



**ROLAND W. BURRIS**

ATTORNEY GENERAL  
STATE OF ILLINOIS



June 6, 1991

FILE NO. 91-024

JUDICIAL SYSTEM:  
Child Support Collection Fee

Honorable Craig DeArmond  
State's Attorney, Vermilion County  
7 North Vermilion St.  
Danville, Illinois 61832

Dear Mr. DeArmond:

I have your letter wherein you inquire whether a person who is ordered to pay child support or maintenance in more than one case is required to pay a collection fee to the circuit clerk for each case. For the reasons hereinafter stated, it is my opinion that the clerk may collect a separate fee with respect to each case in which an order is entered.

Subsection 27.1(u)(3) of the Clerks of Courts Act  
(Ill. Rev. Stat. 1989, ch. 25, par. 27.1(u)(3)), as amended by

Public Acts 86-1386, effective September 10, 1990; 86-1447, effective November 29, 1990; and 86-1475, effective January 10, 1991) provides:

"(3) In maintenance and child support matters, the Clerk may deduct from each payment an amount equal to the United States postage to be used in mailing the maintenance or child support check to the recipient. In such cases, the Clerk may collect an annual fee of up to \$36 from the person making such payment for administering the collection and distribution of maintenance and child support payments. Such sum shall be in addition to and separate from amounts ordered to be paid as maintenance or child support and shall be deposited in a separate Maintenance and Child Support Collection Fund of which the clerk shall be the custodian, ex officio, to be used by the clerk to further maintenance and child support collection efforts in his office. Unless paid in cash or pursuant to an order for withholding, the payment of the fee shall be by a separate instrument from the support payment and shall be made to the order of the Clerk."

The primary purpose of statutory construction is to ascertain and give effect to the intent of the General Assembly. (People v. Boykin (1983), 94 Ill. 2d 138, 141.) In determining legislative intent, the statutory language must first be considered. (Boykin, 94 Ill. 2d at 141.) If that language is clear, it will be given effect without resort to other aids of construction. People v. Robinson (1982), 89 Ill. 2d 469, 475-76.

Subsection 27.1(u)(3) of the Clerks of Court Act provides, with respect to maintenance and child support

matters, that, "[i]n such cases, the clerk may collect an annual fee" of up to \$36. That language indicates that the fee is to be charged with respect to each case, whether or not the person making the payment in one case may also be making a payment in another case.

In the only reported decision discussing the intent of subsection 27.1(u)(3), the Appellate Court stated, in Authenreith v. Watts (1989), 183 Ill. App. 3d 934 937:

"\* \* \*

The obvious intent of the enacted legislation is to alleviate the costs to the counties of the required collection of child support and maintenance payments by assessing a fee on those parties who make these payments. To this end, section 27.1(u)(3) provides that all parties making these payments shall pay this fee when it is authorized by the respective county board. It is also evident that this fee is to go into effect without any required court action, as it is contained in section 27.1. This section sets forth over 50 different fees the circuit clerk is to collect, without the necessity of a court order, for providing various services.

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As noted therein, the purpose of subsection 27.1(u)(3) is to authorize the imposition of a service fee to help the county defray the costs of collection of child support and maintenance payments.

There are separate costs associated with the collection of child support or maintenance payments regardless

of whether the subject of the order may also be under other orders of payment in other cases. If the Clerk was limited to the imposition of a single fee covering all orders of payment which had been entered, the costs of the services performed would not be recouped. That construction would not be consistent with the purpose of the statute and its language. Therefore, it is my opinion that the collection fee provided for in subsection 27.1(u)(3) is applicable to each case in which maintenance or support payments have been ordered, without regard to the identity of the payor or whether a particular payor is required to make payments in more than one case.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Roland W. Burris".

ROLAND W. BURRIS  
ATTORNEY GENERAL