

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 552

BY SENATORS MILLER, BEACH, CARMICHAEL, WILLIAMS,

WOELFEL, BLAIR AND PLYMALE

[Introduced February 8, 2016;

Referred to the Committee on Government Organization.]

1 A BILL to amend and reenact §52-1-17 of the Code of West Virginia, 1931, as amended, relating
2 to eliminating provisions requiring sheriff to pay into the State Treasury all jury costs
3 received from court clerks; and requiring that the sheriff be held to account in the sheriff's
4 annual settlement for all moneys.

Be it enacted by the Legislature of West Virginia:

1 That §52-1-17 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 1. PETIT JURIES.

§52-1-17. Reimbursement of jurors.

1 (a) A juror shall be paid mileage, at the rate set by the Secretary of the Department of
2 Administration, for travel expenses to and from the juror's residence to the courthouse or other
3 place where the court is convened and shall be reimbursed for other expenses incurred as a result
4 of his or her required attendance at sessions of the court at a rate of not less than \$15 nor more
5 than \$40, set at the discretion of the circuit court or the chief judge of the circuit court, for each
6 day of required attendance. The reimbursement shall be based on vouchers submitted to the
7 sheriff and shall be paid out of the State Treasury.

8 (b) When a jury in any case is placed in the custody of the sheriff, he or she shall provide
9 the jury with meals and lodging while they are in the sheriff's custody at a reasonable cost to be
10 determined by an order of the court. The costs of the meals and lodging shall be paid out of the
11 State Treasury.

12 (c) Any time a panel of prospective jurors has been required to report to court for the
13 selection of a petit jury in any scheduled matter, the court shall, by specific provision in a court
14 order, assess a jury cost. In both magistrate and circuit court cases the jury cost shall be the
15 actual cost of the jurors' service: *Provided*, That the actual cost of a magistrate jury can only be
16 assessed where the jury request or demand occurs on or after July 1, 2007. For any magistrate
17 court case in which the jury request or demand occurred prior to July 1, 2007, the jury cost
18 assessed shall be \$200. The jury costs shall be assessed against the parties as follows:

19 (1) In every criminal case, against the defendant upon conviction, whether by plea, by
20 bench trial or by jury verdict;

21 (2) In every civil case, against either party or prorated against both parties, at the court's
22 discretion, if the parties settle the case or elect for a bench trial; and

23 (3) In the discretion of the court, and only when fairness and justice so require, a circuit
24 court or magistrate court may forego assessment of the jury fee, but shall set out the reasons for
25 waiving the fee in a written order: *Provided*, That a waiver of the assessment of a jury fee in a
26 case tried before a jury in magistrate court may only be permitted after the circuit court, or the
27 chief judge of the circuit court, has reviewed the reasons set forth in the order by the magistrate
28 and has approved the waiver.

29 (d)(1) The circuit or magistrate court clerk shall by the tenth day of the month following the
30 month of collection remit to the State Treasurer for deposit as described in subdivision (2) of this
31 subsection all jury costs collected and the clerk and the clerk's surety are liable for the collection
32 on the clerk's official bond as for other money coming into the clerk's hands by virtue of the clerk's
33 office. When the amount of the jury costs collected in a magistrate court case exceeds \$200, the
34 magistrate court clerk shall separately delineate the portion of the collected jury costs which
35 exceeds \$200.

36 (2) The jury costs described in subdivision (1) of this subsection shall upon receipt by the
37 State Treasurer be deposited as follows:

38 (A) All jury costs collected in a magistrate court case which exceed \$200 shall be
39 deposited in the state's General Revenue Fund; and

40 (B) The remaining balance of the collected jury costs shall be deposited as follows:

41 (i) One-half shall be deposited into the Parent Education and Mediation Fund created in
42 section six hundred four, article nine, chapter forty-eight of this code; and

43 (ii) One-half shall be deposited into the Domestic Violence Legal Services Fund created
44 in section six hundred three, article twenty-six, chapter forty-eight of this code.

45 ~~(e) The sheriff shall pay into the State Treasury all jury costs received from the court clerks~~
46 ~~and the sheriff shall be held to account in the sheriff's annual settlement for all the moneys.~~

NOTE: The purpose of this bill is to delete subsection (e) therein which provides the sheriff to pay into the State Treasury all jury costs received from the court clerks and that the sheriff shall be held to account in the sheriff's annual settlement for all the moneys. This is a clean-up proposal due to the fact that subsection (e) is no longer needed because Circuit Clerks have been mailing the jury fees to the State Treasury since 2003.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.