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DEPARTMENT OF JUSTICE

CIVIL DIVISION

P.O. BOX 94005

BATON ROUGE

70804-9005

June 10, 2019

OPINION 19-0032

Mr. Doug Welborn
19th Judicial District Clerk of Court
East Baton Rouge Parish
P.O. Box 1991
Baton Rouge, LA 70821

10 CLERKS OF COURT - Compensation & Fees, Powers & Duties,
General

La. R.S. 13:996.3

The 19th Judicial District Clerk of Court may not collect, and subsequently deposit in the Family Court's judicial expense fund, a filing fee greater than the twenty-five dollar (\$25.00) fee provided for in La. R.S. 13:996.3.

Dear Mr. Welborn:

You have requested an opinion from this office regarding the collection and distribution of filing fees for the East Baton Rouge Parish Family Court ("Family Court"). Specifically, you ask whether the 19th Judicial District Clerk of Court (the "Clerk of Court") may collect and distribute Family Court filing fees greater than the twenty-five dollar (\$25.00) amount provided for in La. R.S. 13:996.3. Additionally, you ask whether doing so would violate La. Const. art. VII, §14. For the following reasons, the Clerk of Court may not collect filing fees for the Family Court in excess of the statutorily authorized amount in La. R.S. 13:996.3.

As part of your request, you have submitted a proposed Memorandum of Understanding ("MOU") between the Clerk of Court and Family Court. The MOU states in pertinent part:

NOW, THEREFORE, the Clerk of Court and Family Court agree that the Clerk of Court will submit \$50 to the Family Court for each such filing submitted concerning domestic violence after the party is cast for the filing fees and the Clerk has collected a minimum of \$50 of those fees from the party cast with court costs...

Louisiana Revised Statute 13:996.3 provides:

In addition to all other fees or costs now or hereafter provided by law, the clerk of court of the Nineteenth Judicial District shall collect from every person filing any action, suit, or motion and rule to show cause on the docket of the Family Court of East Baton Rouge Parish and who is not otherwise exempted by law from the payment of court costs, a sum to be determined

by the judges of said court, sitting en banc, **which sum shall not exceed twenty-five dollars...**¹

The statute further provides that the Clerk of Court must deposit this money in a separate account designated the "Judicial Expense Fund for the Family Court for the parish of East Baton Rouge."² According to the statute, the Clerk of Court is only allowed to collect \$25.00 for filings in Family Court, to be deposited into the judicial expense account for Family Court.

In stating that "the Clerk of Court will submit to the Family Court for each such filing submitted concerning domestic violence after the party is cast for the filing fees and the Clerk has collected a minimum of \$50 of those fees from the party cast with court costs," the proposed MOU appears to violate La. R.S. 13:996.3. The statute mandates that the Clerk of Court collect on all Family Court filings "a sum to be determined by the judges" of the Family Court, *not to exceed \$25.00*. Thus, the Family Court judges are only authorized to impose (in addition to any other lawfully imposed fees and costs) a \$25.00 filing fee to be collected by the Clerk of Court and deposited into the Family Court's judicial expense fund. Since the Family Court judges have imposed the maximum amount provided under the statute, the Clerk of Court must collect \$25.00 "from every person filing any action, suit, or motion and rule to show cause on the docket of the Family Court of East Baton Rouge Parish and who is not otherwise exempted by law from the payment of court costs."

An MOU cannot be used to circumvent the law. The statute provides a cap on the filing fees which may be collected by the Clerk of Court and ultimately remitted to Family Court. The statute is clear that the maximum fee on any Family Court filing to be collected by the Clerk of Court and distributed to the Family Court is \$25.00. Family Court judges are certainly not prohibited from imposing any other lawful court costs, fines, or fees, on individuals appearing in their respective courts. Nonetheless, the maximum Family Court filing fee to be collected by the Clerk of Court and deposited into the Family Court's judicial expense fund under La. R.S. 13:996.3 is \$25.00. Therefore, the Clerk of Court may not collect and distribute to the Family Court in excess of the statutorily authorized filing fee of \$25.00. Since we have determined that the Clerk of Court's collecting and remitting more than a \$25.00 Family Court filing fee would be unlawful, we need not analyze the constitutionality of the proposed MOU under La. Const. art. VII, §14.

Considering the foregoing, it is the opinion of this office that the 19th Judicial District Clerk of Court may not collect, and subsequently deposit in the Family Court's judicial expense fund, a filing fee greater than the twenty-five dollar (\$25.00) fee provided for in La. R.S. 13996.3.

¹ La. R.S. 13:996.3(A). (emphasis added).

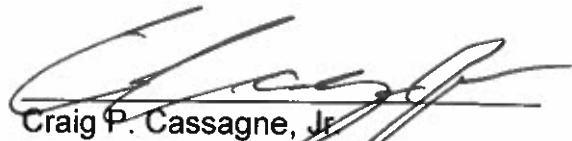
² La. R.S. 13:996.3(B).

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

JEFF LANDRY
ATTORNEY GENERAL

By:



Craig P. Cassagne, Jr.
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JL/CPC