WEST VIRGINIA CODE: §61-3-39h

§61-3-39h. Payment of costs in worthless check cases; disposition of certain costs.

(a) In any prosecution under section thirty-nine or thirty-nine-a of this article, the costs that may otherwise be imposed against the drawer of any check, draft or order shall be imposed on the person initiating the prosecution if:

(1) Payment of the check, draft or order is accepted by the payee or holder thereof after the filing of a complaint for warrant and the charge is subsequently withdrawn or dismissed at the request of the complainant: Provided, That the provisions of this subdivision do not apply where a charge is dismissed and restitution is paid as a condition of a plea agreement. The defendant shall be assessed costs for the prosecution of each charge of which he or she stands convicted and the fee for court costs assessed pursuant to section thirty-nine-g of this article for each charge dismissed as a result of the plea agreement;

(2) The payee or holder had reason to believe that the check, draft or order would be dishonored;

(3) The check, draft or order was postdated; or

(4) The matter is dismissed for failure to prosecute.

(b) Costs collected by magistrate court for issuance of notice as authorized by section thirty-nine-g of this article may not be paid into the special county fund created by the provisions of section four, article three, chapter fifty of this code but shall be accounted for separately and retained by the county in a fund designated the Worthless Check Fund until the sheriff issues warrants in furtherance of the allowable expenses specifically provided for by this section. Such costs may not be included in any calculation of the amount of funds to be retained by the county under the provisions of section four, article three, chapter fifty of this code.

(c) A county may, after agreement with the court administrator's office of the Supreme Court of Appeals, appropriate and spend from the Worthless Check Fund herein established such sums as are necessary to pay or defray the expenses of providing a deputy sheriff to serve warrants for worthless check offenses and to pay or defray the expenses of providing additional deputy clerks in the office of the magistrate court clerk. After payment of these expenses, or after a determination that these services are not necessary, a county may appropriate and spend from the fund the sums necessary to defray:

(1) The expenses of providing bailiff and service of process services by the sheriff;

(2) The cost of acquiring or renting magistrate court offices and providing utilities and telephones and telephone service to such offices;

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(3) The cost of complying with section thirty-nine-i of this article; and

(4) The expenses of other services are provided to magistrate courts by the county.

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