

FILED

2003 MAR 27 P 4:43

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2003

ENROLLED

Committee Substitute for

SENATE BILL NO. *432*

(By Senator *Oliverio*)

PASSED *March 8, 2003*

In Effect *ninety days from* **Passage**

FILED

2003 MAR 27 P 4: 43

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 432

(SENATOR OLIVERIO, *original sponsor*)

[Passed March 8, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact section two-a, article three, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to payment plans when collecting a portion of a magistrate court fine; and permitting an obligor to accelerate payment of a fine.

Be it enacted by the Legislature of West Virginia:

That section two-a, article three, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 3. COSTS, FINES AND RECORDS.

§50-3-2a. Payment by credit card or payment plan; suspension of licenses for failure to make payments or appear or respond; restitution; liens.

1 (a) A magistrate court may accept credit cards in pay-
2 ment of all costs, fines, fees, forfeitures, restitution or
3 penalties in accordance with rules promulgated by the
4 supreme court of appeals. Any charges made by the credit
5 company shall be paid by the person responsible for
6 paying the cost, fine, forfeiture or penalty.

7 (b) Unless otherwise required by law, a magistrate court
8 may collect a portion of any costs, fines, fees, forfeitures,
9 restitution or penalties at the time the amount is imposed
10 by the court so long as the court requires the balance to be
11 paid in accordance with a payment plan which specifies:
12 (1) The number of payments to be made; (2) the dates on
13 which the payments are due; and (3) the amounts due for
14 each payment. The written agreement represents the
15 minimum payments and the last date those payments may
16 be made. The obligor or the obligor's agent may accelerate
17 the payment schedule at any time by paying any addi-
18 tional portion of any costs, fines, fees, forfeitures, restitu-
19 tion or penalties.

20 (c) (1) If any costs, fines, fees, forfeitures, restitution or
21 penalties imposed by the magistrate court in a criminal
22 case are not paid within one hundred eighty days from the
23 date of judgment and the expiration of any stay of execu-
24 tion, the magistrate court clerk or, upon judgment ren-
25 dered on appeal, the circuit clerk shall notify the commis-
26 sioner of the division of motor vehicles of the failure to
27 pay. Upon notice, the division of motor vehicles shall
28 suspend any privilege the person defaulting on payment
29 may have to operate a motor vehicle in this state, includ-
30 ing any driver's license issued to the person by the division
31 of motor vehicles, until all costs, fines, fees, forfeitures,
32 restitution or penalties are paid in full. The suspension
33 shall be imposed in accordance with the provisions of
34 section six, article three, chapter seventeen-b of this code:
35 *Provided*, That any person who has had his or her license
36 to operate a motor vehicle in this statesuspendedpursuant
37 to this subsection and his or her failure to pay is based

38 upon inability to pay may, if he or she is employed on a
39 full or part-time basis, petition to the circuit court for an
40 order authorizing him or her to operate a motor vehicle
41 solely for employment purposes. Upon a showing satisfac-
42 tory to the court of inability to pay, employment and
43 compliance with other applicable motor vehicle laws, the
44 court shall issue an order granting relief.

45 (2) In addition to the provisions of subdivision (1) of this
46 subsection, if any costs, fines, fees, forfeitures, restitution
47 or penalties imposed or ordered by the magistrate court for
48 a hunting violation described in chapter twenty of this
49 code are not paid within one hundred eighty days from the
50 date of judgment and the expiration of any stay of execu-
51 tion, the magistrate court clerk or, upon a judgment
52 rendered on appeal, the circuit clerk shall notify the
53 director of the division of natural resources of the failure
54 to pay. Upon notice, the director of the division of natural
55 resources shall suspend any privilege the person failing to
56 appear or otherwise respond may have to hunt in this
57 state, including any hunting license issued to the person by
58 the division of natural resources, until all the costs, fines,
59 fees, forfeitures, restitution or penalties are paid in full.

60 (3) In addition to the provisions of subdivision (1) of this
61 subsection, if any costs, fines, fees, forfeitures, restitution
62 or penalties imposed or ordered by the magistrate court for
63 a fishing violation described in chapter twenty of this code
64 are not paid within one hundred eighty days from the date
65 of judgment and the expiration of any stay of execution,
66 the magistrate court clerk or, upon a judgment rendered
67 on appeal, the circuit clerk shall notify the director of the
68 division of natural resources of the failure to pay. Upon
69 notice, the director of the division of natural resources
70 shall suspend any privilege the person failing to appear or
71 otherwise respond may have to fish in this state, including
72 any fishing license issued to the person by the division of
73 natural resources, until all the costs, fines, fees, forfeitures,
74 restitution or penalties are paid in full.

75 (d) (1) If a person charged with any criminal violation of
76 this code fails to appear or otherwise respond in court, the
77 magistrate court shall notify the commissioner of the
78 division of motor vehicles thereof within fifteen days of
79 the scheduled date to appear unless the person sooner
80 appears or otherwise responds in court to the satisfaction
81 of the magistrate. Upon notice, the division of motor
82 vehicles shall suspend any privilege the person failing to
83 appear or otherwise respond may have to operate a motor
84 vehicle in this state, including any driver's license issued
85 to the person by the division of motor vehicles, until final
86 judgment in the case and, if a judgment of guilty, until all
87 costs, fines, fees, forfeitures, restitution or penalties
88 imposed are paid in full. The suspension shall be imposed
89 in accordance with the provisions of section six, article
90 three, chapter seventeen-b of this code.

91 (2) In addition to the provisions of subdivision (1) of this
92 subsection, if a person charged with any hunting violation
93 described in chapter twenty of this code fails to appear or
94 otherwise respond in court, the magistrate court shall
95 notify the director of the division of natural resources of
96 the failure thereof within fifteen days of the scheduled
97 date to appear unless the person sooner appears or other-
98 wise responds in court to the satisfaction of the magistrate.
99 Upon notice, the director of the division of natural re-
100 sources shall suspend any privilege the person failing to
101 appear or otherwise respond may have to hunt in this
102 state, including any hunting license issued to the person by
103 the division of natural resources, until final judgment in
104 the case and, if a judgment of guilty, until all costs, fines,
105 fees, forfeitures, restitution or penalties imposed are paid
106 in full.

107 (3) In addition to the provisions of subdivision (1) of this
108 subsection, if a person charged with any fishing violation
109 described in chapter twenty of this code fails to appear or
110 otherwise respond in court, the magistrate court shall
111 notify the director of the division of natural resources of

112 the failure thereof within fifteen days of the scheduled
113 date to appear unless the person sooner appears or other-
114 wise responds in court to the satisfaction of the magistrate.
115 Upon notice, the director of the division of natural re-
116 sources shall suspend any privilege the person failing to
117 appear or otherwise respond may have to fish in this state,
118 including any fishing license issued to the person by the
119 division of natural resources, until final judgment in the
120 case and, if a judgment of guilty, until all costs, fines, fees,
121 forfeitures, restitution or penalties imposed are paid in
122 full.

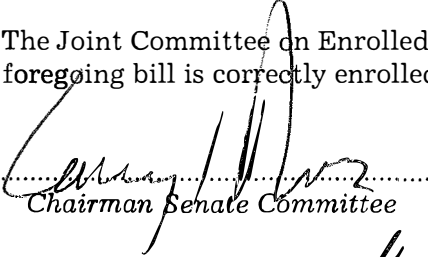
123 (e) In every criminal case which involves a misdemeanor
124 violation, a magistrate may order restitution where
125 appropriate when rendering judgment.

126 (f) (1) If all costs, fines, fees, forfeitures, restitution or
127 penalties imposed by a magistrate court and ordered to be
128 paid are not paid within one hundred eighty days from the
129 date of judgment and the expiration of any stay of execu-
130 tion, the clerk of the magistrate court shall notify the
131 prosecuting attorney of the county of nonpayment and
132 provide the prosecuting attorney with an abstract of
133 judgment. The prosecuting attorney shall file the abstract
134 of judgment in the office of the clerk of the county com-
135 mission in the county where the defendant was convicted
136 and in any county wherein the defendant resides or owns
137 property. The clerks of the county commissions shall
138 record and index the abstracts of judgment without charge
139 or fee to the prosecuting attorney and when so recorded,
140 the amount stated to be owing in the abstract shall
141 constitute a lien against all property of the defendant.

142 (2) When all the costs, fines, fees, forfeitures, restitution
143 or penalties described in subdivision (1) of this subsection
144 for which an abstract of judgment has been recorded are
145 paid in full, the clerk of the magistrate court shall notify
146 the prosecuting attorney of the county of payment and
147 provide the prosecuting attorney with a release of judg-
148 ment, prepared in accordance with the provisions of

149 section one, article twelve, chapter thirty-eight of this
150 code, for filing and recordation pursuant to the provisions
151 of this subdivision. Upon receipt from the clerk, the
152 prosecuting attorney shall file the release of judgment in
153 the office of the clerk of the county commission in each
154 county where an abstract of the judgment was recorded.
155 The clerks of the county commissions shall record and
156 index the release of judgment without charge or fee to the
157 prosecuting attorney.

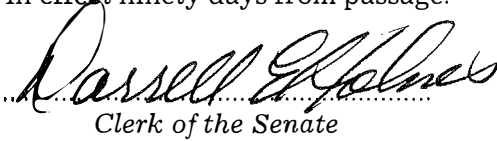
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee

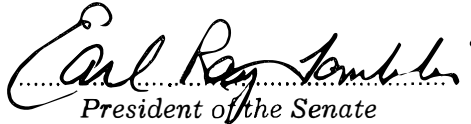

.....
Chairman House Committee


Originated in the Senate.

In effect ninety days from passage.

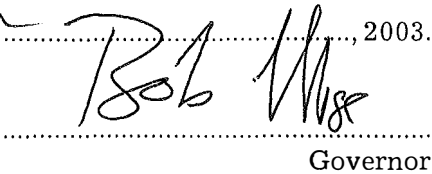

.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within is approved this the 27th
Day of March, 2003.


.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/20/03

Time 9:40 am