WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 29

By Senators Swope, Jeffries, Woodrum, Takubo,

and Nelson

[Introduced January 12, 2022; 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 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.

27   (d) The clerk of a magistrate court shall charge and collect a fee of $25 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 Courthouse

42   Facilities Improvement Fund created by §29-26-6 of this code. Nothing in this subsection

43   authorizes the clerk to collect the above fee from any person for the processing of a personal

44   recognizance bond.

45   (e) The clerk of a magistrate court shall charge and collect a fee of $10 for services

46   rendered by the clerk for processing of bail piece and the fee shall be paid by the surety at the

47   time of issuance. All fees collected pursuant to this subsection shall be deposited in the

48   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.