

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4712**

BY DELEGATES D. KELLY AND FAST

[Passed March 12, 2022; in effect ninety days from  
passage.]



1 AN ACT to amend and reenact §8-10-2b of the Code of West Virginia, 1931, as amended; to  
2 amend and reenact §50-3-2 and §50-3-2a of said code; to amend and reenact §59-1-10  
3 of said code; and to amend and reenact §62-4-17 of said code, all relating generally to  
4 costs, fines, forfeiture, restitution and penalties; requiring a person, unless incarcerated,  
5 to pay all costs, fines, forfeiture, restitution and penalties upon entry of the order assessing  
6 them in municipal court, magistrate court, and circuit court; reducing the time period  
7 allowed for enrollment for incarcerated persons in municipal court, magistrate court, and  
8 circuit court payment plans and limiting the maximum length of payment plans: voiding  
9 driver's license suspensions entered prior to July 1, 2016, for the failure to appear or  
10 otherwise respond in court or for nonpayment of costs, fines, forfeitures, restitution, or  
11 penalties; increasing fees to the Courthouse Facilities Improvement Authority; imposing a  
12 \$10 processing fee for criminal bail bonds, other than personal recognizance bonds, to be  
13 deposited in the fund; imposing a \$25 fee for the processing of bail pieces, to be deposited  
14 in the fund; and increasing the fee for a deed of conveyance with the increase dedicated  
15 to the fund.

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

## **CHAPTER 8. MUNICIPAL CORPORATIONS.**

### **ARTICLE 10. POWERS AND DUTIES OF CERTAIN OFFICERS.**

#### **§8-10-2b. Payment plan; failure to pay will result in late fee and judgment lien; suspension of licenses for failure to pay fines and costs or failure to appear in court.**

1 (a) Upon request and subject to the following requirements, the municipal court clerk or,  
2 upon a judgment rendered on appeal, the clerk shall establish a payment plan for a person owing  
3 costs, fines, forfeitures, restitution, or penalties imposed by the court for a motor vehicle violation  
4 as defined in §17B-3-3a of this code, a criminal offense as defined in §17B-3-3c of this code, or  
5 other applicable municipal ordinances, so long as the person signs and files with the clerk an

6 affidavit stating that he or she is financially unable to pay the costs, fines, forfeitures, restitution,  
7 or penalties imposed:

8 (1) A \$25 administrative processing fee shall be paid at the time the payment form is filed  
9 or, in the alternative, the fee may be paid in no more than five equal monthly payments;

10 (2) Unless incarcerated, a person must pay in full the costs, fines, forfeitures, restitution,  
11 or penalties or enroll in a payment plan upon the entry of the order assessing the costs, fines,  
12 forfeitures, restitution, or penalties; and

13 (3) If the person is incarcerated, he or she must pay in full the costs, fines, forfeitures,  
14 restitution, or penalties or enroll in a payment plan within 30 calendar days after release.

15 (b) The West Virginia Supreme Court of Appeals shall develop a uniform payment plan  
16 form and financial affidavit for requests for the establishment of a payment plan pursuant to  
17 subsection (a) of this section. The forms shall be made available for distribution to the offices of  
18 municipal clerks, and municipal clerks shall use the payment plan form and affidavit form  
19 developed by the Supreme Court of Appeals when establishing payment plans.

20 (c)(1) The payment plan shall specify: (A) The number of payments to be made; (B) the  
21 dates on which such payments are due; (C) the amount due for each payment; (D) all acceptable  
22 payment methods; and (E) the circumstances under which the person may receive a late fee,  
23 have a judgment lien recorded against him or her, or have the debt sent to collections for  
24 nonpayment; and

25 (2) The monthly payment under the payment plan shall be calculated based upon all costs,  
26 fines, forfeitures, restitution, or penalties owed within the court, and shall be two percent of the  
27 person's annual net income divided by 12, or \$10, whichever is greater: *Provided*, That if this  
28 calculation results in a payment plan lasting more than three years, the monthly payments shall  
29 be set by dividing the total amount owed by 36.

30 (3) The court may review the reasonableness of the payment plan, and may on its own  
31 motion or by petition, waive, modify, or convert the outstanding costs, fines, forfeitures, restitution,

32 or penalties to community service if the court determines that the individual has had a change in  
33 circumstances and is unable to comply with the terms of the payment plan.

34 (d)(1) The clerk may assess a \$10 late fee each month if a person fails to comply with the  
35 terms of a payment plan and if any payment due is not received within 30 days after the due date,  
36 and the person:

37 (A) Is not incarcerated;

38 (B) Has not brought the account current;

39 (C) Has not made alternative payment arrangements with the court; or

40 (D) Has not entered into a revised payment plan with the clerk before the due date.

41 (2) If after 90 days, a payment has not been received, the clerk may do one or both of the  
42 following: (A) Record a judgment lien as described in subsection (f) of this section; or (B) consign  
43 the delinquent costs, fines, forfeitures, restitution, or penalties to a debt collection agency  
44 contained on the Tax Commissioner's list of eligible debt collection agencies established and  
45 maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided,*  
46 That the entire amount of all delinquent payments collected shall be remitted to the court and may  
47 not be reduced by any collection costs or fees: *Provided, however,* That the collection fee may  
48 not exceed 25 percent of the delinquent payment amount. The clerk may send notices,  
49 electronically or by U.S. mail, to remind the person of an upcoming or missed payment.

50 (e)(1) If after 90 days of a judgment a person fails to enroll in a payment plan and fails to  
51 pay their costs, fines, forfeitures, restitution, or penalties, the clerk may assess a \$10 late fee and  
52 shall notify the person of the following:

53 (A) That he or she is 90 days past due in the payment of costs, fines, forfeitures, restitution,  
54 or penalties imposed pursuant to a judgment of the court;

55 (B) That he or she has failed to enroll in a payment plan;

56 (C) Whether a \$10 late fee has been assessed; and

57 (D) That he or she may be the subject of a judgment lien or have his or her debt sent to a  
58 collection agency if the overdue payment of costs, fines, forfeitures, restitution, or penalties is not  
59 resolved within 30 days of the date of the notice issued pursuant to this subsection.

60 (2) If after 30 days from the issuance of a notice pursuant to subdivision (1) of this  
61 subsection a payment has not been received, the clerk may do one or both of the following:

62 (A) Record a judgment lien as described in subsection (f) of this section; or

63 (B) Consign the delinquent costs, fines, forfeitures, restitution, or penalties to a debt  
64 collection agency contained on the Tax Commissioner's list of eligible debt collection agencies  
65 established and maintained pursuant to §14-1-18c of this code, an internal collection division, or  
66 both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to  
67 the court and may not be reduced by any collection costs or fees: *Provided, however*, That the  
68 collection fee may not exceed 25 percent of the delinquent payment amount.

69 (f) To record a judgment lien, the clerk shall notify the prosecuting attorney of the county  
70 of nonpayment and shall provide the prosecuting attorney with an abstract of judgment. The  
71 prosecuting attorney shall file the abstract of judgment in the office of the clerk of the county  
72 commission in the county where the defendant was convicted and in any county in which the  
73 defendant resides or owns property. The clerk of the county commission shall record and index  
74 these abstracts of judgment without charge or fee to the prosecuting attorney and when recorded,  
75 the amount stated to be owed in the abstract constitutes a lien against all property of the  
76 defendant: *Provided*, That when all the costs, fines, fees, forfeitures, restitution, or penalties for  
77 which an abstract of judgment has been recorded are paid in full, the clerk of the municipal court  
78 shall notify the prosecuting attorney of the county of payment and provide the prosecuting attorney  
79 with a release of judgment, prepared in accordance with the provisions of §38-12-1 of this code,  
80 for filing and recordation pursuant to the provisions of this subdivision. Upon receipt from the clerk,  
81 the prosecuting attorney shall file the release of judgment in the office of the clerk of the county  
82 commission in each county where an abstract of the judgment was recorded. The clerk of the

83 county commission shall record and index the release of judgment without charge or fee to the  
84 prosecuting attorney.

85 (g) Any driver's license suspension entered by the Division of Motor Vehicles prior to July  
86 1, 2016, for the failure to appear or otherwise respond in court or for nonpayment of costs, fines,  
87 forfeitures, restitution, or penalties is null and void. A person whose driver's license was  
88 suspended on or after July 1, 2016, but prior to July 1, 2020, solely for the nonpayment of costs,  
89 fines, forfeitures, restitution, or penalties, if otherwise eligible, shall have his or her license  
90 reinstated:

91 (1) Upon payment in full of all outstanding costs, fines, forfeitures, restitution, or penalties  
92 and a \$25 reinstatement fee paid to the Division of Motor Vehicles; or

93 (2) Upon establishing a payment plan pursuant to subsection (a) of this section and the  
94 payment of a \$25 administrative fee. The clerk shall notify the Division of Motor Vehicles that a  
95 payment plan is in effect, and upon receipt of the notification, the division shall waive the  
96 reinstatement fee.

97 (h) If a person charged with a motor vehicle violation as defined in §17B-3-3a of this code  
98 or criminal offense fails to appear or otherwise respond in court, the municipal court clerk shall  
99 notify the Division of Motor Vehicles of the failure to appear: *Provided*, That notwithstanding any  
100 other provision of this code to the contrary, for residents of this state, the municipal court clerk  
101 shall wait at least 90 days from the date of the person's failure to appear or otherwise respond  
102 before notifying the Division of Motor Vehicles thereof. Upon notice, the Division of Motor Vehicles  
103 shall suspend the person's driver's license or privilege to operate a motor vehicle in this state until  
104 such time that the person appears as required.

## **CHAPTER 50. MAGISTRATE COURTS.**

### **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 allowed by law:

4 (1) Costs in the amount of \$60, of which \$5 of that amount shall be deposited in the  
5 Courthouse Facilities Improvement Fund created by §29-26-6 of this code;

6 (2) an amount equal to the one-day per diem provided for in §15A-3-16(g) of this code;  
7 and

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

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



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

30 (d) The clerk of a magistrate court shall charge and collect a fee of \$10 for services  
31 rendered by the clerk for processing criminal bonds and the fees which shall be assessed as  
32 costs of the proceeding due only upon conviction.

33 (e) All fees collected pursuant to this subsection shall be deposited in the Courthouse  
34 Facilities Improvement Fund created by §29-26-6 of this code. Nothing in this subsection may be  
35 construed to impose a fee for the processing of a personal recognizance bond.

36 (f) The clerk of a magistrate court shall charge and collect a fee of \$25 for services  
37 rendered by the clerk for processing a bail piece and the fee shall be paid by the surety at the  
38 time of issuance. All fees collected pursuant to this subsection shall be deposited in the  
39 Courthouse Facilities Improvement Fund created by §29-26-6 of this code.

**§50-3-2a. Payment by electronic payments, credit card payments, cash, money orders, or  
certified checks; payment plan; failure to pay fines results in a late fee and judgment  
lien.**

1 (a) A magistrate court may accept electronic payments, credit cards, cash, money order,  
2 or certified check for payment of all costs, fines, fees, forfeitures, restitution, or penalties in  
3 accordance with rules promulgated by the Supreme Court of Appeals. Any charges made by the  
4 credit company shall be paid by the person responsible for paying the cost, fine, forfeiture,  
5 restitution, or penalty.

6 (b) Upon request and subject to the following requirements, the magistrate clerk shall  
7 establish a payment plan for a person owing costs, fines, forfeitures, restitution, or penalties  
8 imposed by the court, so long as the person signs and files with the clerk, an affidavit stating that  
9 he or she is financially unable to pay the costs, fines, forfeitures, restitution, or penalties imposed:

10 (1) A \$25 administrative processing fee shall be paid at the time the payment form is filed  
11 or, in the alternative, the fee may be paid in no more than five equal monthly payments;

12 (2) Unless incarcerated, a person must pay in full the costs, fines, forfeitures, restitution,  
13 or penalties or enroll in a payment plan upon the entry of the order assessing the costs, fines,  
14 forfeitures, restitution, or penalties; and

15 (3) If the person is incarcerated, he or she must pay in full the costs, fines, forfeitures,  
16 restitution, or penalties or enroll in a payment plan within 30 calendar days after release.

17 (c) The West Virginia Supreme Court of Appeals shall develop a uniform payment plan  
18 form and financial affidavit for requests for the establishment of payment plan pursuant to  
19 subsection (a) of this section. The forms shall be made available for distribution to the offices of  
20 magistrate clerks, and magistrate clerks shall use the payment plan form and affidavit form  
21 developed by the Supreme Court of Appeals when establishing payment plans.

22 (d)(1) The payment plan shall specify: (A) The number of payments to be made; (B) the  
23 dates on which the payments are due; (C) the amount due for each payment; (D) all acceptable  
24 payment methods; and (E) the circumstances under which the person may receive a late fee,  
25 have a judgment lien recorded against him or her, or have the debt sent to collections for  
26 nonpayment.

27 (2) The monthly payment under the payment plan shall be calculated based upon all costs,  
28 fines, forfeitures, restitution, or penalties owed within the court, and shall be two percent of the  
29 person's annual income divided by 12, or \$10, whichever is greater: *Provided*, That if this  
30 calculation results in a payment plan lasting more than three years, the monthly payments shall  
31 be set by dividing the total amount owed by 36.

32 (3) The court may review the reasonableness of the payment plan, and may on its own  
33 motion or by petition, waive, modify, or convert the outstanding costs, fines, forfeitures, restitution,  
34 or penalties to community service if the court determines that the individual has had a change in  
35 circumstances and is unable to comply with the terms of the payment plan.

36 (e)(1) The clerk may assess a \$10 late fee each month if a person fails to comply with the  
37 terms of a payment plan, and if any payment due is not received within 30 days after the due  
38 date, and the person:

39 (A) Is not incarcerated;

40 (B) Has not brought the account current;

41 (C) Has not made alternative payment arrangements with the court; or

42 (D) Has not entered into a revised payment plan with the clerk before the due date.

43 (2) If, after 90 days, a payment has not been received, the clerk may do one or both of the  
44 following: (A) Record a judgment lien as described in subsection (f) of this section; or (B) consign  
45 the delinquent costs, fines, forfeitures, restitution, or penalties to a debt collection agency  
46 contained on the State Tax Commissioner's list of eligible debt collection agencies established  
47 and maintained pursuant to §14-1-18c of this code, an internal collection division, or both:  
48 *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the  
49 court and may not be reduced by any collection costs or fees: *Provided, however*, That the  
50 collection fee may not exceed 25 percent of the delinquent payment amount. The clerk may send  
51 notices, electronically or by U.S. mail, to remind the person of an upcoming or missed payment.

52 (f)(1) If after 180 days of a judgment, a person fails to enroll in a payment plan and fails  
53 to pay his or her costs, fines, forfeitures, restitution, or penalties, the clerk may assess a \$10 late  
54 fee and shall notify the person of the following:

55 (A) That he or she is 180 days past due in the payment of costs, fines, forfeitures,  
56 restitution, or penalties imposed pursuant to a judgment of the court;

57 (B) That he or she has failed to enroll in a payment plan;

58 (C) Whether a \$10 late fee has been assessed; and

59 (D) That he or she may be the subject of a judgment lien or have his or her debt sent to a  
60 collection agency if the overdue payment of costs, fines, forfeitures, restitution, or penalties is not  
61 resolved within 30 days of the date of the notice issued pursuant to this subsection.

62 (2) If after 30 days from the issuance of a notice pursuant to subdivision (1) of this  
63 subsection, a payment has not been received, the clerk may do one or both of the following:

64 (A) Record a judgment lien as described in subsection (g) of this section; or

65 (B) Consign the delinquent costs, fines, forfeitures, restitution, or penalties to a debt  
66 collection agency contained on the Tax Commissioner's list of eligible debt collection agencies  
67 established and maintained pursuant to §14-1-18c of this code, an internal collection division, or  
68 both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to  
69 the court and may not be reduced by any collection costs or fees: *Provided, however*, That the  
70 collection fee may not exceed 25 percent of the delinquent payment amount.

71 (g) To record a judgment lien, the clerk shall notify the prosecuting attorney of the county  
72 of nonpayment and shall provide the prosecuting attorney with an abstract of judgment. The  
73 prosecuting attorney shall file the abstract of judgment in the office of the clerk of the county  
74 commission in the county where the defendant was convicted and in any county wherein the  
75 defendant resides or owns property. The clerk of the county commission shall record and index  
76 these abstracts of judgment without charge or fee to the prosecuting attorney and when recorded,  
77 the amount stated to be owed in the abstract constitutes a lien against all property of the  
78 defendant: *Provided*, That when all the costs, fines, fees, forfeitures, restitution, or penalties for  
79 which an abstract of judgment has been recorded are paid in full, the clerk of the municipal court  
80 shall notify the prosecuting attorney of the county of payment and provide the prosecuting attorney  
81 with a release of judgment, prepared in accordance with the provisions of §38-12-1 of this code,  
82 for filing and recordation pursuant to the provisions of this subdivision. Upon receipt from the clerk,  
83 the prosecuting attorney shall file the release of judgment in the office of the clerk of the county  
84 commission in each county where an abstract of the judgment was recorded. The clerk of the  
85 county commission shall record and index the release of judgment without charge or fee to the  
86 prosecuting attorney.

87 (h) Any driver's license suspension entered by the Division of Motor Vehicles prior to July  
88 1, 2016, for the failure to appear or otherwise respond in court or for nonpayment of costs, fines,  
89 forfeitures, restitution, or penalties is null and void. A person whose driver's license was  
90 suspended on or after July 1, 2016, but prior to July 1, 2020, solely for the nonpayment of costs,  
91 fines, forfeitures, restitution, or penalties, if otherwise eligible, shall have his or her license  
92 reinstated:

93 (1) Upon payment in full of all outstanding costs, fines, forfeitures, restitution, or penalties  
94 and a \$25 reinstatement fee paid to the Division of Motor Vehicles; or

95 (2) Upon establishing a payment plan pursuant to subsection (a) of this section and the  
96 payment of a \$25 administrative fee. The clerk shall notify the Division of Motor Vehicles that a  
97 payment plan is in effect, and upon receipt of the notification, the division shall waive the  
98 reinstatement fee.

99 (i)(1) If any costs, fines, fees, forfeitures, restitution, or penalties imposed or ordered by  
100 the magistrate court for a hunting violation described in chapter 20 of this code are not paid within  
101 180 days from the date of judgment and the expiration of any stay of execution, the magistrate  
102 court clerk or, upon a judgment rendered on appeal, the circuit clerk shall notify the Director of  
103 the Division of Natural Resources of the failure to pay. Upon notice, the Director of the Division of  
104 Natural Resources shall suspend any privilege the person failing to appear or otherwise respond  
105 may have to hunt in this state, including any hunting license issued to the person by the Division  
106 of Natural Resources, until all the costs, fines, fees, forfeitures, restitution, or penalties are paid  
107 in full.

108 (2) If any costs, fines, fees, forfeitures, restitution, or penalties imposed or ordered by the  
109 magistrate court for a fishing violation described in Chapter 20 of this code are not paid within 180  
110 days from the date of judgment and the expiration of any stay of execution, the magistrate court  
111 clerk or, upon a judgment rendered on appeal, the circuit clerk shall notify the Director of the  
112 Division of Natural Resources of the failure to pay. Upon notice, the Director of the Division of

113 Natural Resources shall suspend any privilege the person failing to appear or otherwise respond  
114 may have to fish in this state, including any fishing license issued to the person by the Division of  
115 Natural Resources, until all the costs, fines, fees, forfeitures, restitution, or penalties are paid in  
116 full.

117 (j)(1) If a person charged with any criminal violation of this code fails to appear or otherwise  
118 respond in court, the magistrate court shall notify the Commissioner of the Division of Motor  
119 Vehicles thereof within 90 days of the scheduled date to appear unless the person sooner appears  
120 or otherwise responds in court to the satisfaction of the magistrate. Upon notice, the Division of  
121 Motor Vehicles shall suspend any privilege the person failing to appear or otherwise respond may  
122 have to operate a motor vehicle in this state, including any driver's license issued to the person  
123 by the Division of Motor Vehicles, until final judgment in the case and, if a judgment of guilty, until  
124 all costs, fines, fees, forfeitures, restitution, or penalties imposed are paid in full. The suspension  
125 shall be imposed in accordance with the provisions of §17B-3-6 of this code.

126 (2) In addition to the provisions of subdivision (1) of this subsection, if a person charged  
127 with any hunting violation described in Chapter 20 of this code fails to appear or otherwise respond  
128 in court, the magistrate court shall notify the Director of the Division of Natural Resources of the  
129 failure thereof within 15 days of the scheduled date to appear unless the person sooner appears  
130 or otherwise responds in court to the satisfaction of the magistrate. Upon notice, the Director of  
131 the Division of Natural Resources shall suspend any privilege the person failing to appear or  
132 otherwise respond may have to hunt in this state, including any hunting license issued to the  
133 person by the Division of Natural Resources, until final judgment in the case and, if a judgment of  
134 guilty, until all costs, fines, fees, forfeitures, restitution, or penalties imposed are paid in full.

135 (3) In addition to the provisions of subdivision (1) of this subsection, if a person charged  
136 with any fishing violation described in Chapter 20 of this code fails to appear or otherwise respond  
137 in court, the magistrate court shall notify the Director of the Division of Natural Resources of the  
138 failure thereof within 15 days of the scheduled date to appear unless the person sooner appears

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

144 (k) In every criminal case which involves a misdemeanor violation, a magistrate may order  
145 restitution where appropriate when rendering judgment.

146 (l) Notwithstanding any provision of this code to the contrary, except as authorized by this  
147 section, payments of all costs, fines, fees, forfeitures, restitution, or penalties imposed by the  
148 magistrate court in civil or criminal matters shall be made in full. Partial payments of costs, fines,  
149 fees, forfeitures, restitution, or penalties made pursuant to this section shall be credited to  
150 amounts due in the following order:

- 151 (1) Regional Jail Fund;
- 152 (2) Worthless check payee;
- 153 (3) Restitution;
- 154 (4) Magistrate Court Fund;
- 155 (5) Worthless Check Fund;
- 156 (6) Per diem regional jail fee;
- 157 (7) Community Corrections Fund;
- 158 (8) Regional Jail Operational Fund;
- 159 (9) Law-Enforcement Training Fund;
- 160 (10) Crime Victims Compensation Fund;
- 161 (11) Court Security Fund;
- 162 (12) Courthouse Improvement Fund;
- 163 (13) Litter Control Fund;
- 164 (14) Sheriff arrest fee;

- 165 (15) Teen Court Fund;
- 166 (16) Other costs, if any; and
- 167 (17) Fine.

**CHAPTER 59. FEES, ALLOWANCES, AND COSTS; NEWSPAPERS;  
LEGAL ADVERTISEMENTS.**

**ARTICLE 1. FEES AND ALLOWANCES.**

**§59-1-10. Fees to be charged by clerk of county commission.**

1 For the purpose of this section, the word “page” is defined as being a paper or electronic  
2 writing of not more than legal size, 8 1/2” x 14”.

3 (a) When a writing is admitted to the record, for receiving proof of acknowledgment of the  
4 writing, entering an order in connection with the writing, endorsing clerk’s certificate of recordation  
5 on the writing and indexing in a proper index, the clerk of the county commission shall charge and  
6 collect the following fees:

7 (1) Thirty dollars for a deed of conveyance (with or without a plat), trust deed, fixture filing,  
8 or security agreement concerning real estate lease.

9 (2) Forty dollars for a trustee’s report of sale for any property for which additional  
10 information and filing requirements are required by §38-1-8a of this code. Twenty dollars of each  
11 recording fee received pursuant to this subdivision shall be deposited into the county’s general  
12 revenue fund and \$20 paid quarterly by the clerk of the county commission to the West Virginia  
13 Housing Development Fund established in §31-18-1 *et seq.* of this code.

14 (3) Ten dollars for a financing, continuation, termination, or other statement or writing  
15 permitted to be filed under chapter 46 of this code.

16 (4) Ten dollars for a plat or map (with no deed of conveyance).

17 (5) No charge for a service discharge record.



18           (6) Ten dollars for any document or writing other than those referenced in subdivisions  
19 (1), (2), (3), (4) and (5) of this subsection.

20           (7) One dollar for each additional page for documents or writings containing more than  
21 five pages.

22           For any of the documents admitted to record pursuant to this subsection, if the clerk of the  
23 county commission has the technology available to receive these documents in electronic form  
24 or other media, the clerk shall set a reasonable fee to record these writings not to exceed the cost  
25 for filing paper documents.

26           (8) Of the fees collected pursuant to subdivision (1), subsection (a) of this section, \$10  
27 shall be deposited in the county general revenue fund in accordance with §59-1-28 of this code,  
28 \$5 shall be deposited in the county reappraisal fund and dedicated to the operation of the  
29 assessor's office mapping division, \$8 shall be deposited in the Courthouse Facilities  
30 Improvement Fund created by §29-26-6 of this code, \$1 to the county 9-1-1 center and \$2 shall  
31 be deposited in the county general fund and dedicated to the operation of the county clerk's office.  
32 Four dollars of the fees collected pursuant to subdivision (1), subsection (a) of this section and \$5  
33 of the fees collected pursuant to subdivision (6), subsection (a) of this section shall be paid by the  
34 county clerk into the State Treasury and deposited in equal amounts into the Farmland Protection  
35 Fund created in §8A-12-1 *et seq.* of this code for the benefit of the West Virginia Agricultural Land  
36 Protection Authority and into the Outdoor Heritage Conservation Fund created §5B-2G-7(f) of this  
37 code. The funds deposited in the State Treasury pursuant to this subdivision may only be used  
38 for costs, excluding personnel costs, associated with purpose of land conservation, as defined in  
39 §5B-2G-7(f) of this code.

40           (b) Five dollars for administering any oath other than oaths by officers and employees of  
41 the state, political subdivisions of the state, a public or quasi-public entity of the state, or a political  
42 subdivision of the state, taken in his or her official capacity.

43 (c) Fifty-five dollars for issuance of marriage license and other duties pertaining to the  
44 marriage license (including preparation of the application, administrating the oath, registering and  
45 recording the license, mailing acknowledgment of minister's return to one of the licensees, and  
46 notification to a licensee after 60 days of the nonreceipt of the minister's return). This fee is  
47 reduced to \$35 if the applicants present a premarital education course completion certificate  
48 issued pursuant to §48-2-701 of this code and dated within one year of the application for a  
49 marriage license.

50 (1) One dollar of the marriage license fee received pursuant to this subsection shall be  
51 paid by the county clerk into the State Treasury as a state registration fee in the same manner  
52 that license taxes are paid into the Treasury under §11-12-1 *et seq.* of this code;

53 (2) Fifteen dollars of the marriage license fee received pursuant to this subsection shall  
54 be paid by the county clerk into the State Treasury for the Family Protection Shelter Support Act  
55 in the same manner that license taxes are paid into the Treasury under §11-12-1 *et seq.* of this  
56 code;

57 (3) Ten dollars of the marriage license fee received pursuant to this subsection shall be  
58 deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code; and

59 (4) If a premarital education course completion certificate is not presented, the county  
60 clerk shall, on or before the 10th day of each month, transmit \$20 of the marriage license fee  
61 received pursuant to this subsection to the State Treasurer for deposit in the State Treasury as  
62 follows:

63 (A) Five dollars to the credit of the Family Protection Shelter Support Act in the same  
64 manner that license taxes are paid into the Treasury under §11-12-1 *et seq.* of this code.

65 (B) Five dollars to the credit of the special revenue account, hereby created, designated  
66 the Fund for Civil Legal Services for Low Income Persons, which shall consist of all gifts, grants,  
67 bequests, transfers, appropriations, or other donations or payments which may be received and  
68 administered by the Division of Justice and Community Services from any governmental entity or

69 unit or any person, firm, foundation, or corporation for the purposes of this section, and all interest  
70 or other return earned from investment of the fund. Expenditures from the fund shall be made by  
71 the Director of the Division of Justice and Community Services and shall be limited to grants to  
72 nonprofit agencies which provide civil legal services to low income persons made at his or her  
73 discretion. Any balance in the fund at the end of each fiscal year shall not revert to the General  
74 Revenue Fund but shall remain in the fund and be expended as provided by this section.

75 (C) Ten dollars to the credit of the Marriage Education Fund created pursuant to §48-2-  
76 702 of this code.

77 (d) (1) One dollar and 50 cents for a copy of any writing or document, if it is not otherwise  
78 provided for.

79 (2) One dollar for each additional page if the writing or documents contains more than two  
80 pages.

81 (3) One dollar for annexing the seal of the commission or clerk to any paper.

82 (4) Five dollars for a certified copy of a birth certificate, death certificate, or marriage  
83 license.

84 (e) For copies of any record in electronic form or a medium other than paper, a reasonable  
85 fee set by the clerk of the county commission not to exceed the costs associated with document  
86 search and duplication.

## **CHAPTER 62. CRIMINAL PROCEDURE.**

### **ARTICLE 4. RECOVERY OF FINES IN CRIMINAL CASES.**

#### **§62-4-17. Suspension of licenses for failure to appear in court; payment plan; failure to pay fines will result in late fee and judgment lien.**

1 (a) Upon request and subject to the following requirements, the circuit clerk shall establish  
2 a payment plan for a person owing costs, fines, forfeitures, restitution, or penalties imposed by

3 the court, so long as the person signs and files with the clerk an affidavit stating that he or she is  
4 financially unable to pay the costs, fines, forfeitures, restitution, or penalties imposed:

5 (1) A \$25 administrative processing fee shall be paid at the time the payment form is filed  
6 or, in the alternative, the fee may be paid in no more than five equal monthly payments;

7 (2) Unless incarcerated, a person must pay in full the costs, fines, forfeitures, restitution,  
8 or penalties or enroll in a payment plan upon the entry of the order assessing the costs, fines,  
9 forfeitures, restitution, or penalties; and

10 (3) If the person is incarcerated, he or she must pay in full the costs, fines, forfeitures,  
11 restitution, or penalties or enroll in a payment plan within 90 calendar days after release.

12 (b) The Supreme Court of Appeals shall develop a uniform payment plan form and  
13 financial affidavit for requests for the establishment of payment plan pursuant to subsection (a) of  
14 this section. The forms shall be made available for distribution to the offices of circuit clerks and  
15 circuit clerks shall use the payment plan form and affidavit form developed by the Supreme Court  
16 of Appeals when establishing payment plans.

17 (c)(1) The payment plan shall specify: (A) The number of payments to be made; (B) the  
18 dates on which such payments are due; (C) the amount due for each payment; (D) all acceptable  
19 payment methods; and (E) the circumstances under which the person may receive a late fee,  
20 have a judgment lien recorded against them, or have the debt sent to collections for nonpayment.

21 (2) The monthly payment under the payment plan shall be calculated based upon all costs,  
22 fines, forfeitures, restitution, or penalties owed within the court, and shall be two percent of the  
23 person's annual income divided by 12, or \$10, whichever is greater: *Provided*, That if this  
24 calculation results in a payment plan lasting more than five years, the monthly payments shall be  
25 set by dividing the total amount owed by 60.

26 (3) The court may review the reasonableness of the payment plan, and may on its own  
27 motion or by petition, waive, modify, or convert the outstanding costs, fines, forfeitures, restitution,

28 or penalties to community service if the court determines that the individual has had a change in  
29 circumstances and is unable to comply with the terms of the payment plan.

30 (d)(1) The clerk may assess a \$10 late fee each month if a person fails to comply with the  
31 terms of a payment plan, and if any payment due is not received within 30 days after the due  
32 date, and the person:

33 (A) Is not incarcerated;

34 (B) Has not brought the account current;

35 (C) Has not made alternative payment arrangements with the court; or

36 (D) Has not entered into a revised payment plan with the clerk before the due date.

37 (2) If, after 90 days, a payment has not been received, the clerk may do one or both of the  
38 following: (A) Record a judgment lien as described in subsection (f) of this section; or (B) consign  
39 the delinquent costs, fines, forfeitures, restitution, or penalties to a debt collection agency  
40 contained on the Tax Commissioner's list of eligible debt collection agencies established and  
41 maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*,  
42 That the entire amount of all delinquent payments collected shall be remitted to the court and may  
43 not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may  
44 not exceed 25 percent of the delinquent payment amount. The clerk may send notices,  
45 electronically or by U.S. mail, to remind the person of an upcoming or missed payment.

46 (e)(1) If after 180 days of a judgment a person fails to enroll in a payment plan and fails to  
47 pay his or her costs, fines, forfeitures, restitution, or penalties, the clerk may assess a \$10 late  
48 fee and shall notify the person of the following:

49 (A) That he or she is 180 days past due in the payment of costs, fines, forfeitures,  
50 restitution, or penalties imposed pursuant to a judgment of the court;

51 (B) That he or she has failed to enroll in a payment plan;

52 (C) Whether a \$10 late fee has been assessed; and

53 (D) That he or she may be the subject of a judgment lien or have his or her debt sent to a  
54 collection agency if the overdue payment of costs, fines, forfeitures, restitution, or penalties is not  
55 resolved within 30 days of the date of the notice issued pursuant to this subsection.

56 (2) If after 30 days from the issuance of a notice pursuant to subdivision (1) of this  
57 subsection, a payment has not been received, the clerk may do one or both of the following:

58 (A) Record a judgment lien as described in subsection (f) of this section; or

59 (B) Consign the delinquent costs, fines, forfeitures, restitution, or penalties to a debt  
60 collection agency contained on the Tax Commissioner's list of eligible debt collection agencies  
61 established and maintained pursuant to §14-1-18c of this code, an internal collection division, or  
62 both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to  
63 the court and may not be reduced by any collection costs or fees: *Provided, however*, That the  
64 collection fee may not exceed 25 percent of the delinquent payment amount.

65 (f) To record a judgment lien, the clerk shall notify the prosecuting attorney of the county  
66 of nonpayment and shall provide the prosecuting attorney with an abstract of judgment. The  
67 prosecuting attorney shall file the abstract of judgment in the office of the clerk of the county  
68 commission in the county where the defendant was convicted and in any county wherein the  
69 defendant resides or owns property. The clerk of the county commission shall record and index  
70 these abstracts of judgment without charge or fee to the prosecuting attorney, and when recorded,  
71 the amount stated to be owed in the abstract constitutes a lien against all property of the  
72 defendant: *Provided*, That when all the costs, fines, fees, forfeitures, restitution, or penalties for  
73 which an abstract of judgment has been recorded are paid in full, the clerk of the municipal court  
74 shall notify the prosecuting attorney of the county of payment and provide the prosecuting attorney  
75 with a release of judgment, prepared in accordance with the provisions of §38-12-1 of this code,  
76 for filing and recordation pursuant to the provisions of this subdivision. Upon receipt from the clerk,  
77 the prosecuting attorney shall file the release of judgment in the office of the clerk of the county  
78 commission in each county where an abstract of the judgment was recorded. The clerk of the

79 county commission shall record and index the release of judgment without charge or fee to the  
80 prosecuting attorney.

81 (g) Any driver's license suspension entered by the Division of Motor Vehicles prior to July  
82 1, 2016, for the failure to appear or otherwise respond in court or for nonpayment of costs, fines,  
83 forfeitures, restitution, or penalties is null and void. A person whose driver's license was  
84 suspended on or after July 1, 2016, but prior to July 1, 2020, solely for the nonpayment of costs,  
85 fines, forfeitures, restitution, or penalties, if otherwise eligible, shall have his or her license  
86 reinstated:

87 (1) Upon payment in full of all outstanding costs, fines, forfeitures, restitution, or penalties  
88 and a \$25 reinstatement fee paid to the Division of Motor Vehicles; or

89 (2) Upon establishing a payment plan pursuant to subsection (a) of this section and the  
90 payment of a \$25 administrative fee. The clerk shall notify the Division of Motor Vehicles that a  
91 payment plan is in effect, and upon receipt of the notification, the division shall waive the  
92 reinstatement fee.

93 (h) If a person charged with a criminal offense fails to appear or otherwise respond in court  
94 after having received notice to do so, the court shall notify the Division of Motor Vehicles thereof  
95 within 15 days of the scheduled date to appear unless such person sooner appears or otherwise  
96 responds in court to the satisfaction of the court. Upon such notice, the Division of Motor Vehicles  
97 shall suspend the person's driver's license or privilege to operate a motor vehicle in this state until  
98 such time that the person appears as required.





The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....  
*Chairman, House Committee*

.....  
*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

.....  
*Clerk of the House of Delegates*

.....  
*Clerk of the Senate*

.....  
*Speaker of the House of Delegates*

.....  
*President of the Senate*

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The within ..... this the.....  
day of ....., 2022.

.....  
*Governor*