

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

House Bill 3265

By Delegates Heckert, Adkins, Ross, Maynor, Foggin,

Cooper, Miller, Crouse and Kump

[Originating in the Committee on the Judiciary;

Reported February 20, 2023]

1 A BILL to amend and reenact §59-1-14 of the Code of West Virginia, 1931, as amended, relating to
2 service of process by sheriff; and requiring a county sheriff to owe fees to another sheriff's
3 department or law enforcement agency for service.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. FEES AND ALLOWANCES.

§59-1-14. Fees to be charged by sheriffs.

1 (a) The county commission shall determine the amount which the sheriff may charge,
2 which charges shall not exceed the following:

- 3 For serving on any person an order, notice, summons or other process where the body is
- 4 not taken, except a subpoena served on a witness, and making return thereof \$25.00
- 5 For summoning a witness..... 25.00
- 6 For serving on any person an attachment or
- 7 other process under which the body is taken..... 25.00
- 8 For levying an attachment on real estate and
- 9 making the return..... 25.00
- 10 For making any other levy..... 25.00
- 11 For serving a writ of possession..... 25.00

12 (b) Notwithstanding any provision of this code to the contrary, a county sheriff shall owe the
13 fees set forth in §59-1-14(a) of this code to another sheriff's department or law-enforcement
14 agency for service of an order, notice, summons or other process, or for serving an attachment or
15 other process under which the body it taken.

16 (b) (c) The county commission shall determine the amount which the sheriff may charge,
17 which charges shall not exceed the following:

- 18 For conveying a prisoner to or from jail, for each mile of necessary travel either in going or
- 19 returning..... .25
- 20 For taking any bond..... 1.00

21 When a jury is sworn in court, for summoning and impaneling such jury..... 1.00

22 For issuing receipt to purchaser at delinquent tax sale..... 1.00

23 ~~(e)~~ (d) The county commission, giving due regard to the cost thereof, may from time to time
24 prescribe the amount which the sheriff may charge for keeping any property or in removing any
25 property. When, after distraining or levying, he or she neither sells nor receives payment, and
26 either takes no bond or takes one which is not forfeited, he or she shall, if guilty of no default, have
27 (in addition to the \$1 for a bond, if one was taken) a fee of \$3, unless this be more than half of what
28 his or her commission would have amounted to if he or she had received payment; in which case
29 he or she shall (whether a bond was taken or not) have a fee of \$1 at the least, and so much more
30 as is necessary to make the said half of his or her commission. The commission to be included in a
31 forthcoming bond (when one is taken) shall be five percent on the first \$300 of the money for which
32 the distress or levy is made, and two percent on the residue of the money; but the commission
33 shall not be received, in whole or in part, except as hereinbefore provided, unless the bond be
34 forfeited, or the amount (including the commission) be paid to the plaintiff. An officer receiving
35 payment in money, or selling property, shall have the like commission of five percent on the first
36 \$300 of the money paid or proceeds from the sale, and two percent on the residue, except that
37 when the payment or sale is on an execution on a forthcoming bond, his or her commission shall
38 be only half what it would be if the execution were not on the bond.

39 ~~(d)~~ (e) Any amounts collected by the sheriff pursuant to this section shall be deposited in a
40 separate account of the county general fund and used by the sheriff for the expenses of providing
41 the services herein described: *Provided*, That \$2 of each fee collected pursuant to the provisions
42 of subsection (a) of this section shall be deposited by the county commission in the "West Virginia
43 Deputy Sheriff Retirement Fund" created in section six, article fourteen-d, chapter seven of this
44 code and \$3 of each fee collected pursuant to the provisions of subsection (a) of this section shall
45 be deposited by the county commission in the general revenue account of the county commission.
46 Any surplus funds that remain in the separate account of the county general fund required by the

- 47 provisions of this subsection on the last day of the fiscal year, and have not been expended for the
48 purposes herein described, shall revert to the county general fund.

NOTE: The purpose of this bill relates to service of process by sheriff.

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