Circuit clerk's fees in cases appealed from municipalities, see § [25-7-17](#).

Circuit clerk's fees for enrolling certificates of state income tax indebtedness, see § [27-7-55](#).

**JUDICIAL DECISIONS****1. In general.****2. Public services not particularly provided for.****1. In general.**

In a consolidation action where the plaintiffs paid a total of \$67,450.00 in filing fees to the circuit clerk, the plaintiffs were entitled to a refund of all filing fees and administrative costs in excess of the statutorily established amounts. [Hinds County Bd. of Supervisors v. Abnie, 934 So. 2d 996, 2006 Miss. LEXIS 376 \(Miss. 2006\)](#).

Trial court did not abuse its discretion when it ordered a former spouse to pay the statutorily authorized fee of two dollars per page for the transcript of records; though the only specific statute relating to making copies of final records and transcripts is Miss. Code Ann. § [25-7-13\(6\)](#) and generally relates to circuit clerks, the statute specifically provides that all other officers can similarly be charged, and therefore § [25-7-13\(6\)](#) was the appropriate statute for the chancery clerk to utilize in such matters rather than Miss. Code Ann. § [25-7-9](#), which permitted a chancery clerk to charge 50 cents when the clerk made "uncertified copies." [Cook v. Whiddon, 866 So. 2d 494, 2004 Miss. App. LEXIS 130 \(Miss. Ct. App. 2004\)](#).

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Although a county circuit court clerk had no authority under § [25-7-13](#) to require a \$100 filing fee for an appeal from the municipal court, the fee could be recast as the bond required by URCCC 12.02(B); however, it was nevertheless improper for the circuit clerk to set \$100 as the unchanging estimate of court costs and it was improper for payment to be demanded in cash. [Mitchell v. Parker, 2001 Miss. App. LEXIS 161 \(Miss. Ct. App. Apr. 24, 2001\)](#), op. withdrawn, sub. op., [804 So. 2d 1066, 2001 Miss. App. LEXIS 369 \(Miss. Ct. App. 2001\)](#).

Fee compensation plan for circuit clerks did not create unconstitutional incentive to convict defendants where circuit clerk's role was prescribed by statute, circuit clerk made no decisions affecting the outcomes of cases, and thus circuit clerk had no judicial power. [Nicholson ex rel. Gollott v. State, 672 So. 2d 744, 1996 Miss. LEXIS 146 \(Miss. 1996\)](#).

[Section 25-7-13](#) does not authorize the circuit clerk to charge the customary filing fee in cases where the circuit court is acting as an appellate court. [Staples v. Blue Cross & Blue Shield, Inc., 585 So. 2d 747, 1991 Miss. LEXIS 583 \(Miss. 1991\)](#).

The fee schedule in § [25-7-13](#) applies to actions in eminent domain, and funds handled by the clerk in such actions are monies subject to the commission as authorized under § [25-7-13\(5\)](#). Pursuant to this section, the commission awarded to the clerk may not exceed ½ of one percent; however, the amount of the commission is to be determined by the court. In fixing the clerk's commission, the court should exercise its discretion in light of the responsibility assumed and services rendered by the clerk. The commission paid to the clerk should be paid by the condemning authority since assessment of a fee or commission may not be used to diminish the compensation received by the landowner. [Mississippi State Highway Com. v. Herban, 522 So. 2d 210, 1988 Miss. LEXIS 62 \(Miss. 1988\)](#).

A certificate of the cost of a transcript of records should show the number of words. [Luke v. Mississippi Employment Sec. Com., 239 Miss. 292, 123 So. 2d 231, 123 So. 2d 696, 1960 Miss. LEXIS 285 \(Miss. 1960\)](#).

Under subsection (d) of this section, allowance of fees to circuit clerks can be made only upon itemized accounts of the claimed amounts. [Washington County v. Cocke, 206 Miss. 569, 40 So. 2d 301, 1949 Miss. LEXIS 284 \(Miss. 1949\)](#).

The current federal census is the exclusive evidence of the population of the state, county, city, town, township and village, unless otherwise definitely expressed in the particular legislative enactment. [Hester v. Copiah County, 186 Miss. 716, 191 So. 496, 1939 Miss. LEXIS 266 \(Miss. 1939\)](#).

Supreme Court clerk in taxing costs on appeal can only allow to lower court clerk, who sent up record, fees based on number of words appearing in copies thereof made by him. [Austin v. Von Seutter, 170 Miss. 467, 151 So. 563, 1934 Miss. LEXIS 87 \(Miss. 1934\)](#).

A clerk of the circuit court is not entitled to an allowance for fees under this section in cases where the state has failed in prosecution, unless the account for said fees shall be itemized and allowed by the court. [Chatters v. Coahoma County, 73 Miss. 351, 19 So. 107, 1895 Miss. LEXIS 138 \(Miss. 1895\)](#).

## 2. Public services not particularly provided for.

The 1950 Amendment establishing a fee for all officers, including Chancery clerks, of 25 cents per hundred words for furnishing transcripts of records, the phrase "all officers" expresses a legislative intent to make the provision applicable to all court clerks who perform the stated functions. [Superior Oil Co. v. Foote, 216 Miss. 728, 65 So. 2d 453, 1953 Miss. LEXIS 687 \(Miss. 1953\)](#).

County court clerk, who by law is the same person as the circuit court clerk, and who, as circuit clerk, received an allowance for public service not particularly provided for under subsection (c) of this section, was not entitled to an additional allowance, as county clerk, for public service not particularly provided for, since by statute the compensation of the county clerk is expressly confined to the fees allowed by law for like duties in the circuit and

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chancery courts, which means that the county clerk must look to the fixed schedule of the fees specifically allowed by law for services in the circuit and chancery courts, and there is no authority to make allowance to the county clerk as such for public service not particularly provided for. *Covington v. Quitman County*, 196 Miss. 416, 17 So. 2d 597, 1944 Miss. LEXIS 208 (Miss. 1944).

The allowance by the circuit court to its clerk of the sum of \$50 for public services not particularly provided for, being a matter within its discretion, and the allowance to him of his fees for his attendance on the court and for drawing jurors being one of the compensations fixed by this section, the board of supervisors is without discretion to reject the same, and may be compelled by mandamus to provide for the payment thereof. *Chatters v. Coahoma County*, 73 Miss. 351, 19 So. 107, 1895 Miss. LEXIS 138 (Miss. 1895).

**OPINIONS OF THE ATTORNEY GENERAL**

Minutes of courts are undoubtedly final records required by law, and Attorney General's office is therefore unable to say that statute does not allow circuit clerks up to \$2.00/page for preparation and recording of minutes of courts. Parker, March 6, 1990, A.G. Op. #90-0092.

Whether the attendance of a deputy is necessary is a question of fact for the judge to determine; if the judge believes the attendance of a deputy or deputies was necessary on any particular day then the court should allow the additional fees for attendance by the deputy or deputies. Thomas, Nov. 6, 1991, A.G. Op. #91-0765.

A deputy who substitutes for a clerk, when the clerk is supposed to attend, is necessary. If the business of the court requires the clerk and one or more deputies then the deputies are necessary. Thomas, Nov. 6, 1991, A.G. Op. #91-0765.

If so ordered by the court, an outgoing circuit clerk may be entitled to his commission on fees for work performed during his term, even though the case may not be concluded until after his term has ended. Ferguson, June 24, 1992, A.G. Op. #92-0447.

Circuit clerk's fee for taking pauper affidavits in criminal cases is not under *Section 25-7-13(1)* but rather compensation is provided for under subsection (2)(k) which allows per annum amount of \$5,000. Ferguson, March 9, 1994, A.G. Op. #93-1016.

Based on *Section 25-7-13*, the clerk would not be entitled to additional fees for more than one writ, capias or subpoena associated with a single case. Pryor, April 12, 1996, A.G. Op. #96-0185.

Applying *Section 25-7-13(1)(a)* a clerk would not be entitled to collect a docketing fee when a case is remanded to the file and later reinstated or when a case is removed to Federal Court and later returned to the court since the clerk would have already collected a fee for the original complaint. Carpenter, November 1, 1996, A.G. Op. #96-0743.

Applying *Section 25-7-13(1)(a)* a clerk is entitled to collect a docketing fee for a case that has been transferred from another court or when a case is received on a change of venue since the clerk would be performing a service for the first time with regard to that complaint. Carpenter, November 1, 1996, A.G. Op. #96-0743.

A clerk is limited to the fee provided for under subsection (1) of this section, and to additional fees provided for under subsection (2) that are not included in subsection (1). Services charged for under paragraphs 2(a) to 2(c) are provided for in subsection (1) as "service performed by the clerk with respect to each complaint, petition or indictment". Bryant, Aug. 22, 1997, A.G. Op. #97-0487.

A circuit clerk may be entitled to a commission to be determined by the court of up to one-half of one percent on eminent domain cases. Parker, February 4, 1998, A.G. Op. #97-0775.

A circuit court judge may exercise his discretion to allow the circuit clerk to retain up to ½ of 1 percent of fines that are paid through the circuit clerk's office. Johnson, February 26, 1999, A.G. Op. #99-0061.



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The phrase "attending to the court," for purposes of subsection (2)(m), includes working on the court's business in the clerk's office, as well as actually being inside the courtroom or the judges' chambers. Evans, Jan. 25, 2002, A.G. Op. #02-0023.

A county circuit clerk is entitled to be paid once for himself or a deputy for each day of the term then in session and the court may authorize additional deputies for the term then in session, and the court may allow up to five additional days for the clerk and deputies when the court is not in session to get up records. Osborne, Mar. 1, 2002, A.G. Op. #02-0045.

**RESEARCH REFERENCES**

**ALR.**

Attorney's personal liability for expenses incurred in relation to services for client. 66 A.L.R.4th 256.

**Am. Jur.**

5 Am. Jur. PI & Pr Forms (Rev), Forms 5-12 (certificates of clerk of court).

20 Am. Jur. 2d, Costs §§ 1 et seq., 97 through 103, 105- 107.

Mississippi Code 1972 Annotated  
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