

COMMITTEE SUBSTITUTE

FOR

**H. B. 4030**

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(BY DELEGATES WILLIAMS, SHAVER AND HUNT)

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(Originating in the Committee on Finance)  
[February 22, 2012]

A BILL to amend and reenact §50-3-2a of the Code of West Virginia, 1931, as amended, relating to prioritizing the partial payment of costs, fines, fees, forfeitures, restitution, penalties or other costs imposed in a magistrate court in civil and criminal matters.

*Be it enacted by the Legislature of West Virginia:*

That §50-3-2a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 3. COSTS, FINES AND RECORDS.**

**§50-3-2a. Payment by credit card or payment plan; suspension of licenses for failure to make payments or appear or respond; restitution; liens.**

- 1 (a) A magistrate court may accept credit cards in payment
- 2 of all costs, fines, fees, forfeitures, restitution or penalties in

3 accordance with rules promulgated by the Supreme Court of  
4 Appeals. Any charges made by the credit company shall be  
5 paid by the person responsible for paying the cost, fine,  
6 forfeiture or penalty.

7 (b) Unless otherwise required by law, a magistrate court  
8 may collect a portion of any costs, fines, fees, forfeitures,  
9 restitution or penalties at the time the amount is imposed by  
10 the court so long as the court requires the balance to be paid  
11 in accordance with a payment plan which specifies: (1) The  
12 number of payments to be made; (2) the dates on which the  
13 payments are due; and (3) the amounts due for each payment.  
14 The written agreement represents the minimum payments and  
15 the last date those payments may be made. The obligor or the  
16 obligor's agent may accelerate the payment schedule at any  
17 time by paying any additional portion of any costs, fines,  
18 fees, forfeitures, restitution or penalties.

19 (c)(1) If any costs, fines, fees, forfeitures, restitution or  
20 penalties imposed by the magistrate court in a criminal case  
21 are not paid within one hundred eighty days from the date of

22 judgment and the expiration of any stay of execution, the  
23 magistrate court clerk or, upon judgment rendered on appeal,  
24 the circuit clerk shall notify the Commissioner of the  
25 Division of Motor Vehicles of the failure to pay: *Provided*,  
26 That in a criminal case in which a nonresident of this state is  
27 convicted of a motor vehicle violation defined in section  
28 three-a, article three, chapter seventeen-b of this code, the  
29 appropriate clerk shall notify the Division of Motor Vehicles  
30 of the failure to pay within eighty days from the date of  
31 judgment and expiration of any stay of execution. Upon  
32 notice, the Division of Motor Vehicles shall suspend any  
33 privilege the person defaulting on payment may have to  
34 operate a motor vehicle in this state, including any driver's  
35 license issued to the person by the Division of Motor  
36 Vehicles, until all costs, fines, fees, forfeitures, restitution or  
37 penalties are paid in full. The suspension shall be imposed in  
38 accordance with the provisions of section six, article three,  
39 chapter seventeen-b of this code: *Provided*, That any person  
40 who has had his or her license to operate a motor vehicle in

41 this state suspended pursuant to this subsection and his or her  
42 failure to pay is based upon inability to pay, may, if he or she  
43 is employed on a full or part-time basis, petition to the circuit  
44 court for an order authorizing him or her to operate a motor  
45 vehicle solely for employment purposes. Upon a showing  
46 satisfactory to the court of inability to pay, employment and  
47 compliance with other applicable motor vehicle laws, the  
48 court shall issue an order granting relief.

49 (2) In addition to the provisions of subdivision (1) of this  
50 subsection, if any costs, fines, fees, forfeitures, restitution or  
51 penalties imposed or ordered by the magistrate court for a  
52 hunting violation described in chapter twenty of this code are  
53 not paid within one hundred eighty days from the date of  
54 judgment and the expiration of any stay of execution, the  
55 magistrate court clerk or, upon a judgment rendered on  
56 appeal, the circuit clerk shall notify the Director of the  
57 Division of Natural Resources of the failure to pay. Upon  
58 notice, the Director of the Division of Natural Resources  
59 shall suspend any privilege the person failing to appear or

60 otherwise respond may have to hunt in this state, including  
61 any hunting license issued to the person by the Division of  
62 Natural Resources, until all the costs, fines, fees, forfeitures,  
63 restitution or penalties are paid in full.

64 (3) In addition to the provisions of subdivision (1) of this  
65 subsection, if any costs, fines, fees, forfeitures, restitution or  
66 penalties imposed or ordered by the magistrate court for a  
67 fishing violation described in chapter twenty of this code are  
68 not paid within one hundred eighty days from the date of  
69 judgment and the expiration of any stay of execution, the  
70 magistrate court clerk or, upon a judgment rendered on  
71 appeal, the circuit clerk shall notify the Director of the  
72 Division of Natural Resources of the failure to pay. Upon  
73 notice, the Director of the Division of Natural Resources  
74 shall suspend any privilege the person failing to appear or  
75 otherwise respond may have to fish in this state, including  
76 any fishing license issued to the person by the Division of  
77 Natural Resources, until all the costs, fines, fees, forfeitures,  
78 restitution or penalties are paid in full.

79 (d)(1) If a person charged with any criminal violation of  
80 this code fails to appear or otherwise respond in court, the  
81 magistrate court shall notify the Commissioner of the  
82 Division of Motor Vehicles thereof within fifteen days of the  
83 scheduled date to appear unless the person sooner appears or  
84 otherwise responds in court to the satisfaction of the  
85 magistrate. Upon notice, the Division of Motor Vehicles  
86 shall suspend any privilege the person failing to appear or  
87 otherwise respond may have to operate a motor vehicle in this  
88 state, including any driver's license issued to the person by  
89 the Division of Motor Vehicles, until final judgment in the  
90 case and, if a judgment of guilty, until all costs, fines, fees,  
91 forfeitures, restitution or penalties imposed are paid in full.  
92 The suspension shall be imposed in accordance with the  
93 provisions of section six, article three, chapter seventeen-b of  
94 this code.

95 (2) In addition to the provisions of subdivision (1) of this  
96 subsection, if a person charged with any hunting violation  
97 described in chapter twenty of this code fails to appear or

98 otherwise respond in court, the magistrate court shall notify  
99 the Director of the Division of Natural Resources of the  
100 failure thereof within fifteen days of the scheduled date to  
101 appear unless the person sooner appears or otherwise  
102 responds in court to the satisfaction of the magistrate. Upon  
103 notice, the Director of the Division of Natural Resources  
104 shall suspend any privilege the person failing to appear or  
105 otherwise respond may have to hunt in this state, including  
106 any hunting license issued to the person by the Division of  
107 Natural Resources, until final judgment in the case and, if a  
108 judgment of guilty, until all costs, fines, fees, forfeitures,  
109 restitution or penalties imposed are paid in full.

110 (3) In addition to the provisions of subdivision (1) of this  
111 subsection, if a person charged with any fishing violation  
112 described in chapter twenty of this code fails to appear or  
113 otherwise respond in court, the magistrate court shall notify  
114 the Director of the Division of Natural Resources of the  
115 failure thereof within fifteen days of the scheduled date to  
116 appear unless the person sooner appears or otherwise

117 responds in court to the satisfaction of the magistrate. Upon  
118 notice, the Director of the Division of Natural Resources  
119 shall suspend any privilege the person failing to appear or  
120 otherwise respond may have to fish in this state, including  
121 any fishing license issued to the person by the Division of  
122 Natural Resources, until final judgment in the case and, if a  
123 judgment of guilty, until all costs, fines, fees, forfeitures,  
124 restitution or penalties imposed are paid in full.

125 (e) In every criminal case which involves a misdemeanor  
126 violation, a magistrate may order restitution where  
127 appropriate when rendering judgment.

128 (f)(1) If all costs, fines, fees, forfeitures, restitution or  
129 penalties imposed by a magistrate court and ordered to be  
130 paid are not paid within one hundred eighty days from the  
131 date of judgment and the expiration of any stay of execution,  
132 the clerk of the magistrate court shall notify the prosecuting  
133 attorney of the county of nonpayment and provide the  
134 prosecuting attorney with an abstract of judgment. The  
135 prosecuting attorney shall file the abstract of judgment in the



136 office of the clerk of the county commission in the county  
137 where the defendant was convicted and in any county  
138 wherein the defendant resides or owns property. The clerks  
139 of the county commissions shall record and index the  
140 abstracts of judgment without charge or fee to the prosecuting  
141 attorney and when so recorded, the amount stated to be owing  
142 in the abstract shall constitute a lien against all property of  
143 the defendant.

144 (2) When all the costs, fines, fees, forfeitures, restitution  
145 or penalties described in subdivision (1) of this subsection for  
146 which an abstract of judgment has been recorded are paid in  
147 full, the clerk of the magistrate court shall notify the  
148 prosecuting attorney of the county of payment and provide  
149 the prosecuting attorney with a release of judgment, prepared  
150 in accordance with the provisions of section one, article  
151 twelve, chapter thirty-eight of this code, for filing and  
152 recordation pursuant to the provisions of this subdivision.  
153 Upon receipt from the clerk, the prosecuting attorney shall  
154 file the release of judgment in the office of the clerk of the

155 county commission in each county where an abstract of the  
156 judgment was recorded. The clerks of the county  
157 commissions shall record and index the release of judgment  
158 without charge or fee to the prosecuting attorney.

159 (g) Notwithstanding any provision of this code to the  
160 contrary, except as authorized by this section, payments of all  
161 costs, fines, fees, forfeitures, restitution or penalties imposed  
162 by the magistrate court in civil or criminal matters shall be  
163 made in full. Partial payments of costs, fines, fees,  
164 forfeitures, restitution or penalties made pursuant to this  
165 section shall be credited to amounts due in the following  
166 order:

167 (1) Regional Jail Fund;

168 (2) Worthless Check Payee;

169 (3) Restitution;

170 (4) Magistrate Court Fund;

171 (5) Worthless Check Fund;

172 (6) Per Diem Regional Jail Fee;

173 (7) Community Corrections Fund;

174 (8) Regional Jail Operational Fund;

175 (9) Law Enforcement Training Fund;

176 (10) Crime Victims Compensation Fund;

177 (11) Court Security Fund;

178 (12) Courthouse Improvement Fund;

179 (13) Litter Control Fund;

180 (14) Sheriff arrest fee;

181 (15) Teen Court Fund;

182 (16) Other costs, if any;

183 (17) Fine.