

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

Senate Bill 663

BY SENATORS SWOPE AND WOODRUM

[Originating in the Committee on the Judiciary;

reported on March 25, 2021]

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 and the bail piece; and requiring
3 all collected fees to be deposited in the Courthouse Facilities Improvement Fund.

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~~
11 180 days after completion of the term in jail or prison. A magistrate court shall deposit \$5 from
12 each 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 court, together with information as
18 ~~may 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~~ be certified to the clerk of the circuit court in accordance with the provisions of §62-5-6 of this
27 code.

28 (d) The clerk of a magistrate court shall charge and collect a fee of \$25 for services
29 rendered by the clerk for the processing of criminal bonds. All fees collected pursuant to this
30 subsection shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-
31 6 of this code. The fee shall be paid at the time of issuance by the person or entity set forth in this
32 subsection:

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

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

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

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

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

42 (6) When the total of the bond is posted by more than one bond instrument, the \$25 fee
43 shall be collected at the time of issuance for each bond instrument processed by the clerk.

44 (7) Nothing in this subsection authorizes the clerk to collect the \$25 fee from any person
45 for the processing of a personal recognizance bond.

46 (e) The clerk of a magistrate court shall charge and collect a fee of \$10 for services
47 rendered by the clerk for processing of the bail piece and the fee shall be paid by the surety at
48 the time of issuance. All fees collected pursuant to this subsection shall be deposited in the
49 Courthouse Facilities Improvement Fund created by §29-26-6 of this code.