

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

ENGROSSED

House Bill 4958

BY DELEGATES HAMRICK, CANESTRARO, D. KELLY,

LOVEJOY, MILLER, SHOTT, NELSON, MANDT,

FLEISCHAUER, PUSHKIN AND PYLES

[Originating in the Committee on the Judiciary;

Reported on February 20, 2020.]

1 A BILL to amend and reenact §8-10-2a and §8-10-2b of the Code of West Virginia, 1931, as
2 amended; to amend and reenact §17B-3-3a and §17B-3-3c of said code; to amend and
3 reenact §50-3-2a of said code; and to amend and reenact §62-4-17 of said code, all
4 relating to eliminating the ability of a person's driver's license to be suspended for the
5 failure to pay court fines and costs; allowing court clerks to accept electronic payments,
6 credit cards, cash, money orders, or certified checks; requiring magistrate, municipal, and
7 circuit clerks to set up a payment plan if an individual signs an affidavit stating that he or
8 she is unable to pay the court fines and costs imposed; requiring the Supreme Court of
9 Appeals to generate forms; authorizing magistrate, municipal, and circuit clerks to assess
10 late fees, to record a judgment lien for unpaid fines and costs in the county clerk's office,
11 and to send a debt to collections; and allowing for previously suspended driver's licenses
12 to be reinstated.

Be it enacted by the Legislature of West Virginia:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 10. POWERS AND DUTIES OF CERTAIN OFFICERS.

§8-10-2a. Payment of fines by electronic payments, credit cards, cash, money orders, or certified checks; payment plan; failure to pay will result in late fee and judgement lien; suspension of driver's license for failure to ~~pay motor vehicle violation fines or to appear in court.~~

1 (a) A municipal court may accept electronic payments, credit cards, cash, money order,
2 or certified checks for ~~of~~ all costs, fines, forfeitures, or penalties electronically, by mail, or in
3 person. Any charges made by the credit company shall be paid by the person responsible for
4 paying the cost, fine, fee, or penalty ~~A municipal court may collect a substantial portion of all costs,~~
5 ~~fines, forfeitures or penalties at the time such amount is imposed by the court as described in this~~
6 ~~section. so long as the court requires the balance to be paid within 180 days from the date of~~

7 judgment and in accordance with a: ~~Provided, That all costs, fines, forfeitures or penalties~~
8 ~~imposed by the municipal court upon a nonresident of this state by judgment entered upon a~~
9 ~~conviction must be paid within 80 days from the date of judgment. If the following requirements~~
10 ~~are met, the municipal clerk shall set up a payment plan for anyone owing costs, fines, forfeitures,~~
11 ~~or penalties imposed by the court for a motor vehicle violation as defined in §17B-3-3a of this~~
12 ~~code, or other applicable municipal ordinances so long as, the person signs and files with the~~
13 ~~clerk, an affidavit, stating that he or she is financially unable to pay the costs, fines, forfeitures, or~~
14 ~~penalties imposed:~~

15 (1) A one-time \$25 administrative processing fee shall be paid at the time the payment
16 form is turned in or may be paid in no more than 5 equal monthly payments;

17 (2) A person must enroll in a payment plan no later than 180 calendar days after the date
18 the court enters the order assessing the costs, fines, forfeitures, or penalties; and

19 (3) If the person is incarcerated, he or she shall apply to the clerk for enrollment in a
20 payment plan within 180 calendar days after release.

21 (b) The West Virginia Supreme Court of Appeals shall generate a uniform payment plan
22 form and a uniform affidavit showing inability to pay for use by individuals seeking to establish a
23 payment plan. Each clerk shall use the uniform payment plan form and uniform affidavit form
24 when establishing payment plans.

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

30 (2) The monthly payment under the payment plan shall be calculated based upon all costs,
31 fines, forfeitures, or penalties owed within the court, and shall be two percent of the person's
32 annual net income divided by 12 or \$10, whichever is greater.

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

37 (d)(1) The clerk may assess a \$10 late fee each month if a person fails to comply with the
38 terms of a payment plan and if any payment due is not received within 30 days after the due date,
39 and the person: (1) Is not incarcerated; (2) has not brought the account current; (3) has not made
40 alternative payment arrangements with the court; or (4) has not entered into a revised payment
41 plan with the clerk before the due date.

42 (2) If after 90 days, a payment has not been received, the clerk may record a judgement
43 lien as described in subsection (f) of this section or transmit notice to a private collection agency
44 or private attorney authorized under §14-1-18c of this code or to an internal collection division to
45 collect any delinquent costs, fines, forfeitures or penalties, or both: *Provided*, That the entire
46 amount of all delinquent payments collected shall be remitted to the court and shall not be reduced
47 by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25
48 percent of the delinquent payment amount. The clerk may send notices, electronically or by mail,
49 to remind an individual of an upcoming or missed payment.

50 (e)(1) If a person does not enroll in a payment plan and does not pay their costs, fines,
51 forfeitures, or penalties imposed within 180 days from the date of judgement, the clerk may assess
52 a \$10 late fee. The clerk shall notify the person that he or she is 180 days past due, has not
53 enrolled in a payment plan, has received a \$10 late fee, and may have a judgment lien recorded
54 against him or her and have his or her debt sent to collections if not resolved within 30 days.

55 (2) If after an additional 30 days, a payment has not been received, the clerk may record
56 a judgement lien as described in subsection (f) of this section or transmit notice to a private
57 collection agency or private attorney authorized under §14-1-18c of this code or to an internal
58 collection division to collect any delinquent costs, fines, forfeitures, or penalties, or both: *Provided*,

59 That the entire amount of all delinquent payments collected shall be remitted to the court and
60 shall not be reduced by any collection costs or fees: *Provided, however,* That the collection fee
61 may not exceed 25 percent of the delinquent payment amount:

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

78 (g) A person whose driver's license was suspended before July 1, 2020, pursuant to this
79 section solely for the nonpayment of costs, fines, forfeitures, or penalties, if otherwise eligible,
80 may apply to have his or her license reinstated: (1) Upon payment in full of all outstanding costs,
81 fines, forfeitures or penalties and a reduced one-time \$25 reinstatement fee paid to the Division
82 of Motor Vehicles; or (2) upon enrolling in a payment plan, as described in this section, with the
83 clerk and paying the \$25 one-time administrative fee. Upon entering into a payment plan, the clerk

84 shall provide a verification of enrollment to the Division of Motor Vehicles and to the person for
85 submission to the Division of Motor Vehicles and the Division shall waive the reinstatement fee.

86 ~~(b)(h) If costs, fines, forfeitures or penalties imposed by the municipal court for motor~~
87 ~~vehicle violations as defined in section three-a, article three, chapter seventeen-b of this code are~~
88 ~~not paid within the time limits imposed pursuant to subsection (a) of this section, or if a person~~
89 ~~fails to appear or otherwise respond in court when charged with a motor vehicle violation as~~
90 ~~defined in §17B-3-3a of this code, the municipal court must notify the Commissioner of the~~
91 ~~Division of Motor Vehicles of such failure to pay or failure to appear: *Provided*, That~~
92 ~~notwithstanding any other provision of this code to the contrary, the municipal court shall wait at~~
93 ~~least 90 days from the date that all costs, fines, forfeitures or penalties are due in full or, for failure~~
94 ~~to appear or otherwise respond, ninety days from the date of such failure before notifying the~~
95 ~~Division of Motor Vehicles thereof.~~

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

1 (a) If the following requirements are met, the municipal court clerk or, upon a judgment
2 rendered on appeal, the circuit clerk shall set up a payment plan for anyone owing costs, fines,
3 forfeitures, or penalties imposed by the court for a criminal offense as defined in §17B-3-3c of this
4 code, or other applicable municipal ordinances so long as, the person signs and files with the
5 clerk, an affidavit, stating that he or she is financially unable to pay the costs, fines, forfeitures or
6 penalties imposed:

7 (1) A one-time \$25 administrative processing fee shall be paid at the time the payment
8 form is turned in or may be paid in no more than 5 equal monthly payments;

9 (2) A person must enroll in a payment plan no later than 180 calendar days after the date
10 the court enters the order assessing the costs, fines, forfeitures or penalties; and

11 (3) If the person is incarcerated, he or she shall apply to the clerk for enrollment in a
12 payment plan within 180 calendar days after release.

13 (b) The West Virginia Supreme Court of Appeals shall generate a uniform payment plan
14 form and a uniform affidavit showing inability to pay for use by individuals seeking to establish a
15 payment plan. Each clerk shall use the uniform payment plan form and uniform affidavit form
16 when establishing payment plans.

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

22 (2) The monthly payment under the payment plan shall be calculated based upon all costs,
23 finer, forfeitures or penalties owed within the court, and shall be two percent of the person's
24 annual net income divided by 12 or \$10, whichever is greater;

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

29 (d) The clerk may assess a \$10 late fee each month if a person fails to comply with the
30 terms of a payment plan and if any payment due is not received within 30 days after the due date,
31 and the person: (1) Is not incarcerated; (2) has not brought the account current; (3) has not made
32 alternative payment arrangements with the court; or (4) has not entered into a revised payment
33 plan with the clerk before the due date.

34 (2) If after 90 days, a payment has not been received, the clerk may record a judgement
35 lien as described in subsection (f) of this section or transmit notice to a private collection agency
36 or private attorney authorized under §14-1-18c of this code or to an internal collection division to
37 collect any delinquent costs, fines, forfeitures, or penalties, or both: *Provided*, That the entire

38 amount of all delinquent payments collected shall be remitted to the court and shall not be reduced
39 by any collection costs or fees: *Provided, however,* That the collection fee may not exceed 25
40 percent of the delinquent payment amount. The clerk may send notices, electronically or by mail,
41 to remind an individual of an upcoming or missed payment.

42 (e)(1) If a person does not enroll in a payment plan and does not pay their costs, fines,
43 forfeitures, or penalties imposed within 180 days from the date of judgement, the clerk may assess
44 a \$10 late fee. The clerk shall notify the person that he or she is 180 days past due, has not
45 enrolled in a payment plan, has received a \$10 late fee, and may have a judgment lien recorded
46 against him or her and have his or her debt sent to collections if not resolved within 30 days.

47 (2) If after an additional 30 days, a payment has not been received, the clerk may record
48 a judgement lien as described in subsection (f) of this section or transmit notice to a private
49 collection agency or private attorney authorized under §14-1-18c of this code or to an internal
50 collection division to collect any delinquent costs, fines, forfeitures, or penalties, or both: *Provided,*
51 That the entire amount of all delinquent payments collected shall be remitted to the court and
52 shall not be reduced by any collection costs or fees: *Provided, however,* That the collection fee
53 may not exceed 25 percent of the delinquent payment amount.

54 (f) To record a judgement lien, the clerk shall ~~If costs, fines, forfeitures or penalties~~
55 ~~imposed by the municipal court upon conviction of a person for a criminal offense as defined in~~
56 ~~§17B-3-3c of this code are not paid in full within 180 days of the judgment, the municipal court~~
57 ~~clerk or, upon a judgment rendered on appeal, the circuit clerk shall~~ notify the prosecuting attorney
58 of the county of nonpayment and shall provide the prosecuting attorney with an abstract of
59 judgment. The prosecuting attorney shall file the abstract of judgment in the office of the clerk of
60 the county commission in the county where the defendant was convicted and in any county
61 wherein the defendant resides or owns property. The clerks of the county commissions shall
62 record and index these abstracts of judgment without charge or fee to the prosecuting attorney

63 and when so recorded, the amount stated to be owed in the abstract shall constitute a lien against
64 all property of the defendant: *Provided*, That when all the costs, fines, fees, forfeitures, restitution
65 or penalties for which an abstract of judgment has been recorded are paid in full, the clerk of the
66 municipal court shall notify the prosecuting attorney of the county of payment and provide the
67 prosecuting attorney with a release of judgment, prepared in accordance with the provisions of
68 §38-12-1 of this code, for filing and recordation pursuant to the provisions of this subdivision.
69 Upon receipt from the clerk, the prosecuting attorney shall file the release of judgment in the office
70 of the clerk of the county commission in each county where an abstract of the judgment was
71 recorded. The clerks of the county commissions shall record and index the release of judgment
72 without charge or fee to the prosecuting attorney. ~~notify the Division of Motor Vehicles of the~~
73 ~~failure to pay: *Provided*, That notwithstanding any other provision of this code to the contrary, for~~
74 ~~residents of this state, the municipal court shall wait at least ninety days from the date that all~~
75 ~~costs, fines, forfeitures or penalties are due in full before notifying the Division of Motor Vehicles~~
76 ~~thereof: *Provided, however*, That at the time the judgment is imposed, the judge shall provide the~~
77 ~~person with written notice that failure to pay the same as ordered may result in the withholding of~~
78 ~~any income tax refund due the licensee and shall result in the suspension of the person's license~~
79 ~~or privilege to operate a motor vehicle in this state and that the suspension could result in the~~
80 ~~cancellation of, the failure to renew or the failure to issue an automobile insurance policy providing~~
81 ~~coverage for the person or the person's family: *Provided further*, That the failure of the judge to~~
82 ~~provide notice does not affect the validity of any suspension of the person's license or privilege to~~
83 ~~operate a motor vehicle in this state. For purposes of this section, payment shall be stayed during~~
84 ~~any period an appeal from the conviction which resulted in the imposition of costs, fines, forfeitures~~
85 ~~or penalties is pending.~~

86 (g) A person whose driver's license was suspended before July 1, 2020, pursuant to this
87 section solely for the nonpayment of costs, fines, forfeitures, or penalties, if otherwise eligible,

88 may apply to have his or her license reinstated: (1) Upon payment in full of all outstanding costs,
89 finances, forfeitures or penalties and a reduced one-time \$25 reinstatement fee paid to the Division
90 of Motor Vehicles; or (2) upon enrolling in a payment plan, as described in this section, with the
91 clerk and paying the \$25 one-time administrative fee. Upon entering into a payment plan, the clerk
92 shall provide a verification of enrollment to the Division of Motor Vehicles and to the person for
93 submission to the Division of Motor Vehicles and the Division shall waive the reinstatement fee.

94 ~~Upon notice, the Division of Motor Vehicles shall suspend the person's driver's license or~~
95 ~~privilege to operate a motor vehicle in this state until such time that the costs, fines, forfeitures or~~
96 ~~penalties are paid.~~

97 ~~(b) Notwithstanding the provisions of this section to the contrary, the notice of the failure~~
98 ~~to pay costs, fines, forfeitures or penalties may not be given where the municipal court, upon~~
99 ~~application of the person upon whom the costs, fines, forfeitures or penalties were imposed filed~~
100 ~~prior to the expiration of the period within which these are required to be paid, enters an order~~
101 ~~finding that the person is financially unable to pay all or a portion of the costs, fines, forfeitures or~~
102 ~~penalties: *Provided*, That where the municipal court, upon finding that the person is financially~~
103 ~~unable to pay a portion of the costs, fines, forfeitures or penalties, requires the person to pay the~~
104 ~~remaining portion, the municipal court shall notify the Division of Motor Vehicles of the person's~~
105 ~~failure to pay if not paid within the period of time ordered by the court~~

106 ~~(c)-(h)~~ If a person charged with a criminal offense fails to appear or otherwise respond in
107 court, the municipal court clerk shall notify the Division of Motor Vehicles of the failure to appear:
108 *Provided*, That notwithstanding any other provision of this code to the contrary, for residents of
109 this state, the municipal court clerk shall wait at least 90 days from the date of the person's failure
110 to appear or otherwise respond before notifying the Division of Motor Vehicles thereof. Upon
111 notice, the Division of Motor Vehicles shall suspend the person's driver's license or privilege to
112 operate a motor vehicle in this state until such time that the person appears as required.

113 ~~(d) On and after July 1, 2008, if the licensee fails to respond to the Division of Motor~~
114 ~~Vehicles order of suspension within ninety days of receipt of the certified letter, the municipal court~~
115 ~~of original jurisdiction shall notify the Tax Commissioner that the licensee has failed to pay the~~
116 ~~costs, fines, forfeitures or penalties assessed by the court or has failed to respond to the citation.~~
117 ~~The notice provided by the municipal court to the Tax Commissioner must include the licensee's~~
118 ~~Social Security number. The Tax Commissioner, or his or her designee, shall withhold from any~~
119 ~~personal income tax refund due and owing to a licensee the costs, fines, forfeitures or penalties~~
120 ~~due to the municipality, the Tax Commissioner's administration fee for the withholding and any~~
121 ~~and all fees that the municipal court would have collected had the licensee appeared: *Provided,*~~
122 ~~That the Tax Commissioner's administration fee may not exceed \$25: *Provided, however,* That~~
123 ~~the Tax Commissioner may change this maximum amount limitation for this fee for fiscal years~~
124 ~~beginning on or after July 1, 2008, by legislative rule promulgated in accordance with the~~
125 ~~provisions of article three, chapter twenty-nine-a of this code: *Provided further,* That the~~
126 ~~administrative fees deducted shall be deposited in the special revolving fund hereby created in~~
127 ~~the State Treasury, which shall be designated as the Municipal Fines and Fees Collection Fund,~~
128 ~~and the Tax Commissioner shall make such expenditures from the fund as he or she deems~~
129 ~~appropriate for the administration of this subsection. After deduction of the Tax Commissioner's~~
130 ~~administration fee, the Tax Commissioner shall remit to the municipality all remaining amounts~~
131 ~~withheld pursuant to this section and the municipal court shall distribute applicable costs, fines,~~
132 ~~forfeitures or penalties owed to the municipality, the Regional Jail Authority Fund, the Crime~~
133 ~~Victims Compensation Fund, the Community Corrections Fund, the Governor's subcommittee on~~
134 ~~law enforcement training or any other fund or payee that may be applicable. After the costs, fines,~~
135 ~~forfeitures or penalties are withheld, the Tax Commissioner shall refund any remaining balance~~
136 ~~due the licensee. If the refund is not sufficient to cover all the costs, fines, forfeitures or penalties~~
137 ~~being withheld pursuant to this section, the Tax Commissioner's administration fee shall be~~

138 retained by the Tax Commissioner and the remaining money withheld shall be remitted by the
139 Tax Commissioner to the municipality. The municipality shall then allocate the money so remitted
140 to the municipality in the following manner: (1) Any costs, fines, forfeitures or penalties due to the
141 municipality; (2) seventy five percent of the remaining balance shall be paid to the appropriate
142 Regional Jail Authority Fund; (3) fifteen percent of the remaining balance shall be paid to the
143 Crime Victims Compensation Fund; (4) six percent of the remaining balance shall be paid into the
144 Community Corrections Fund; and (5) the final four percent shall be paid to the Governor's
145 subcommittee on law enforcement training. When the costs, fines, forfeitures or penalties exceed
146 the licensee's income tax refund, the Tax Commissioner shall withhold the remaining balance in
147 subsequent years until such time as the costs, fines, forfeitures or penalties owed are paid in full.
148 The Tax Commissioner shall remit the moneys that he or she collects to the appropriate
149 municipality no later than July 1, of each year. If the municipal court or the municipality
150 subsequently determines that any such costs, fines, forfeitures or penalties were erroneously
151 imposed, the municipality shall promptly notify the Tax Commissioner. If the refunds have not
152 been withheld and remitted, the Tax Commissioner may not withhold and remit payment to the
153 municipality and shall so inform the municipality. If the refunds have already been withheld and
154 remitted to the municipality, the Tax Commissioner shall so inform the municipality. In either
155 event, all refunds for erroneously imposed costs, fines, forfeitures or penalties shall be made by
156 the municipality and not by the Tax Commissioner.

157 (e) Rules and effective date. — The Tax Commissioner may promulgate such rules as
158 may be useful or necessary to carry out the purpose of this section and to implement the intent of
159 the Legislature, to be effective on July 1, 2008. Rules shall be promulgated in accordance with
160 the provisions of article three, chapter twenty nine a of this code.

161 (f) On or before July 1, 2005, the municipal court may elect to reissue notice as provided
162 in subsections (a) and (c) of this section to the Division of Motor Vehicles for persons who remain

163 noncompliant: *Provided*, That the person was convicted or failed to appear on or after January 1,
164 1993. If the original notification cannot be located, the Division of Motor Vehicles shall accept an
165 additional or duplicate notice from the municipal court clerk

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES.

§17B-3-3a. Suspending license for failure to pay fines or penalties imposed by magistrate court or municipal respond or appear in court.

1 (a) The division shall suspend the license of any resident of this state or the privilege of a
2 nonresident to drive a motor vehicle in this state upon receiving notice from a magistrate court or
3 municipal court of this state, ~~pursuant to subsection (b), section two a, article three, chapter fifty~~
4 ~~of this code or subsection (b), section two a, article ten, chapter eight of this code, that such~~
5 ~~person has defaulted on the payment of costs, fines, forfeitures or penalties which were imposed~~
6 ~~on the person by the magistrate court or municipal court by judgment entered upon conviction of~~
7 ~~any motor vehicle violation or that such person has failed to respond or appear in court when~~
8 charged with a motor vehicle violation.

9 ~~(b) The magistrate court or municipal court shall notify the division upon a default of~~
10 ~~payment as follows:~~

11 ~~(1) For a resident of this state, after 180 days following the date of judgment upon the~~
12 ~~conviction; or~~

13 ~~(2) For a nonresident of this state, after eighty days following the date of judgment upon~~
14 ~~the conviction~~

15 ~~(e)(b)~~ For the purposes of this section, §50-3-2a of this code and §8-10-2a of this code,
16 "motor vehicle violation" shall be defined as any violation designated in chapters 17A, 17B, 17C,
17 17D, or 17E of this code or the violation of any municipal ordinance relating to the operation of a
18 motor vehicle for which the violation thereof would result in a fine or penalty: *Provided*, That any

19 parking violation or other violation for which a citation may be issued to an unattended vehicle
20 shall not be considered a motor vehicle violation for the purposes of this section, §50-3-2a of this
21 code, or §8-10-2a of this code.

**§17B-3-3c. Suspending license for failure to pay fines or penalties imposed as the result
of criminal conviction or for failure to appear in court.**

1 (a) The division shall suspend the license of any resident of this state or the privilege of a
2 nonresident to drive a motor vehicle in this state upon receiving notice from a circuit court,
3 magistrate court, or municipal court of this state, pursuant to ~~§50-3-2b~~ §8-10-2b or §62-4-17 of
4 this code, that the person has ~~defaulted on the payment of costs, fines, forfeitures, penalties, or~~
5 ~~restitution imposed on the person by the circuit court, magistrate court, or municipal court upon~~
6 ~~conviction for any criminal offense by the date the court had required the person to pay the same,~~
7 ~~or that the person has failed to appear in court when charged with an criminal offense.~~ For the
8 purposes of this section, ~~§50-3-2b~~ §8-10-2b or §62-4-17 of this code, “criminal offense” shall be
9 defined as any violation of the provisions of this code, or the violation of any municipal ordinance,
10 for which the violation of the offense may result in a fine, confinement in jail, or imprisonment in a
11 correctional facility of this state: *Provided*, That any parking violation or other violation for which
12 a citation may be issued to an unattended vehicle shall not be considered a criminal offense for
13 the purposes of this section, §8-10-2b ~~§50-3-2b~~ or §62-4-17 of this code.

14 (b) A copy of the order of suspension shall be forwarded to the person by certified mail,
15 return receipt requested. No order of suspension becomes effective until 10 days after receipt of
16 a copy of the order. The order of suspension shall advise the person that because of the receipt
17 of notice of the failure to pay costs, fines, forfeitures, or penalties, or the failure to appear, a
18 presumption exists that the person named in the order of suspension is the same person named
19 in the notice. The commissioner may grant an administrative hearing which substantially complies
20 with the requirements of the provisions §17C-5A-2 of this code upon a preliminary showing that
21 a possibility exists that the person named in the notice of conviction is not the same person whose

22 license is being suspended. The request for hearing shall be made within 10 days after receipt of
23 a copy of the order of suspension. The sole purpose of this hearing shall be for the person
24 requesting the hearing to present evidence that he or she is not the person named in the notice.
25 In the event the commissioner grants an administrative hearing, the commissioner shall stay the
26 license suspension pending the commissioner's order resulting from the hearing.

27 (c) A suspension under this section and §17B-3-3a of this code will continue until the
28 person provides proof of compliance from the municipal, magistrate, or circuit court and pays the
29 reinstatement fee as provided in §17B-3-9 of this code. The reinstatement fee is assessed upon
30 issuance of the order of suspension regardless of the effective date of suspension.

31 (d) Upon notice from an appropriate state official that the person is successfully
32 participating in an approved treatment and job program as prescribed in §61-11-26a of this code
33 and that the person is believed to be safe to drive, the Division of Motor Vehicles shall stay or
34 supersede the imposition of any suspension under this section or §17B-3-3a of this code. The
35 Division of Motor Vehicles shall waive the reinstatement fee established by the provisions §17B-
36 3-9 upon receipt of proper documentation of the person's successful completion of a program
37 under §61-11-26a of this code and proof of compliance from the municipal, magistrate, or circuit
38 court. The stay or supersedeas shall be removed by the Division of Motor Vehicles upon receipt
39 of notice from an appropriate state official of a participant's failure to complete or comply with the
40 approved treatment and job program as established under §61-11-26a of this code.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 3. COSTS, FINES AND RECORDS.

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

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 or
5 penalty.

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

10 (1) A one-time \$25 administrative processing fee shall be paid at the time the payment
11 form is turned in or may be paid in no more than 5 equal monthly payments;

12 (2) A person must enroll in a payment plan no later than 180 calendar days after the date
13 the court enters the order assessing the costs, fines, forfeitures, or penalties; and

14 (3) If the person is incarcerated, he or she shall apply to the clerk for enrollment in a
15 payment plan within 180 calendar days after release.

16 (c) The West Virginia Supreme Court of Appeals shall generate a uniform payment plan
17 form and a uniform affidavit showing his or her inability to pay for use by individuals seeking to
18 establish a payment plan. Each clerk shall use the uniform payment plan form and uniform
19 affidavit form when establishing payment plans.

20 ~~(b)(d)(1) Unless otherwise required by law, a magistrate court may collect a portion of any~~
21 ~~costs, fines, fees, forfeitures, restitution or penalties at the time the amount is imposed by the~~
22 ~~court so long as the court requires the balance to be paid in accordance with a The payment plan~~
23 ~~shall specify: which specifies: (A) The number of payments to be made; (B) the dates on which~~
24 ~~the payments are due; and (C) the amounts due for each payment; (D) all acceptable payment~~
25 ~~methods; and (E) the circumstances under which the person may receive a late fee, have a~~
26 ~~judgement lien recorded against them, or have the debt sent to collections for nonpayment.~~

27 (2) The monthly payment under the payment plan shall be calculated based upon all costs,
28 finances, forfeitures, or penalties owed within the court, and shall be two percent of the person's
29 annual net income divided by 12 or \$10, whichever is greater.

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, or
32 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. The written agreement
34 represents the minimum payments and the last date those payments may be made. The obligor
35 or the obligor's agent may accelerate the payment schedule at any time by paying any additional
36 portion of any costs, fines, fees, forfeitures, restitution or penalties.

37 (e)(1) The clerk may assess a \$10 late fee each month if a person fails to comply with the
38 terms of a payment plan and if any payment due is not received within 30 days after the due date,
39 and the person: (1) Is not incarcerated; (2) has not brought the account current; (3) has not made
40 alternative payment arrangements with the court; or (4) has not entered into a revised payment
41 plan with the clerk before the due date.

42 (2) If after 90 days, a payment has not been received, the clerk may record a judgement
43 lien as described in subsection (g) of this section or transmit notice to a private collection agency
44 or private attorney authorized under §14-1-18c of this code or to an internal collection division to
45 collect any delinquent costs, fines, forfeitures or penalties, or both: *Provided*, That the entire
46 amount of all delinquent payments collected shall be remitted to the court and shall not be reduced
47 by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25
48 percent of the delinquent payment amount. The clerk may send notices, electronically, or by mail,
49 to remind an individual of an upcoming or missed payment.

50 (f)(1) If a person does not enroll in a payment plan and does not pay their costs, fines,
51 forfeitures, or penalties imposed within 180 days from the date of judgement, the clerk may assess
52 a \$10 late fee. The clerk shall notify the person that he or she is 180 days past due, has not

53 enrolled in a payment plan, has received a \$10 late fee, and may have a judgment lien recorded
54 against him or her and have his or her debt sent to collections if not resolved within 30 days.

55 (2) If after an additional 30 days, a payment has not been received, the clerk may record
56 a judgement lien as described in subsection (g) of this section or transmit notice to a private
57 collection agency or private attorney authorized under §14-1-18c of this code or to an internal
58 collection division to collect any delinquent costs, fines, forfeitures or penalties, or both: *Provided,*
59 That the entire amount of all delinquent payments collected shall be remitted to the court and
60 shall not be reduced by any collection costs or fees: *Provided, however,* That the collection fee
61 may not exceed 25 percent of the delinquent payment amount.

62 (g) To record a judgement lien, the clerk shall~~If costs, fines, forfeitures or penalties~~
63 ~~imposed by the municipal court upon conviction of a person for a criminal offense as defined in~~
64 ~~§17B-3-3c of this code are not paid in full within 180 days of the judgment, the municipal court~~
65 ~~clerk or, upon a judgment rendered on appeal, the circuit clerk shall~~ notify the prosecuting attorney
66 of the county of nonpayment and shall provide the prosecuting attorney with an abstract of
67 judgment. The prosecuting attorney shall file the abstract of judgment in the office of the clerk of
68 the county commission in the county where the defendant was convicted and in any county
69 wherein the defendant resides or owns property. The clerks of the county commissions shall
70 record and index these abstracts of judgment without charge or fee to the prosecuting attorney
71 and when so recorded, the amount stated to be owed in the abstract shall constitute a lien against
72 all property of the defendant: *Provided,* That when all the costs, fines, fees, forfeitures, restitution,
73 or penalties for which an abstract of judgment has been recorded are paid in full, the clerk of the
74 municipal court shall notify the prosecuting attorney of the county of payment and provide the
75 prosecuting attorney with a release of judgment, prepared in accordance with the provisions of
76 §38-12-1 of this code, for filing and recordation pursuant to the provisions of this subdivision.
77 Upon receipt from the clerk, the prosecuting attorney shall file the release of judgment in the office
78 of the clerk of the county commission in each county where an abstract of the judgment was

79 recorded. The clerks of the county commissions shall record and index the release of judgment
80 without charge or fee to the prosecuting attorney.

81 (h) A person whose driver's license was suspended before July 1, 2020, pursuant to this
82 section solely for the nonpayment of costs, fines, forfeitures, or penalties, if otherwise eligible,
83 may apply to have his or her license reinstated: (1) Upon payment in full of all outstanding costs,
84 fines, forfeitures, or penalties and a reduced one-time \$25 reinstatement fee paid to the Division
85 of Motor Vehicles; or (2) upon enrolling in a payment plan, as described in this section, with the
86 clerk and paying the \$25 one-time administrative fee. Upon entering into a payment plan, the clerk
87 shall provide a verification of enrollment to the Division of Motor Vehicles and to the person for
88 submission to the Division of Motor Vehicles and the Division shall waive the reinstatement fee.

89 ~~(c)(1) If any costs, fines, fees, forfeitures, restitution or penalties imposed by the in a~~
90 ~~criminal case are not paid within one hundred eighty days from the date of judgment and the~~
91 ~~expiration of any stay of execution, the magistrate court clerk or, upon judgment rendered on~~
92 ~~appeal, the circuit clerk shall notify the Commissioner of the Division of Motor Vehicles of the~~
93 ~~failure to pay: *Provided*, That in a criminal case in which a nonresident of this state is convicted~~
94 ~~of a motor vehicle violation defined in section three a, article three, chapter seventeen b of this~~
95 ~~code, the appropriate clerk shall notify the Division of Motor Vehicles of the failure to pay within~~
96 ~~eighty days from the date of judgment and expiration of any stay of execution. Upon notice, the~~
97 ~~Division of Motor Vehicles shall suspend any privilege the person defaulting on payment may~~
98 ~~have to operate a motor vehicle in this state, including any driver's license issued to the person~~
99 ~~by the Division of Motor Vehicles, until all costs, fines, fees, forfeitures, restitution or penalties are~~
100 ~~paid in full. The suspension shall be imposed in accordance with the provisions of section six,~~
101 ~~article three, chapter seventeen b of this code: *Provided*, That any person who has had his or her~~
102 ~~license to operate a motor vehicle in this state suspended pursuant to this subsection and his or~~
103 ~~her failure to pay is based upon inability to pay, may, if he or she is employed on a full or part-~~
104 ~~time basis, petition to the circuit court for an order authorizing him or her to operate a motor vehicle~~

105 ~~solely for employment purposes. Upon a showing satisfactory to the court of inability to pay,~~
106 ~~employment and compliance with other applicable motor vehicle laws, the court shall issue an~~
107 ~~order granting relief~~

108 ~~(2)(i)(1)~~ In addition to the provisions of subdivision (1) of this subsection, If any costs, fines,
109 fees, forfeitures, restitution, or penalties imposed or ordered by the magistrate court for a hunting
110 violation described in chapter 20 of this code are not paid within 180 days from the date of
111 judgment and the expiration of any stay of execution, the magistrate court clerk or, upon a
112 judgment rendered on appeal, the circuit clerk shall notify the Director of the Division of Natural
113 Resources of the failure to pay. Upon notice, the Director of the Division of Natural Resources
114 shall suspend any privilege the person failing to appear or otherwise respond may have to hunt
115 in this state, including any hunting license issued to the person by the Division of Natural
116 Resources, until all the costs, fines, fees, forfeitures, restitution, or penalties are paid in full.

117 ~~(3)(2)~~ In addition to the provisions of subdivision (1) of this subsection, If any costs, fines,
118 fees, forfeitures, restitution or penalties imposed or ordered by the magistrate court for a fishing
119 violation described in chapter 20 of this code are not paid within 180 days from the date of
120 judgment and the expiration of any stay of execution, the magistrate court clerk or, upon a
121 judgment rendered on appeal, the circuit clerk shall notify the Director of the Division of Natural
122 Resources of the failure to pay. Upon notice, the Director of the Division of Natural Resources
123 shall suspend any privilege the person failing to appear or otherwise respond may have to fish in
124 this state, including any fishing license issued to the person by the Division of Natural Resources,
125 until all the costs, fines, fees, forfeitures, restitution, or penalties are paid in full.

126 ~~(4)(j)(1)~~ If a person charged with any criminal violation of this code fails to appear or
127 otherwise respond in court, the magistrate court shall notify the Commissioner of the Division of
128 Motor Vehicles thereof within 90 days of the scheduled date to appear unless the person sooner
129 appears or otherwise responds in court to the satisfaction of the magistrate. Upon notice, the
130 Division of Motor Vehicles shall suspend any privilege the person failing to appear or otherwise

131 respond may have to operate a motor vehicle in this state, including any driver's license issued
132 to the person by the Division of Motor Vehicles, until final judgment in the case and, if a judgment
133 of guilty, until all costs, fines, fees, forfeitures, restitution, or penalties imposed are paid in full.
134 The suspension shall be imposed in accordance with the provisions of §17B-3-6 of this code.

135 (2) In addition to the provisions of subdivision (1) of this subsection, if a person charged
136 with any hunting 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 hunt in this state, including any hunting license issued to the
142 person by the Division of Natural Resources, until final judgment in the case and, if a judgment of
143 guilty, until all costs, fines, fees, forfeitures, restitution, or penalties imposed are paid in full.

144 (3) In addition to the provisions of subdivision (1) of this subsection, if a person charged
145 with any fishing violation described in chapter 20 of this code fails to appear or otherwise respond
146 in court, the magistrate court shall notify the Director of the Division of Natural Resources of the
147 failure thereof within 15 days of the scheduled date to appear unless the person sooner appears
148 or otherwise responds in court to the satisfaction of the magistrate. Upon notice, the Director of
149 the Division of Natural Resources shall suspend any privilege the person failing to appear or
150 otherwise respond may have to fish in this state, including any fishing license issued to the person
151 by the Division of Natural Resources, until final judgment in the case and, if a judgment of guilty,
152 until all costs, fines, fees, forfeitures, restitution, or penalties imposed are paid in full.

153 ~~(e)~~(k) In every criminal case which involves a misdemeanor violation, a magistrate may
154 order restitution where appropriate when rendering judgment.

155 ~~(f)(1) If all costs, fines, fees, forfeitures, restitution or penalties imposed by a magistrate~~
156 ~~court and ordered to be paid are not paid within 180 days from the date of judgment and the~~

157 ~~expiration of any stay of execution, the clerk of the magistrate court shall notify the prosecuting~~
158 ~~attorney of the county of nonpayment and provide the prosecuting attorney with an abstract of~~
159 ~~judgment. The prosecuting attorney shall file the abstract of judgment in the office of the clerk of~~
160 ~~the county commission in the county where the defendant was convicted and in any county~~
161 ~~wherein the defendant resides or owns property. The clerks of the county commissions shall~~
162 ~~record and index the abstracts of judgment without charge or fee to the prosecuting attorney and~~
163 ~~when so recorded, the amount stated to be owing in the abstract shall constitute a lien against all~~
164 ~~property of the defendant.~~

165 ~~(2) When all the costs, fines, fees, forfeitures, restitution or penalties described in~~
166 ~~subdivision (1) of this subsection for which an abstract of judgment has been recorded are paid~~
167 ~~in full, the clerk of the magistrate court shall notify the prosecuting attorney of the county of~~
168 ~~payment and provide the prosecuting attorney with a release of judgment, prepared in accordance~~
169 ~~with the provisions of §38-12-1 of this code, for filing and recordation pursuant to the provisions~~
170 ~~of this subdivision. Upon receipt from the clerk, the prosecuting attorney shall file the release of~~
171 ~~judgment in the office of the clerk of the county commission in each county where an abstract of~~
172 ~~the judgment was recorded. The clerks of the county commissions shall record and index the~~
173 ~~release of judgment without charge or fee to the prosecuting attorney.~~

174 ~~(g)(l)~~ Notwithstanding any provision of this code to the contrary, except as authorized by
175 this section, payments of all costs, fines, fees, forfeitures, restitution, or penalties imposed by the
176 magistrate court in civil or criminal matters shall be made in full. Partial payments of costs, fines,
177 fees, forfeitures, restitution, or penalties made pursuant to this section shall be credited to
178 amounts due in the following order:

- 179 (1) Regional Jail Fund;
- 180 (2) Worthless Check Payee;
- 181 (3) Restitution;
- 182 (4) Magistrate Court Fund;

- 183 (5) Worthless Check Fund;
- 184 (6) Per Diem Regional Jail Fee;
- 185 (7) Community Corrections Fund;
- 186 (8) Regional Jail Operational Fund;
- 187 (9) Law Enforcement Training Fund;
- 188 (10) Crime Victims Compensation Fund;
- 189 (11) Court Security Fund;
- 190 (12) Courthouse Improvement Fund;
- 191 (13) Litter Control Fund;
- 192 (14) Sheriff arrest fee;
- 193 (15) Teen Court Fund;
- 194 (16) Other costs, if any;
- 195 (17) Fine.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 4. RECOVERY OF FINES IN CRIMINAL CASES.

§62-4-17. Suspension of licenses for failure to pay ~~fin~~es and costs or failure to appear in court; payment plan; failure to pay fines will result in late fee and judgment lien.

1 (a)~~(1)~~ If costs, fines, forfeitures, penalties or restitution imposed by the circuit court upon
2 conviction of a person for any criminal offense under this code are not paid in full when ordered
3 to do so by the court, the circuit clerk shall notify the Division of Motor Vehicles of such failure to
4 pay: *Provided*, That at the time the judgment is imposed, the court shall provide the person with
5 written notice that failure to pay the same when ordered to do so shall result in the suspension of
6 such person's license or privilege to operate a motor vehicle in this state and that such suspension
7 could result in the cancellation of, the failure to renew or the failure to issue an automobile
8 insurance policy providing coverage for such person or such person's family: *Provided, however,*

9 ~~That the failure of the court to provide such notice shall not affect the validity of any suspension~~
10 ~~of such person's license or privilege to operate a motor vehicle in this state. For purposes of this~~
11 ~~section, such period of time within which the person is required to pay shall be stayed during any~~
12 ~~period an appeal from the conviction which resulted in the imposition of such costs, fines,~~
13 ~~forfeitures or penalties is pending.~~

14 ~~Upon such notice, the Division of Motor Vehicles shall suspend the person's driver's~~
15 ~~license or privilege to operate a motor vehicle in this state until such time that the costs, fines,~~
16 ~~forfeitures or penalties are paid.~~

17 If the following requirements are met, the circuit clerk shall set up a payment plan for
18 anyone owing costs, fines, forfeitures, penalties, or restitution imposed by the circuit court for any
19 criminal offense under this code, so long as, the person signs and files with the clerk, an affidavit,
20 stating that he or she is financially unable to pay the costs, fines, forfeitures, or penalties imposed:

21 (1) A one-time \$25 administrative processing fee shall be paid at the time the payment
22 form is turned in or may be paid in no more than 5 equal monthly payments;

23 (2) A person must enroll in a payment plan no later than 180 calendar days after the date
24 the court enters the order assessing the costs, fines, forfeitures, or penalties; and

25 (3) If the person is incarcerated, he or she shall apply to the clerk for enrollment in a
26 payment plan within 180 calendar days after release.

27 (b) The West Virginia Supreme Court of Appeals shall generate a uniform payment plan
28 form and a uniform affidavit showing his or her inability to pay for use by individuals seeking to
29 establish a payment plan. Each clerk shall use the uniform payment plan form and uniform
30 affidavit form when establishing payment plans. ~~(b) Notwithstanding the provisions of this section~~

31 ~~to the contrary, the notice of the failure to pay such costs, fines, forfeitures or penalties shall not~~
32 ~~be given where the circuit court, upon application of the person upon whom the same were~~
33 ~~imposed filed prior to the expiration of the period within which the same are required to be paid,~~
34 ~~enters an order finding that such person is financially unable to pay all or a portion of the same:~~

35 ~~Provided, That where the circuit court, upon finding that the person is financially unable to pay~~
36 ~~the full amount thereof, requires the person to pay the remaining portion thereof, the circuit clerk~~
37 ~~shall notify the Division of Motor Vehicles of such person's failure to pay the same if the same is~~
38 ~~not paid within the period of time ordered by such court~~

39 (2)(c)(1) The payment plan shall specify: (A) The number of additional payments to be
40 made; (B) the dates on which such payments are due; (C) the amounts due for each payment on
41 such dates; (D) all acceptable payment methods; and (E) the circumstances under which the
42 person may receive a late fee, have a judgement lien recorded against them, or have the sent to
43 collections for nonpayment.

44 (2) The monthly payment under the payment plan shall be calculated based upon all costs,
45 finances, forfeitures or penalties owed within the court, and shall be two percent of the person's
46 annual net income divided by 12 or \$10, whichever is greater.

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

51 (d)(1) The clerk may assess a \$10 late fee each month if a person fails to comply with the
52 terms of a payment plan and if any payment due is not received within 30 days after the due date,
53 and the person: (1) Is not incarcerated; (2) has not brought the account current; (3) has not made
54 alternative payment arrangements with the court; or (4) has not entered into a revised payment
55 plan with the clerk before the due date.

56 (2) If after 90 days, a payment has not been received, the clerk may record a judgement
57 lien as described in subsection (f) of this section or transmit notice to a private collection agency
58 or private attorney authorized under §14-1-18c of this code or to an internal collection division to
59 collect any delinquent costs, fines, forfeitures or penalties, or both: *Provided, That the entire*
60 amount of all delinquent payments collected shall be remitted to the court and shall not be reduced
61 by any collection costs or fees: *Provided, however, That the collection fee may not exceed 25*

62 percent of the delinquent payment amount. The clerk may send notices, electronically or by mail,
63 to remind an individual of an upcoming or missed payment.

64 (e)(1) If a person does not enroll in a payment plan and does not pay their costs, fines,
65 forfeitures, or penalties imposed within 180 days from the date of judgement, the clerk may assess
66 a \$10 late fee. The clerk shall notify the person that he or she is 180 days past due, has not
67 enrolled in a payment plan, has received a \$10 late fee, and may have a judgment lien recorded
68 against him or her and have his or her debt sent to collections if not resolved within 30 days.

69 (2) If after an additional 30 days, a payment has not been received, the clerk may record
70 a judgement lien as described in subsection (f) of this section or transmit notice to a private
71 collection agency or private attorney authorized under §14-1-18c of this code or to an internal
72 collection division to collect any delinquent costs, fines, forfeitures, or penalties, or both: *Provided,*
73 That the entire amount of all delinquent payments collected shall be remitted to the court and
74 shall not be reduced by any collection costs or fees: *Provided, however,* That the collection fee
75 may not exceed 25 percent of the delinquent payment amount.

76 (f) To record a judgement lien, the clerk shall ~~If costs, fines, forfeitures or penalties~~
77 ~~imposed by the municipal court upon conviction of a person for a criminal offense as defined in~~
78 ~~§17B-3-3c of this code are not paid in full within 180 days of the judgment, the municipal court~~
79 ~~clerk or, upon a judgment rendered on appeal, the circuit clerk shall~~ notify the prosecuting attorney
80 of the county of nonpayment and shall provide the prosecuting attorney with an abstract of
81 judgment. The prosecuting attorney shall file the abstract of judgment in the office of the clerk of
82 the county commission in the county where the defendant was convicted and in any county
83 wherein the defendant resides or owns property. The clerks of the county commissions shall
84 record and index these abstracts of judgment without charge or fee to the prosecuting attorney
85 and when so recorded, the amount stated to be owed in the abstract shall constitute a lien against
86 all property of the defendant: *Provided,* That when all the costs, fines, fees, forfeitures, restitution,
87 or penalties for which an abstract of judgment has been recorded are paid in full, the clerk of the
88 municipal court shall notify the prosecuting attorney of the county of payment and provide the

89 prosecuting attorney with a release of judgment, prepared in accordance with the provisions of
90 §38-12-1 of this code, for filing and recordation pursuant to the provisions of this subdivision.
91 Upon receipt from the clerk, the prosecuting attorney shall file the release of judgment in the office
92 of the clerk of the county commission in each county where an abstract of the judgment was
93 recorded. The clerks of the county commissions shall record and index the release of judgment
94 without charge or fee to the prosecuting attorney.

95 (g) A person whose driver's license was suspended before July 1, 2020, pursuant to this
96 section solely for the nonpayment of costs, fines, forfeitures, or penalties, if otherwise eligible,
97 may apply to have his or her license reinstated: (1) Upon payment in full of all outstanding costs,
98 fines, forfeitures or penalties and a reduced one-time \$25 reinstatement fee paid to the Division
99 of Motor Vehicles; or (2) upon enrolling in a payment plan, as described in this section, with the
100 clerk and paying the \$25 one-time administrative fee. Upon entering into a payment plan, the clerk
101 shall provide a verification of enrollment to the Division of Motor Vehicles and to the person for
102 submission to the Division of Motor Vehicles and the Division shall waive the reinstatement fee.

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

NOTE: The purpose of this bill is to eliminate the ability of a person's driver's license to be suspended for the failure to pay court fines and costs. The bill requires clerks to set up a payment plan for individuals unable to pay. The bill authorizes the clerks to assess late fees, record judgement liens, and use collection agencies or private attorneys to collect a delinquent debt. This bill shall be effective from July 1, 2020.

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