

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Committee Substitute

for

Senate Bill 29

BY SENATORS SWOPE, JEFFRIES, WOODRUM, TAKUBO,

AND NELSON

[Originating in the Committee on the Judiciary;

reported on February 23, 2022]

1 A BILL to amend and reenact §50-3-2 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §59-1-10 of said code, all relating to the Courthouse Facilities
3 Improvement Authority generally; imposing a \$10 processing fee for criminal bail bonds,
4 other than personal recognizance bonds, which fee is to be deposited in the Courthouse
5 Facilities Improvement Fund; imposing a \$25 fee for the processing of bail pieces, the
6 revenue from which is deposited in the Courthouse Facilities Improvement Fund; and
7 increasing the fee for a deed of conveyance with the increase dedicated to the Courthouse
8 Facilities Improvement Fund.

Be it enacted by the Legislature of West Virginia:

CHAPTER 50. MAGISTRATE COURTS.

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
3 penalties ~~as may be~~ allowed by law: (1) Costs in the amount of \$60, of which \$5 of that amount
4 shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this
5 code; (2) an amount equal to the one-day per diem provided for in §15A-3-16(g) of this code; and
6 (3) costs in the amount of \$30 to be deposited in the Regional Jail Operations Partial
7 Reimbursement Fund created by §15A-3-16 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 ~~one hundred eighty~~ 180 days after completion of the term in jail or prison. A magistrate court shall
12 deposit \$5 from each of the criminal proceedings fees collected pursuant to this section in the
13 Court Security Fund created in §51-3-14 of this code. A magistrate court shall, on or before the

14 10th day of the month following the month in which the fees imposed in this section were collected,
15 remit an amount equal to the one-day per diem provided for in §15A-3-16(g) of this code from
16 each of the criminal proceedings in which the fees specified in this section were collected ~~to~~ to
17 the magistrate court clerk, or if there is no magistrate court clerk to the clerk of the circuit, together
18 with information ~~as may be~~ required by the rules of the Supreme Court of Appeals and the rules
19 of the Office of Chief Inspector. These moneys are paid to the sheriff who shall distribute the
20 moneys solely in accordance with the provisions of §7-5-15 of this code. Amendments made to
21 this section during 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 shall be certified to the clerk of the circuit court in accordance with the provisions of §62-5-6 of
27 this code.

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

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

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

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 ~~thereof,~~
4 of the writing, entering an order in connection ~~therewith,~~ with the writing, endorsing clerk's
5 certificate of recordation ~~thereon~~ on the writing and indexing in a proper index, the clerk of the
6 county commission shall charge and collect the following fees:

7 (1) ~~Twenty-five~~ Thirty dollars for a deed of conveyance (with or without a plat), trust deed,
8 fixture filing, 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 ~~section eight-a, article one, chapter thirty-eight~~
11 §38-1-8a of this code. Twenty dollars of each recording fee received pursuant to this subdivision
12 shall be deposited into the county's general revenue fund and \$20 paid quarterly by the clerk of
13 the county commission to the West Virginia Housing Development Fund established in ~~article~~
14 ~~eighteen, chapter thirty-one~~ §31-18-1 *et seq.* of this code.

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

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

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

19 (6) Ten dollars for any document or writing other than those referenced in subdivisions
20 (1), (2), (3), (4) and (5) of this subsection.

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

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

27 (8) Of the fees collected pursuant to subdivision (1), subsection (a) of this section, \$10
28 shall be deposited in the county general revenue fund in accordance with ~~section twenty-eight~~
29 §59-1-28 of this code, \$5 shall be deposited in the county reappraisal fund and dedicated to the
30 operation of the assessor's office mapping division, ~~\$3~~ \$8 shall be deposited in the Courthouse
31 Facilities Improvement Fund created by ~~section six, article twenty-six, chapter twenty-nine~~ §29-
32 26-6 of this code, \$1 to the county 9-1-1 center and \$2 shall be deposited in the county general
33 fund and dedicated to the operation of the county clerk's office. Four dollars of the fees collected
34 pursuant to subdivision (1), subsection (a) of this section and \$5 of the fees collected pursuant to
35 subdivision (6), subsection (a) of this section shall be paid by the county clerk into the State
36 Treasury and deposited in equal amounts ~~for deposit~~ into the Farmland Protection Fund created
37 in ~~in article twelve, chapter eight-a~~ §8A-12-1 et seq. of this code for the benefit of the West Virginia
38 Agricultural Land Protection Authority and into the Outdoor Heritage Conservation Fund created
39 in ~~in article two-g, chapter five-b~~ §5B-2G-7(f) of this code. The funds deposited in the State Treasury
40 pursuant to this subdivision may only be used for costs, excluding personnel costs, associated
41 with purpose of land conservation, as defined in ~~subsection (f), section seven, article two-g,~~
42 ~~chapter five-b~~ §5B-2G-7(f) of this code.

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

46 (c) Fifty-five dollars for issuance of marriage ~~a~~ license and other duties pertaining to the
47 marriage license (including preparation of the application, administrating the oath, registering and
48 recording the license, mailing acknowledgment of minister's return to one of the licensees, and

49 notification to a licensee after ~~sixty~~ 60 days of the nonreceipt of the minister's return). This fee is
50 reduced to \$35 if the applicants present a premarital education course completion certificate
51 issued pursuant to ~~section seven hundred one, article two, chapter forty-eight~~ §48-2-701 of this
52 code and dated within one year of the application for a marriage license.

53 (1) One dollar of the marriage license fee received pursuant to this subsection shall be
54 paid by the county clerk into the State Treasury as a state registration fee in the same manner
55 that license taxes are paid into the Treasury under ~~article twelve, chapter eleven~~ §11-12-1 et seq.
56 of this code;

57 (2) Fifteen dollars of the marriage license fee received pursuant to this subsection shall
58 be paid by the county clerk into the State Treasury for the Family Protection Shelter Support Act
59 in the same manner that license taxes are paid into the Treasury under ~~article twelve, chapter~~
60 ~~eleven~~ §11-12-1 et seq. of this code;

61 (3) Ten dollars of the marriage license fee received pursuant to this subsection shall be
62 deposited in the Courthouse Facilities Improvement Fund created by ~~section six, article twenty-~~
63 ~~six, chapter twenty-nine~~ §29-26-6 of this code; and

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

68 (A) Five dollars to the credit of the Family Protection Shelter Support Act in the same
69 manner that license taxes are paid into the Treasury under ~~article twelve, chapter eleven~~ §11-12-
70 1 et seq. of this code.

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

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

81 (C) Ten dollars to the credit of the Marriage Education Fund created pursuant to ~~section~~
82 ~~seven hundred two, article two, chapter forty-eight~~ §48-2-702 of this code.

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

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

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

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

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