

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 358

BY SENATOR TRUMP

[Introduced January 24, 2018; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §50-3-2 of the Code of West Virginia, 1931, as amended, relating
2 to definitions related to costs in criminal proceedings in magistrate court.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. COSTS, FINES, AND RECORDS.

§50-3-2. Costs in criminal proceedings.

1 (a) In each criminal case before a magistrate court in which the defendant is convicted,
2 whether by plea or at trial, there is imposed, in addition to other costs, fines, forfeitures, or
3 penalties as may be allowed by law: (1) Costs in the amount of \$60, of which five dollars of that
4 amount shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6
5 of this code; (2) an amount equal to the one-day per diem provided for in §31-20-10(h) of this
6 code; and (3) costs in the amount of \$30 to be deposited in the Regional Jail Operations Partial
7 Reimbursement Fund created by §31-20-10(b) of this code. A magistrate may not collect costs in
8 advance. Notwithstanding any other provision of this code, a person liable for fines and court
9 costs in a criminal proceeding in which the defendant is confined in a jail or prison and not
10 participating in a work release program shall not be held liable for the fines and court costs until
11 180 days after completion of the term in jail or prison. A magistrate court shall deposit five dollars
12 from each of the criminal proceedings fees collected pursuant to this section in the Court Security
13 Fund created in §51-3-14 of this code. A magistrate court shall, on or before the 10th day of the
14 month following the month in which the fees imposed in this section were collected, remit an
15 amount equal to the one-day per diem provided for in §31-20-10(h) of this code from each of the
16 criminal proceedings in which the fees specified in this section were collected to the magistrate
17 court clerk, or if there is no magistrate court clerk to the clerk of the circuit, together with
18 information as may be required by the rules of the Supreme Court of Appeals and the rules of the
19 Office of Chief Inspector. These moneys are paid to the sheriff who shall distribute the moneys
20 solely in accordance with the provisions of §7-5-15 of this code. Amendments made to this section
21 during the regular session of the Legislature, 2001, are effective after June 30, 2001.

22 (b) A magistrate shall assess costs in the amount of \$2.50 for issuing a sheep warrant and
23 the appointment and swearing appraisers and docketing the proceedings.

24 (c) In each criminal case which must be tried by the circuit court but in which a magistrate
25 renders some service, costs in the amount of \$10 shall be imposed by the magistrate court and
26 is certified to the clerk of the circuit court in accordance with the provisions of §62-5-6 of this code.

27 (d) The clerk of a magistrate shall charge and collect a fee of \$25 per bond for services
28 rendered by the clerk for processing of criminal bonds, and the fee shall be paid at the time of
29 issuance by the person or entity set forth below:

30 (1) For cash bonds, the fee shall be paid by the person tendering cash as bond;

31 (2) For recognizance bonds secured by real estate, the fee shall be paid by the owner of
32 the real estate serving as surety;

33 (3) For recognizance bonds secured by a surety company, the fee shall be paid by the
34 surety company;

35 (4) For 10 percent recognizance bonds with surety, the fee shall be paid by the person
36 serving as surety; and

37 (5) For 10 percent recognizance bonds without surety, the fee shall be paid by the person
38 tendering 10 percent of the bail amount.

39 In instances in which the total of the bond is posted by more than one bond instrument,
40 the above fee shall be collected at the time of issuance of each bond instrument processed by
41 the clerk, and all fees collected pursuant to this subsection shall be deposited in the Magistrate
42 Court Fund described in §50-3-4 of this code. Nothing in this subsection authorizes the clerk to
43 collect the above fee from any person for the processing of a personal recognizance bond.

NOTE: The purpose of this bill is to establish a fee for processing the paperwork associated with criminal bonds in magistrate court.

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