

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **Senate Bill 663**

BY SENATOR SWOPE

[Introduced March 18, 2021; referred  
to the Committee on the Judiciary; and then to the  
Committee on Finance]

1 A BILL to amend and reenact §50-3-2 of the Code of West Virginia, 1931, as amended, relating  
2 to providing for a fee for the processing of criminal bonds.

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

### **ARTICLE 3. MAGISTRATE COURTS.**

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

1 (d) The clerk of a magistrate court shall charge and collect a fee of \$25 for services  
2 rendered by the clerk for processing of criminal bonds and the fee shall be paid at the time of  
3 issuance by the person or entity set forth below;

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

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

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

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

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

13 In instances in which the total of the bond is posted by more than one bond instrument,  
14 the above fee shall be collected at the time of issuance of each bond instrument processed by  
15 the clerk and all fees collected pursuant to this subsection shall be deposited in the Courthouse  
16 Facilities Improvement Fund created by §29-26-6 of this code. Nothing in this subsection  
17 authorizes the clerk to collect the above fee from any person for the processing of a personal  
18 recognizance bond.

19 (e) The clerk of a magistrate court shall charge and collect a fee of \$10 for services  
20 rendered by the clerk for processing of bail piece and the fee shall be paid by the surety at the  
21 time of issuance. All fees collected pursuant to this subsection shall be deposited in the

22 Courthouse Facilities Improvement Fund created by §29-26-6 of this code.

NOTE: The purpose of this bill is to provide for a fee for the processing of criminal bonds.

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