

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1947



ENROLLED

HOUSE BILL No. 206

(By Mr. Speaker, Mr. Amos)



PASSED March 7 1947

In Effect ninety days from Passage



206

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House Bill No. 206

(By MR. SPEAKER, MR. AMOS, by request.)

[Passed March 7, 1947; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, two, eleven and twelve, article seventeen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to fees of justices and constables in civil and criminal cases.

Be it enacted by the Legislature of West Virginia:

That sections one, two, eleven and twelve, article seventeen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as last amended be amended and reenacted to read as follows:

Section 1. *Fees of Justice in Civil Cases.*—A justice of

2 the peace shall charge and shall collect in advance from
3 the party or parties requesting such services the follow-
4 lowing fees:

5 1. For entering suit and issuing summons not to
6 exceed two, docketing the case, indexing

7	and filing papers, receiving confession of	
8	judgment or rendering judgment by default	
9	and entering same together with satisfac-	
10	tion on docket, including the taxing of jus-	
11	tice's and constable's costs.....	\$3.00
12	2. For each summons in excess of two.....	.25
13	3. For each subpoena issued.....	.25
14	4. For swearing each witness, arbitrators or party..	.15
15	5. For appointing special constables at request of	
16	either party .....	.25
17	6 For trying case (defense interposed), and enter-	
18	ing judgment and satisfaction.....	1.50
19	7. For issuing order of attachment or suggestion	
20	order and necessary copies thereof, execut-	
21	ing affidavit and bond in addition to Item No.	
22	1	1.00
23	8. For each additional attachment to recover on	
24	original judgment, executing affidavit and	
25	bond, in addition to Item No. 1.....	1.00
26	9. For issuing second summons together with copies	
27	thereof for non residents as provided by sec-	

28	tion ten, article nine of this chapter.....	.75
29	10. For issuing order of arrest or order of commit-	
30	ment, civil order of arrest only.....	.50
31	11. For trial of judgment of any case of contempt....	1.50
32	12. For taking and certifying any affidavit in writ-	
33	ing, except to commence suit.....	.50
34	13. For every continuance .....	.50
35	14. For settling and allowing interrogatories.....	.50
36	15. For entering agreement for arbitration.....	.50
37	16. For summons of arbitrators .....	.30
38	17. For every bond filed in a case, appeal bond, stay	
39	of execution bond, forthcoming bond, in-	
40	demnity bond, bail bond, civil order of	
41	arrest, detinue bond, except bond in attach-	
42	ment case and docketing same	1.00
43	18. For ordering a jury, including the drawing for	
44	same .....	.50
45	19. For abstract of judgment for docketing in the of-	
46	fice of the clerk of the county court.....	.50
47	20. For issuing execution and entering return there-	
48	of on docket .....	.50

49	21. For entering stay of execution .....	.25
50	22. For trying right of property levied on or attached	1.50
51	23. For transcript from docket	1.00
52	24. For transmitting or delivering papers to the clerk	
53	of the circuit court in case of an appeal.....	.50
54	25. For taking and certifying acknowledgment of	
55	deed or other instrument of writing.....	.50
56	26. For taking depositions of witnesses if done in	
57	an hour or less	1.00
58	27. If not completed in an hour, for additional time	
59	at the rate, per hour, of	1.00
60	28. For appointing a guardian for the suit of an in-	
61	fant plaintiff or defendant .....	.50
62	29. For taking an inquest on a dead body, to be au-	
63	dited and paid from the treasury of the	
64	county	5.00
65	30. For each distress warrant issued, docketing the	
66	case and indexing and filing papers	1.00
67	31. For each suggestee execution issued, docketing	
68	and indexing same	1.50
69	32. For each renewal of suggestee execution issued	

70	docketing and indexing same	1.50
71	33. For issuing each temporary release, modifying	
72	order of permanent release .....	.50
73	34. Order of appraisement, appointing appraisers,	
74	swearing of the same and docketing same,	
75	to be paid by plaintiff.....	1.00
76	35. <i>Provided, however,</i> That in an action brought be-	
77	fore a justice to recover a sum of money	
78	where an attachment, garnishment, sugges-	
79	tion order or suggestee execution is issued	
80	against the wages of a defendant and the	
81	claim is not contested, the maximum total	
82	fee covering all costs to be charged by the	
83	justice in each case shall not exceed \$5.00,	
84	and if the claim is contested, the maximum-	
85	total fee covering all costs to be charged by	
86	the justice shall not exceed	6.50

Sec. 2. *Fees of Constables in Civil Cases.*—Every con-

2 stable shall charge and collect in advance from the party
 3 or parties requesting such services the following fees in
 4 civil cases:

5	1. For service and return of summons to commence	
6	a suit \$1.50, and for every additional sum-	
7	mons in same suit.....	.75
8	2. For servicing and returning order of attachment,	
9	for each garnishee summoned.....	1.00
10	3. For taking property under order of attachment,	
11	including inventory and appraisement, be-	
12	sides the reasonable expenses of removing,	
13	securing and keeping the property attached..	2.50
14	4. For subpoenas, for each person served therewith	.50
15	5. For summoning and returning a jury.....	1.50
16	6. For levying an execution on personal property	
17	and return	2.00
18	7. For posting notices of sale (3) for suggestee exe-	
19	cution, suggestion order, attachment, dis-	
20	tress warrant, each .....	.40
21	8. For money collected and paid to justice, con-	
22	stable or plaintiff, after levy, under execu-	
23	tion, suggestee execution, suggestion order,	
24	distress warrant or attachment, sale or no	
25	sale	5%

26	9. For executing a writ of possession under section	
27	ten, article one of this chapter.....	4.00
28	10. For summoning the jury and witnesses for in-	
29	quest on a dead body, to be audited and paid	
30	from the treasury of the county.....	3.00
31	11. <i>Provided, however,</i> That in an action brought be-	
32	fore a justice to recover a sum of money	
33	where an attachment, garnishment or sug-	
34	gestion order is issued against the wages of	
35	a defendant, the minimum fee to be charged	
36	by the constable in such case shall be two	
37	dollars and fifty cents.....	2.50
38	12. Second summons in attachment, each.....	1.00
39	13. Extra time necessary in taking and removing	
40	property under attachment order, and evic-	
41	tion execution, distress warrant or writ of	
42	detinue	1.00
43	14. For delivering a temporary or permanent re-	
44	lease .....	.50

Sec. 11. *Fees of Justices in Criminal Cases.*—

- 2 1. Every justice shall be entitled to a fee of three

3 dollars in each criminal case and proceed-
4 ing before him which fee shall constitute his
5 compensation for all official services per-
6 formed by him in connection with any single
7 case, including affidavit for warrant, search
8 and seizure warrant, warrant of arrest, trial
9 examination, issuing subpoenas and copies
10 thereof, warrants summoning and swear-
11 ing a jury when required, swearing and
12 certifying attendance of witnesses, entering
13 judgment and taxing costs and all other acts
14 in connection herewith. Except, that he shall
15 be allowed an additional fee of fifty cents
16 for making and certifying a transcript of
17 his docket in any particular case and trans-
18 mitting the same to the clerk of the circuit
19 court, the state road commission, or any
20 other office to which he may be by law re-
21 quired to certify such transcript. And no
22 other fees shall be taxed or charged by any
23 justice in such cases and proceedings: *Pro-*

24 *vided, however,* That under the provisions of
 25 this section the justice shall be entitled to
 26 such fees theretofore earned, as were earned
 27 and the prosecuting attorneys, and county
 28 courts may approve and pay such accrued
 29 costs in the same manner as was provided by
 30 the code of West Virginia, one thousand nine
 31 hundred thirty-one, prior to the enactment
 32 of chapters thirty-one and thirty-two, acts of
 33 Legislature, regular session, one thousand
 34 nine hundred thirty-five.

- 35 2. For issuing sheep warrant, appointing and swear-
 36 ing appraisers and docketing same 1.00
 37 3. Bond or recognizance 2.00

Sec. 12. *Fees of Constables in Criminal Cases.*—Every

2 constable shall be entitled to the following fees in crim-
 3 inal cases:

- 4 1. For an arrest in case of felony 1.50
 5 2. For an arrest in cases other than felony 1.00
 6 3. For serving a subpoena50
 7 4. For executing a search warrant 2.50

- 8 5. For summoning a jury in criminal action 1.50
- 9 6. Witness fee constable50
- 10 7. In addition to above fees, constables shall be al-
- 11 lowed five cents for each mile of necessary
- 12 travel in the performance of their duties,
- 13 and ten cents per mile for transporting
- 14 prisoners.
- 15 8. In cases of search warrants and proceedings un-
- 16 der article one, chapter sixty-two of this
- 17 code, the fees of the constable shall be
- 18 chargeable to the county, and shall be audit-
- 19 ed and paid as other claims of like nature by
- 20 the county court.
- 21 9. In criminal cases, other than felony, such fees
- 22 shall be charged and paid as provided in sec-
- 23 tion fifteen, article five, chapter seven of this
- 24 code, and section eight, article eighteen of
- 25 this chapter.

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

Forest L. McNear
Chairman Senate Committee

R. L. Matthews
Chairman House Committee

Originated in the House of Delegates

Takes effect ninety days from passage.

Howard Meyer
Clerk of the Senate

Salupp
Clerk of the House of Delegates

Arnold M. Vickers
President of the Senate

John E. Amos
Speaker House of Delegates

The within Approved this the 13
day of May, 1947.

Robert M. Madsen
Governor.



Filed in the Office of the Secretary of State
of West Virginia
MAR 13 1947
WILLIAM S. CERRILL,
SECRETARY OF STATE