

SB 19

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

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*Committee SUBSTITUTE FOR*

SENATE BILL NO. 19

(By Senator BUCKALEW, ET AL)



PASSED march 9, 1996

In Effect ninety Days From Passage

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SPEAKER OF THE HOUSE

**ENROLLED**

COMMITTEE SUBSTITUTE  
FOR

**Senate Bill No. 19**

(SENATORS BUCKALEW, KIMBLE, MINEAR, ROSS,  
SHARPE AND WIEDEBUSCH, *original sponsors*)

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[Passed March 9, 1996; in effect ninety days from passage.]

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AN ACT to amend and reenact section four, article two-a, chapter fourteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend article five, chapter sixty-two of said code by adding thereto a new section, designated section ten; to amend and reenact sections one and two, article three, chapter fifty of said code; to amend and reenact section seventeen, article one, chapter fifty-one of said code; to amend article three of said chapter by adding thereto four new sections, designated sections fourteen, fifteen, sixteen and seventeen; and to amend and reenact section eleven, article one, chapter fifty-nine of said code, all

relating generally to increasing judicial fees which are dedicated to specific purposes; removing the ten dollar assessment for felony convictions; instituting a mandatory assessment of fifty dollars for each felony conviction which shall be paid to the crime victims compensation fund; increasing filing fees in magistrate court for civil and criminal actions to be deposited in the court security fund; designating the administrative director of the supreme court of appeals to serve as chairperson of the court security board; creating the court security fund; requiring appropriation of the fund; creating the court security board; setting forth the terms of members and their duties; providing for security plans and approval of those plans; providing for awards from the fund; providing for the training of personnel; requiring the board to promulgate legislative rules; and increasing fees in circuit court actions to be deposited in the court security fund.

*Be it enacted by the Legislature of West Virginia:*

That section four, article two-a, chapter fourteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that article five, chapter sixty-two of said code be amended by adding thereto a new section, designated section ten; that sections one and two, article three, chapter fifty of said code be amended and reenacted; that section seventeen, article one, chapter fifty-one of said code be amended and reenacted; that article three of said chapter be amended by adding thereto four new sections, designated sections fourteen, fifteen, sixteen and seventeen; and that section eleven, article one, chapter fifty-nine of said code be amended and reenacted, all to read as follows:

#### **CHAPTER 14. CLAIMS DUE AND AGAINST THE STATE.**

##### **ARTICLE 2A. COMPENSATION AWARDS TO VICTIMS OF CRIMES.**

##### **§14-2A-4. Creation of crime victims compensation fund.**

- 1 (a) Every person within the state who is convicted of or
- 2 pleads guilty to a misdemeanor offense, other than a

3 traffic offense that is not a moving violation, in any  
4 magistrate court or circuit court, shall pay the sum of ten  
5 dollars as costs in the case, in addition to any other court  
6 costs that the court is required by law to impose upon  
7 the convicted person. Every person within the state who  
8 is convicted of or pleads guilty to a misdemeanor offense,  
9 other than a traffic offense that is not a moving viola-  
10 tion, in any municipal court, shall pay the sum of eight  
11 dollars as costs in the case, in addition to any other court  
12 costs that the court is required by law to impose upon  
13 the convicted person. In addition to any other costs  
14 previously specified, every person within the state who  
15 is convicted of or pleads guilty to a violation of section  
16 two, article five, chapter seventeen-c of this code, shall  
17 pay a fee in the amount of twenty percent of any fine  
18 imposed under said section. This shall be in addition to  
19 any other court costs required by this section or which  
20 may be required by law.

21 (b) The clerk of the circuit court, magistrate court or  
22 municipal court wherein the additional costs are im-  
23 posed under the provisions of subsection (a) of this  
24 section shall, on or before the last day of each month,  
25 transmit all costs received under this article to the state  
26 treasurer for deposit in the state treasury to the credit of  
27 a special revenue fund to be known as the "Crime  
28 Victims Compensation Fund", which is hereby created.  
29 All moneys heretofore collected and received under the  
30 prior enactment or reenactments of this article and  
31 deposited or to be deposited in the "Crime Victims  
32 Reparation Fund" are hereby transferred to the crime  
33 victims compensation fund, and the treasurer shall  
34 deposit the moneys in the state treasury. All moneys  
35 collected and received under this article and paid into  
36 the state treasury and credited to the crime victims  
37 compensation fund in the manner prescribed in section  
38 two, article two, chapter twelve of this code, shall be  
39 kept and maintained for the specific purposes of this  
40 article, and shall not be treated by the auditor and  
41 treasurer as part of the general revenue of the state.

42 (c) Moneys in the crime victims compensation fund  
43 shall be available for the payment of the costs of admin-  
44 istration of this article in accordance with the budget of  
45 the court approved therefor: *Provided*, That the services  
46 of the office of the attorney general, as may be required  
47 or authorized by any of the provisions of this article,  
48 shall be rendered without charge to the fund.

## CHAPTER 62. CRIMINAL PROCEDURE.

### ARTICLE 5. COSTS IN CRIMINAL CASES.

#### §62-5-10. Mandatory cost assessed upon conviction of a felony.

1 (a) Every circuit court shall assess, in every felony  
2 criminal matter, as a cost to the defendant, an assess-  
3 ment in the sum of fifty dollars for each felony count of  
4 conviction. The assessment referred to herein shall be  
5 paid upon adjudication of guilt unless the court deter-  
6 mines that the defendant is unable to pay in such a  
7 manner in which case payment of the assessment shall be  
8 paid prior to final disposition. If the circuit court deter-  
9 mines that a defendant is financially unable to pay the  
10 assessment prior to final disposition, payment of the  
11 assessment shall be a mandatory condition of probation  
12 or parole.

13 (b) The clerk of the circuit court wherein the assess-  
14 ment is imposed under the provisions of subsection (a) of  
15 this section shall, on or before the last day of each  
16 month, transmit all costs received pursuant to this  
17 section to the state treasurer for deposit in the state  
18 treasury to the credit of the "Crime Victims Compensa-  
19 tion Fund".

## CHAPTER 50. MAGISTRATE COURTS.

### ARTICLE 3. COSTS, FINES AND RECORDS.

#### §50-3-1. Costs in civil actions.

1 The following costs shall be charged in magistrate  
2 courts in civil actions and shall be collected in advance:

3 (a) For filing and trying any civil action and for all

4 services connected therewith, but excluding services  
5 regarding enforcement of judgment, the following  
6 amounts dependent upon the amount of damages sought  
7 in the complaint:

8 Where the action is for five hundred dollars  
9 or less ..... \$25.00

10 Where the action is for more than  
11 five hundred dollars but not more  
12 than one thousand dollars ..... \$30.00

13 Where the action is for more than  
14 one thousand dollars but not more  
15 than two thousand dollars ..... \$35.00

16 Where the action is for more than  
17 two thousand dollars ..... \$45.00

18 Where the action seeks relief other  
19 than money damages ..... \$25.00

20 On and after the first day of July, one thousand nine  
21 hundred ninety-six, five dollars from each of the filing  
22 fees listed above will be deposited in the court security  
23 fund created by the provisions of section fourteen, article  
24 three, chapter fifty-one of this code.

25 (b) For each service regarding enforcement of a judg-  
26 ment including execution, suggestion, garnishment and  
27 suggestee execution ..... \$ 5.00

28 (c) For each bond filed in a case ..... \$ 1.00

29 (d) For taking deposition of witness for each hour or  
30 portion thereof ..... \$ 1.00

31 (e) For taking and certifying acknowledgment of a  
32 deed or other writing or taking oath upon an  
33 affidavit ..... \$ .50

34 (f) For mailing any matter required or provided by law  
35 to be mailed by certified or registered mail with  
36 return receipt ..... \$ 1.00

37 Costs incurred in a civil action shall be reflected in any  
38 judgment rendered thereon. The provisions of section  
39 one, article two, chapter fifty-nine of this code, relating  
40 to the payment of costs by poor persons, shall be applica-  
41 ble to all costs in civil actions.

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

1 In each criminal case tried in a magistrate court in  
2 which the defendant is convicted, there shall be imposed,  
3 in addition to such other costs, fines, forfeitures or  
4 penalties as may be allowed by law, costs in the amount  
5 of fifty-five dollars. No such costs shall be collected in  
6 advance. On and after the first of July, one thousand  
7 nine hundred ninety-six, five dollars from each of the  
8 criminal proceedings fees collected pursuant to this  
9 section shall be deposited in the court security fund  
10 created in section fourteen, article three, chapter fifty-  
11 one of this code.

12 A magistrate shall assess costs in the amount of two  
13 dollars and fifty cents for issuing a sheep warrant,  
14 appointment and swearing appraisers and docketing the  
15 same.

16 In each criminal case which must be tried by the  
17 circuit court but in which a magistrate renders some  
18 service, costs in the amount of ten dollars shall be  
19 imposed by the magistrate court and shall be certified to  
20 the clerk of the circuit court in accordance with the  
21 provisions of section six, article five, chapter sixty-two  
22 of this code.

**CHAPTER 51. COURTS AND THEIR OFFICERS.**

**ARTICLE 1. SUPREME COURT OF APPEALS.**

**§51-1-17. Administrative office of supreme court of appeals  
— duties of director.**

1 The director shall, when authorized by the supreme  
2 court of appeals, be the administrative officer of said  
3 court and shall have charge, under the supervision and  
4 direction of the supreme court of appeals, of:

5 (a) All administrative matters relating to the offices of  
6 the clerks of the circuit and intermediary courts and of  
7 the offices of justice of the peace, and all other clerical  
8 and administrative personnel of said courts; but nothing  
9 contained in this act shall be construed as affecting the  
10 authority of the courts to appoint their administrative or  
11 clerical personnel;

12 (b) Examining the state of the dockets of the various  
13 courts and securing information as to their needs for  
14 assistance, if any, and the preparation of statistical data  
15 and reports of the business transacted by the courts,  
16 including, as an integral part of the compensation of  
17 justices and judges, the development of a system of  
18 reporting by justices and judges as to the actual amount  
19 of time, including travel time, spent by each justice or  
20 judge in the conduct of his official duties in court;

21 (c) The preparation of a proper budget to secure the  
22 appropriation of moneys for the maintenance, support  
23 and operation of the courts;

24 (d) The purchase, exchange, transfer and distribution  
25 of equipment and supplies, as may be needful or desir-  
26 able;

27 (e) Such other matters as may be assigned to him by  
28 the supreme court of appeals. The clerks of the circuit  
29 courts, intermediate courts and courts of the justices of  
30 the peace shall comply with any and all requests made  
31 by the director or his assistants for information and  
32 statistical data bearing on the state of the dockets of  
33 such courts, or such other information as may reflect the  
34 business transacted by them;

35 (f) *Annual report of activities and estimates of expen-*  
36 *ditures.* — The director, when required to do so by the  
37 supreme court of appeals, shall submit annually to the  
38 court a report of the activities of the administrative  
39 office and of the state of business of the courts, together  
40 with the statistical data compiled by him, with his  
41 recommendations.



42 (g) Serve as the chair of the court security board  
43 created under the provisions of section fifteen, article  
44 three of this chapter.

**ARTICLE 3. COURTS IN GENERAL.**

**§51-3-14. Court security fund.**

1 The offices and the clerks of the magistrate courts and  
2 the circuit courts shall, on or before the tenth day of  
3 each month, transmit all fees and costs received for the  
4 court security fund in accordance with the provisions of  
5 sections one and two, article three, chapter fifty of this  
6 code and section eleven, article one, chapter fifty-nine of  
7 this code for deposit in the state treasury to the credit of  
8 a special revenue fund to be known as the "court secu-  
9 rity fund", which is hereby created under the depart-  
10 ment of military affairs and public safety. The court  
11 security fund may receive any gifts, grants, contributions  
12 or other money from any source which is specifically  
13 designated for deposit in the fund. All moneys collected  
14 and received and paid into the state treasury and cred-  
15 ited to the court security fund shall be expended by the  
16 board exclusively to implement the improvement mea-  
17 sures agreed upon in accordance with the security plans  
18 submitted pursuant to section sixteen of this article and  
19 in accordance with an appropriation by the Legislature:  
20 *Provided*, That for the fiscal year ending the thirtieth  
21 day of June, one thousand nine hundred ninety-seven,  
22 expenditures are authorized from collections rather than  
23 pursuant to an appropriation by the Legislature.  
24 Amounts collected which are found from time to time to  
25 exceed the funds needed for the purposes set forth in this  
26 article may be transferred to other accounts or funds and  
27 redesignated for other purposes upon appropriation by  
28 the Legislature.

**§51-3-15. Court security board, terms.**

1 (a) There is hereby created a court security board who  
2 shall make decisions on how the money in the court  
3 security fund is to be spent to enhance the security of  
4 courts. The board shall consist of seven members and the

5 administrative director of the supreme court of appeals  
6 who shall serve ex officio and be the chair. The board  
7 shall be appointed as follows: One circuit court judge  
8 appointed by the judicial association; one magistrate  
9 appointed by the magistrate's association; one family law  
10 master appointed by the family law master's association;  
11 one member of the bar appointed by the president of the  
12 West Virginia state bar; one representative of counties  
13 appointed by the West Virginia association of counties;  
14 one representative of sheriffs appointed by the West  
15 Virginia sheriffs association; and one representative of  
16 the state police appointed by the secretary of the depart-  
17 ment of public safety.

18 (b) The members of the board shall each serve terms  
19 that commence on the first day of July, one thousand  
20 nine hundred ninety-six. Of the initial appointments to  
21 the board, two shall serve for two-year terms, two shall  
22 serve for three-year terms and two shall serve for four-  
23 year terms. Thereafter, each appointment shall be for a  
24 four-year term commencing upon the expiration of his or  
25 her previous term or of his or her predecessor's term. No  
26 member may be appointed for more than three consecu-  
27 tive terms. Vacancies shall be appointed in a like  
28 manner for the balance of an unexpired term.

29 (c) The board shall compile and keep a list of able and  
30 available law-enforcement officers who have obtained  
31 certification in compliance with the provisions of section  
32 five, article twenty-nine, chapter thirty of this code and  
33 who have maintained all necessary qualifications and  
34 firearms certifications to enable them to serve as bailiffs  
35 in court facilities. The board shall make the list available  
36 to all county sheriffs for their use in recruiting and  
37 hiring temporary, part-time or occasional bailiffs to  
38 exercise all the powers and duties of bailiffs in the court  
39 facilities in their counties.

**§51-3-16. Security plans; approval by court security board;  
awards; training.**

1 (a) The sheriff of each county in conjunction with the

2 circuit judges, magistrates and family law master may  
3 develop a security plan to enhance the security of all the  
4 court facilities in use in the county and submit said plan  
5 to the court security board.

6 (b) Each security plan shall include, but not be limited  
7 to:

8 (1) An assessment of the existing security measures in  
9 place and any problems or shortcomings with the  
10 existing procedures;

11 (2) A description of how the county responds to court  
12 security emergencies and whether the response is  
13 adequate;

14 (3) A prioritized listing of equipment or personnel, or  
15 both, needed to improve the security of the court facili-  
16 ties in the county, including cost estimates for such  
17 equipment and personnel;

18 (4) A description of the physical locations of court  
19 facilities around the county and a discussion of whether  
20 changes or consolidation of space could improve court  
21 security in the county; and

22 (5) An assessment of the training needs for bailiffs  
23 currently employed in the county or for additional  
24 bailiffs and the options for securing the necessary  
25 training.

26 (c) Each plan prepared under this section is subject to  
27 approval by the court security board. Any plan rejected  
28 by the court security board shall be returned to the  
29 county with a statement of the insufficiencies in such  
30 plan. The county shall revise the plan to eliminate the  
31 insufficiencies and resubmit it to the court security  
32 board.

33 (d) Upon receipt of the plans the court security board  
34 shall meet at least twice a year to review the plans and  
35 to award money from the court security fund to the  
36 circuit clerk, county commission or county sheriff to be  
37 used solely and exclusively to purchase equipment, hire

38 personnel or make other identified expenditures in  
39 accordance with the plan. The board shall develop an  
40 application form and establish criteria to assist them in  
41 making the decisions on which applications will receive  
42 money and how much money will be awarded. Once an  
43 award has been made, the recipient will have a fixed  
44 amount of time in which to execute the expenditures  
45 described in their plan. The board will set forth in  
46 writing the amount of the award, the time frame for  
47 accomplishing the plan objectives and the requirement  
48 that any unexpended money be returned to the board for  
49 deposit in the court security fund. The award or decision  
50 not to award these funds shall not relieve any person or  
51 office of their duty or obligation to provide security  
52 services to courts in this state.

53 (e) The board is authorized to award money from the  
54 court security fund to be used by the counties for costs  
55 and expenses of training for bailiffs. The board may  
56 establish minimum standards for training and it may  
57 designate specific agencies or institutions approved for  
58 administering such training.

**§51-3-17. Promulgation of legislative rules.**

1 The board shall promulgate legislative rules pursuant  
2 to the provisions of chapter twenty-nine-a of this code  
3 effectuating the purposes and intent of sections fourteen,  
4 fifteen and sixteen of this article. Such rules shall  
5 include, but shall not be limited to, operating procedures  
6 for the board and accounting for expenditures by the  
7 board.

**CHAPTER 59. FEES, ALLOWANCES AND COSTS;  
NEWSPAPERS; LEGAL ADVERTISEMENTS.**

**ARTICLE 1. FEES AND ALLOWANCES.**

**§59-1-11. Fees to be charged by clerk of circuit court.**

1 The clerk of a circuit court shall charge and collect for  
2 services rendered as such clerk the following fees, and  
3 such fees shall be paid in advance by the parties for  
4 whom such services are to be rendered:

5 For instituting any civil action under the rules of civil  
6 procedure, any statutory summary proceeding, any  
7 extraordinary remedy, the docketing of civil appeals, or  
8 any other action, cause, suit or proceeding, seventy-five  
9 dollars: *Provided*, That the fee for instituting an action  
10 for divorce shall be twenty-five dollars plus the fee  
11 required by section six, article two-c, chapter forty-eight  
12 of this code.

13 In addition to the foregoing fees, the following fees  
14 shall likewise be charged and collected:

15 For any transcript, copy or paper made by the clerk for  
16 use in any other court or otherwise to go out of the  
17 office, for each page, twenty-five cents;

18 For action on suggestion, five dollars;

19 For issuing an execution, two dollars;

20 For issuing or renewing a suggestee execution, includ-  
21 ing copies, postage, registered or certified mail fees and  
22 the fee provided by section four, article five-a, chapter  
23 thirty-eight of this code, three dollars;

24 For vacation or modification of a suggestee execution,  
25 one dollar;

26 For docketing and issuing an execution on a transcript  
27 of judgment from magistrate's court, three dollars;

28 For arranging the papers in a certified question, writ  
29 of error, appeal or removal to any other court, five  
30 dollars;

31 For postage and express and for sending or receiving  
32 decrees, orders or records, by mail or express, three  
33 times the amount of the postage or express charges;

34 For each witness summons over and above five, on the  
35 part of either plaintiff or defendant, to be paid by the  
36 party requesting the same, twenty-five cents;

37 For additional services (plaintiff or appellant) where  
38 any case remains on the docket longer than three years,

39 for each additional year or part year, five dollars.

40 The clerk shall tax the following fees for services in  
41 any criminal case against any defendant convicted in  
42 such court:

43 In the case of any misdemeanor, fifty-five dollars;

44 In the case of any felony, sixty-five dollars;

45 No such clerk shall be required to handle or accept for  
46 disbursement any fees, costs or accounts, of any other  
47 officer or party not payable into the county treasury,  
48 except it be on order of the court or in compliance with  
49 the provisions of law governing such fees, costs or  
50 accounts.

51 On and after the first day of July, one thousand nine  
52 hundred ninety-six, five dollars from each of the civil  
53 and criminal fees collected pursuant to this section shall  
54 be deposited in the court security fund created in section  
55 fourteen, article three, chapter fifty-one of this code.

A large, handwritten signature in dark ink, appearing to be a cursive name, is written across the bottom of the page. The signature is somewhat faded and overlaps the bottom of the text area.

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

*Randy Schoonover*  
.....  
Chairman Senate Committee

*Randy Seaint*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Carroll E. Clark*  
.....  
Clerk of the Senate

*Gregory W. Boy*  
.....  
Clerk of the House of Delegates

*Earl Ray Tomblin*  
.....  
President of the Senate

*Paul E. Cramer*  
.....  
Speaker House of Delegates

The within *is approved* ..... this the *18<sup>th</sup>* .....  
day of *April* ....., 1996.

*Easton Caputo*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/22/96

Time 2:45 p