

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961

26 131
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ENROLLED

HOUSE BILL No. 131

(By Mr. *Comm. Sub. for*)

—●—
PASSED *March 7th,* 1961

In Effect *July 1st, 1961*

Passage

Filed in Office of the Secretary of State
of West Virginia MAR 16 1961

JOE F. BURDETT
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE FOR

House Bill No. 131

(Originating in the Committee on the Judiciary.)

[Passed March 7, 1961; in effect July 1, 1961.]

AN ACT to amend and reenact sections one, two and five, article seventeen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article seventeen by adding thereto a new section, designated section twelve-a, all relating to fees of justices of the peace and constables.

Be it enacted by the Legislature of West Virginia:

That sections one, two and five, article seventeen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said article seventeen be further amended by adding thereto a new section, designated section twelve-a, all to read as follows:

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

2 the peace shall charge and shall collect in advance from
3 the party or parties requesting such service the following
4 fees:

5 (1) For entering and trying any civil suit and
6 the issuance of all papers including distress warrant
7 and attachment orders and the performance of all
8 other services in connection with any such civil
9 suit whether the suit be contested or uncontested
10 and whether or not the suit be completed or discon-
11 tinued but excepting services in connection with
12 executions or garnishments and suggestee execu-
13 tions \$5.00

14 (2) For all services in connection with an execu-
15 tion on judgment, suggestion on judgment, execu-
16 tion and garnishment whether execution be without
17 garnishment or there be both execution and gar-
18 nishment or suggestee execution..... 2.50

19 (3) For each bond filed in a case, appeal bond,
20 stay-of-execution bond, bail bond, civil order of ar-
21 rest, detenure bond, except bond in attachment case
22 and docketing same..... 1.00

23	(4) For taking depositions of witnesses if done in	
24	an hour or less.....	1.00
25	(5) If not completed in an hour, for additional	
26	time at the rate, per hour of.....	1.00
27	(6) For taking an inquest on a dead body, to be	
28	audited and paid from the treasury of the county....	5.00
29	(7) Order of appraisement, appointing apprais-	
30	ers, swearing of the same and docketing same, to be	
31	paid by plaintiff.....	1.00
32	(8) For taking and certifying acknowledgment	
33	of deed or other instrument of writing.....	.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 com-	
6	mence a suit \$2.00, and for every additional sum-	
7	mons in same suit.....	.75
8	(2) For servicing and returning order of attach-	
9	ment, for each garnishee summoned.....	1.00
10	(3) For taking property under order of attach-	

11	ment, including inventory and appraisement, be-	
12	sides the reasonable expenses of removing, securing	
13	and keeping the property attached.....	2.50
14	(4) For subpoenas, for each person served there-	
15	with50
16	(5) For summoning and returning a jury.....	1.50
17	(6) For levying an execution on personal prop-	
18	erty and return.....	2.00
19	(7) For posting notices of sale (3) for suggestee	
20	execution, suggestion order, attachment, distress	
21	warrant, each.....	.40
22	(8) For money collected and paid to justice, con-	
23	stable or plaintiff, after levy, under execution, sug-	
24	gestee execution, suggestion order, distress warrant	
25	or attachment, sale or no sale.....	5%
26	(9) For executing a writ of possession under	
27	section ten, article one of this chapter.....	4.00
28	(10) For summoning the jury and witnesses for	
29	inquest on a dead body, to be audited and paid from	
30	the treasury of the county.....	3.00
31	(11) <i>Provided, however, That in an action</i>	

32	brought before a justice to recover a sum of money	
33	where an attachment, garnishment or suggestion	
34	order is issued against the wages of a defendant, the	
35	maximum fee to be charged by the constable for	
36	said attachment, garnishment, or suggestee order	
37	shall be two dollars and fifty cents	2.50
38	(12) Second summons in attachment, each	1.00
39	(13) Extra time necessary in taking and remov-	
40	ing property under attachment order, and eviction	
41	execution, distress warrant or writ of detinue.....	1.00
42	(14) For delivering a temporary or permanent	
43	release50

Sec. 5. *Prepayment of Fees.*—For any service rendered
 2 by virtue of his office, for which a fee is allowed by law,
 3 except fees chargeable to the state or county, the justice
 4 or constable shall require the proper fee to be paid before
 5 the service is rendered.

Sec. 12-a. *Fees of Constable for Services in Connection*
 2 *With Vehicular Wrecks or Collisions Upon Public High-*
 3 *ways.*—In addition to the fees of constables in civil cases
 4 and in criminal cases elsewhere provided for, each con-

5 stable shall be entitled to a fee of one dollar and fifty cents
6 per hour or any part thereof for his time actually spent
7 at the scene of a vehicular wreck or collision upon a pub-
8 lic highway in his district and county at the request of
9 a member of the department of public safety in preserv-
10 ing and restoring order and the orderly and safe flow of
11 traffic and caring for the safety of persons or property,
12 in connection with any vehicular wreck or collision upon
13 a public highway of the state in the magisterial district
14 and county from which said constable is elected: *Provid-*
15 *ed,* That no more than one constable shall be entitled to
16 payment of the fee herein authorized as to any one wreck
17 or collision and that no more than two hours time shall
18 be claimed for any one such event.

19 The constable shall submit his claim for such fee with
20 his criminal fee bill and for it to be a valid claim there
21 must accompany such fee bill the certificate of the appro-
22 priate members of the department of public safety who
23 requested the constable to act that such officer did so re-
24 quest and that the constable did so act in preserving and
25 restoring order, etc., for the time claimed. Such fee shall

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26 be charged and paid as provided in section fifteen, article

27 five, chapter seven of the code.

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

Samuel Davis, Jr.
Chairman Senate Committee

Mrs. M. M. Withers
Chairman House Committee

Originated in the House.

Takes effect July 1st, 1961 passage.

Howard Myers
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

Julius W. Singleton Jr.
Speaker House of Delegates

The within approved this the 16th
day of March, 1961.

W. M. Baum
Governor

Filed in Office of the Secretary of State
of West Virginia

MAR 16 1961
JOE F. BURDETT
SECRETARY OF STATE