

FILED

2004 APR -5 A 11:49

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004

ENROLLED

House Bill No. 4634

(By Delegates Cann, Ennis, Swartzmiller, Stalnaker,
Stemple, Craig and Kominar)

Passed March 13, 2004

In Effect Ninety Days from Passage

FILED

2004 APR -5 A 11:49

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

H. B. 4634

(BY DELEGATES CANN, ENNIS, SWARTZMILLER, STALNAKER,
STEMPLE, CRAIG AND KOMINAR)

[Passed March 13, 2004; in effect ninety days from passage.]

AN ACT to amend the code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-8-14, relating to requiring persons incarcerated in county or regional jails who have been convicted of a misdemeanor to pay for the costs of up to thirty days of their incarceration; requiring determination of ability to pay; and allowing for modification of assessment based upon need.

Be it enacted by the Legislature of West Virginia:

That the code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §7-8-14, to read as follows:

ARTICLE 8. JAIL AND JAILER.

§7-8-14. Reimbursement for costs of incarceration.

- 1 (a) Notwithstanding any provision to the code to the
- 2 contrary and in addition to any fine, cost assessment or fee

3 authorized or required to be imposed upon a person by virtue of
4 his or her conviction of a criminal provision of this code, or a
5 lawfully enacted ordinance of a political subdivision of this
6 state, a person convicted and incarcerated in a regional jail by
7 virtue of said conviction may be assessed the costs of up to
8 thirty days of his or her incarceration.

9 (b) Prior to any person being required to pay the cost of his
10 or her incarceration pursuant to the provisions of subsection (a)
11 of this section, a hearing shall be held before the sentencing
12 court to determine his or her ability to pay. The court may not
13 sentence a defendant to pay his or her costs of incarceration
14 unless he or she is or in the foreseeable future will be able to
15 pay them. In determining the amount and method of payment
16 of costs, the court shall take account of the financial resources
17 of the defendant and the nature of the burden that payment of
18 costs will impose.

19 (c) A defendant who has been sentenced to pay costs and
20 who is not in willful default in the payment of the costs may at
21 any time petition the sentencing court for remission of the
22 payment of costs or of any unpaid portion of the costs. If it
23 appears to the satisfaction of the court that payment of the
24 amount due will impose manifest hardship on the defendant or
25 the defendant's family or dependents, the court may excuse
26 payment of all or part of the amount due in costs, or modify the
27 method of payment.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Carol Murr

Chairman Senate Committee

Greg Butcher

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Daniel G. Helms

Clerk of the Senate

Gregg M. Day

Clerk of the House of Delegates

Carl Roy Tomblin

President of the Senate

Robert K. Kiss

Speaker of the House of Delegates

The within is approved this the 5th
day of April, 2004.

Bob Wise

Governor

PRESENTED TO THE
GOVERNOR
DATE 3-31-04
TIME 10:30 AM