

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 358**

BY SENATOR TRUMP

[Originating in the Committee on the Judiciary;

Reported on February 13, 2018]



1 A BILL to amend and reenact §50-3-2 of the Code of West Virginia, 1931, as amended, relating  
2 to authorizing the imposition of a \$25 clerk's fee for processing criminal bonds;  
3 establishing person responsible for payment of fee by type of bond issued; exempting  
4 personal recognizance bonds from fee; and providing that fees collected be deposited in  
5 the Magistrate Court Fund.

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

**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 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 §31-20-10(h) 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 §31-20-10(b) 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  
11 180 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 tenth 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 §31-20-10(h) 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 regular session of the Legislature, 2001, 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 in of 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 shall charge and collect a fee of \$25 per bond 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 fee authorized by this subsection shall be collected at the time of issuance of each bond  
41 instrument processed by the clerk, and all fees collected pursuant to this subsection shall be  
42 deposited in the Magistrate Court Fund described in §50-3-4 of this code. Nothing in this  
43 subsection authorizes the clerk to collect the fee established by this subsection from any person  
44 for the processing of a personal recognizance bond.