WEST virginia legislature

2021 regular session

Introduced

Senate Bill 663

By Senator Swope

[Introduced March 18, 2021; referred  
to the Committee on the Judiciary; and then to the Committee on Finance]

A BILL to amend and reenact §50-3-2 of the Code of West Virginia, 1931, as amended, relating to providing for a fee for the processing of criminal bonds.

Be it enacted by the Legislature of West Virginia:

Article 3. Magistrate Courts.

§50-3-2. Costs in criminal proceedings.

(a) In each criminal case before a magistrate court in which the defendant is convicted, whether by plea or at trial, there is imposed, in addition to other costs, fines, forfeitures or penalties as may be allowed by law: (1) Costs in the amount of $60, of which $5 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code; (2) an amount equal to the one-day per diem provided for in §15A-3-16(g) of this code; and (3) costs in the amount of $30 to be deposited in the Regional Jail Operations Partial Reimbursement Fund created by §15A-3-16 of this code. A magistrate may not collect costs in advance. Notwithstanding any other provision of this code, a person liable for fines and court costs in a criminal proceeding in which the defendant is confined in a jail or prison and not participating in a work release program shall not be held liable for the fines and court costs until one hundred eighty days after completion of the term in jail or prison. A magistrate court shall deposit $5 from each of the criminal proceedings fees collected pursuant to this section in the Court Security Fund created in §51-3-14 of this code. A magistrate court shall, on or before the 10th day of the month following the month in which the fees imposed in this section were collected, remit an amount equal to the one-day per diem provided for in §15A-3-16(g) of this code from each of the criminal proceedings in which the fees specified in this section were collected to the magistrate court clerk, or if there is no magistrate court clerk to the clerk of the circuit, together with information as may be required by the rules of the Supreme Court of Appeals and the rules of the Office of Chief Inspector. These moneys are paid to the sheriff who shall distribute the moneys solely in accordance with the provisions of §7-5-15 of this code. Amendments made to this section during the 2001 regular session of the Legislature, are effective after June 30, 2001.

(b) A magistrate shall assess costs in the amount of $2.50 for issuing a sheep warrant and the appointment and swearing appraisers and docketing the proceedings.

(c) In each criminal case which must be tried by the circuit court but in which a magistrate renders some service, costs in the amount of $10 shall be imposed by the magistrate court and is certified to the clerk of the circuit court in accordance with the provisions of §62-5-6 of this code.

(d) The clerk of a magistrate court shall charge and collect a fee of $25 for services rendered by the clerk for processing of criminal bonds and the fee shall be paid at the time of issuance by the person or entity set forth below;

(1) For cash bonds, the fee shall be paid by the person tendering cash as bond;

(2) For recognizance bonds secured by real estate, the fee shall be paid by the owner of the real estate serving as surety;

(3) For recognizance bonds secured by a surety company, the fee shall be paid by the surety company;

(4) For 10 percent recognizance bonds with surety, the fee shall be paid by the person serving as surety; and

(5) For 10 percent recognizance bonds without surety, the fee shall be paid by the person tendering 10 percent of the bail amount.

In instances in which the total of the bond is posted by more than one bond instrument, the above fee shall be collected at the time of issuance of each bond instrument processed by the clerk and all fees collected pursuant to this subsection shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code. Nothing in this subsection authorizes the clerk to collect the above fee from any person for the processing of a personal recognizance bond.

(e) The clerk of a magistrate court shall charge and collect a fee of $10 for services rendered by the clerk for processing of bail piece and the fee shall be paid by the surety at the time of issuance. All fees collected pursuant to this subsection shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code.

NOTE: The purpose of this bill is to provide for a fee for the processing of criminal bonds.

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