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CLERK OF THE WEST VIRGINIA
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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



ENROLLED

House Bill No. 4580

(By Delegates Webster, Wills, Hrutkay, Caputo,
C. White, Schadler and Coleman)



Passed March 7, 2002

In Effect Ninety Days from Passage

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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H. B. 4580

(BY DELEGATES WEBSTER, WILLS, HRUTKAY, CAPUTO,
C. WHITE, SCHADLER AND COLEMAN)

[Passed March 7, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact sections two-a and two-b, article ten, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section three-a, article three, chapter seventeen-b of said code; and to amend and reenact section two-a, article three, chapter fifty of said code, all relating to extending the time period to make payment of costs, fines, fees, forfeitures, restitution or penalties, as may be applicable, in municipal and magistrate courts.

Be it enacted by the Legislature of West Virginia:

That sections two-a and two-b, article ten, chapter eight, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section three-a, article three, chapter seventeen-b of said code be amended and reenacted; and that section two-a, article three, chapter fifty of said code be amended and reenacted, all to read as follows:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 10. POWERS AND DUTIES OF CERTAIN OFFICERS.

§8-10-2a. Payment of fines by credit cards or payment plan; suspension of driver's license for failure to pay motor vehicle violation fines or to appear in court.

1 (a) A municipal court may accept credit cards in payment
2 of all costs, fines, forfeitures or penalties. A municipal court
3 may collect a substantial portion of all costs, fines, forfeitures
4 or penalties at the time such amount is imposed by the court so
5 long as the court requires the balance to be paid within one
6 hundred eighty days and in accordance with a payment plan
7 which specifies: (1) The number of additional payments to be
8 made; (2) the dates on which such payments and amounts shall
9 be made; and (3) amounts due on such dates.

10 (b) If costs, fines, forfeitures or penalties imposed by the
11 municipal court for motor vehicle violations as described in
12 section three-a, article three, chapter seventeen-b of this code
13 are not paid within one hundred eighty days, or if a person who
14 committed any such violation defaults on a payment plan as
15 described in subsection (a) of this section, or if a person fails to
16 appear or otherwise respond in court when charged with a
17 motor vehicle violation as defined in section three-a, article
18 three, chapter seventeen-b of this code, the municipal court
19 must notify the commissioner of the division of motor vehicles
20 of such failure to pay or failure to appear.

§8-10-2b. Suspension of licenses for failure to pay fines and costs or failure to appear in court.

1 (a) If costs, fines, forfeitures or penalties imposed by the
2 municipal court upon conviction of a person for a criminal
3 offense as defined in section three-c, article three, chapter
4 seventeen-b of this code are not paid in full within one hundred

5 eighty days of the judgment, the municipal court clerk or, upon
6 a judgment rendered on appeal, the circuit clerk shall notify the
7 division of motor vehicles of such failure to pay: *Provided,*
8 That at the time the judgment is imposed, the judge shall
9 provide the person with written notice that failure to pay the
10 same as ordered shall result in the suspension of such person's
11 license or privilege to operate a motor vehicle in this state and
12 that such suspension could result in the cancellation of, the
13 failure to renew or the failure to issue an automobile insurance
14 policy providing coverage for such person or such person's
15 family: *Provided, however,* That the failure of the judge to
16 provide such notice shall not affect the validity of any suspen-
17 sion of such person's license or privilege to operate a motor
18 vehicle in this state. For purposes of this section, payment shall
19 be stayed during any period an appeal from the conviction
20 which resulted in the imposition of such costs, fines, forfeitures
21 or penalties is pending.

22 Upon such notice, the division of motor vehicles shall
23 suspend the person's driver's license or privilege to operate a
24 motor vehicle in this state until such time that the costs, fines,
25 forfeitures or penalties are paid.

26 (b) Notwithstanding the provisions of this section to the
27 contrary, the notice of the failure to pay such costs, fines,
28 forfeitures or penalties shall not be given where the municipal
29 court, upon application of the person upon whom the same were
30 imposed filed prior to the expiration of the period within which
31 the same are required to be paid, enters an order finding that
32 such person is financially unable to pay all or a portion of the
33 same: *Provided,* That where the municipal court, upon finding
34 that the person is financially unable to pay a portion thereof,
35 requires the person to pay the remaining portion thereof, the
36 municipal court shall notify the division of motor vehicles of
37 such person's failure to pay the same if the same is not paid
38 within the period of time ordered by such court.

39 (c) If a person charged with a criminal offense fails to
40 appear or otherwise respond in court, the municipal court shall
41 notify the division of motor vehicles thereof within fifteen days
42 of the scheduled date to appear unless such person sooner
43 appears or otherwise responds in court to the satisfaction of the
44 judge. Upon such notice, the division of motor vehicles shall
45 suspend the person's driver's license or privilege to operate a
46 motor vehicle in this state until such time that the person
47 appears as required.

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES.

§ 17B-3-3a. Suspending license for failure to pay fines or penalties imposed by magistrate court or municipal court.

1 The division shall suspend the license of any resident of
2 this state or the privilege of a nonresident to drive a motor
3 vehicle in this state upon receiving notice from a magistrate
4 court or municipal court of this state, pursuant to subsection (b),
5 section two-a, article three, chapter fifty or subsection (b),
6 section two-a, article ten, chapter eight of this code, that such
7 person has defaulted on the payment of costs, fines, forfeitures
8 or penalties, which were imposed on the person by the magis-
9 trate court or municipal court upon conviction of any motor
10 vehicle violation, after one hundred eighty days following such
11 conviction, or that such person has failed to appear in court
12 when charged with a motor vehicle violation. For the purposes
13 of this section, section two-a, article three, chapter fifty and
14 section two-a, article ten, chapter eight, "motor vehicle
15 violation" shall be defined as any violation designated in
16 chapter seventeen-a, seventeen-b, seventeen-c, seventeen-d or
17 seventeen-e of this code, or the violation of any municipal
18 ordinance relating to the operation of a motor vehicle for which

19 the violation thereof would result in a fine or penalty: *Provided,*
20 That any parking violation or other violation for which a
21 citation may be issued to an unattended vehicle shall not be
22 considered a motor vehicle violation for the purposes of this
23 section, section two-a, article three, chapter fifty or section
24 two-a, article ten, chapter eight of this code.

CHAPTER 50. MAGISTRATE COURTS.

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 payment
2 of all costs, fines, fees, forfeitures, restitution or penalties in
3 accordance with rules promulgated by the supreme court of
4 appeals. Any charges made by the credit company shall be paid
5 by the person responsible for paying the cost, fine, forfeiture or
6 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 by the
10 court so long as the court requires the balance to be paid in
11 accordance with a payment plan which specifies: (1) The
12 number of payments to be made; (2) the dates on which such
13 payments are due; and (3) the amounts due for each payment.

14 (c) (1) If any costs, fines, fees, forfeitures, restitution or
15 penalties imposed by the magistrate court in a criminal case are
16 not paid within one hundred eighty days from the date of
17 judgment and the expiration of any stay of execution, the
18 magistrate court clerk or, upon judgment rendered on appeal,
19 the circuit clerk shall notify the commissioner of the division of
20 motor vehicles of the failure to pay. Upon such notice, the

21 division of motor vehicles shall suspend any privilege the
22 person defaulting on payment may have to operate a motor
23 vehicle in this state, including any driver's license issued to the
24 person by the division of motor vehicles, until such time that all
25 the costs, fines, fees, forfeitures, restitution or penalties are paid
26 in full. The suspension shall be imposed in accordance with the
27 provisions of section six, article three, chapter seventeen-b of
28 this code: *Provided*, That any person who has had his or her
29 license to operate a motor vehicle in this state suspended
30 pursuant to this subsection and his or her failure to pay is based
31 upon inability to pay may, if he or she is employed on a full or
32 part-time basis, petition to the circuit court for an order autho-
33 rizing him or her to operate a motor vehicle solely for employ-
34 ment purposes. Upon a showing satisfactory to the court of
35 inability to pay, employment and compliance with other
36 applicable motor vehicle laws, the court shall issue such an
37 order.

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

53 (3) In addition to the provisions of subdivision (1) of this
54 subsection, if any costs, fines, fees, forfeitures, restitution or

55 penalties imposed or ordered by the magistrate court for a
56 fishing violation described in chapter twenty of this code are
57 not paid within one hundred eighty days from the date of
58 judgment and the expiration of any stay of execution, the
59 magistrate court clerk or, upon a judgment rendered on appeal,
60 the circuit clerk shall notify the director of the division of
61 natural resources of such failure to pay. Upon such notice, the
62 director of the division of natural resources shall suspend any
63 privilege the person failing to appear or otherwise respond may
64 have to fish in this state, including any fishing license issued to
65 the person by the division of natural resources, until all the
66 costs, fines, fees, forfeitures, restitution or penalties are paid in
67 full.

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

83 (2) In addition to the provisions of subdivision (1) of this
84 subsection, if a person charged with any hunting violation
85 described in chapter twenty of this code fails to appear or
86 otherwise respond in court, the magistrate court shall notify the
87 director of the division of natural resources of such failure
88 thereof within fifteen days of the scheduled date to appear,

89 unless the person sooner appears or otherwise responds in court
90 to the satisfaction of the magistrate. Upon such notice, the
91 director of the division of natural resources shall suspend any
92 privilege the person failing to appear or otherwise respond may
93 have to hunt in this state, including any hunting license issued
94 to the person by the division of natural resources, until final
95 judgment in the case and, if a judgment of guilty, until such
96 time that all the costs, fines, fees, forfeitures, restitution or
97 penalties imposed are paid in full.

98 (3) In addition to the provisions of subdivision (1) of this
99 subsection, if a person charged with any fishing violation
100 described in chapter twenty of this code fails to appear or
101 otherwise respond in court, the magistrate court shall notify the
102 director of the division of natural resources of such failure
103 thereof within fifteen days of the scheduled date to appear,
104 unless the person sooner appears or otherwise responds in court
105 to the satisfaction of the magistrate. Upon such notice, the
106 director of the division of natural resources shall suspend any
107 privilege the person failing to appear or otherwise respond may
108 have to fish in this state, including any fishing license issued to
109 the person by the division of natural resources, until final
110 judgment in the case and, if a judgment of guilty, until such
111 time that all the costs, fines, fees, forfeitures, restitution or
112 penalties imposed are paid in full.

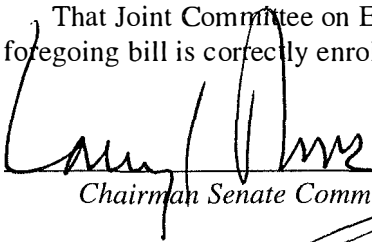
113 (e) In every criminal case which involves a misdemeanor
114 violation, a magistrate may order restitution where appropriate
115 when rendering judgment.

116 (f) (1) If all costs, fines, fees, forfeitures, restitution or
117 penalties imposed by a magistrate court and ordered to be paid
118 are not paid within one hundred eighty days from the date of
119 judgment and the expiration of any stay of execution, the clerk
120 of the magistrate court shall notify the prosecuting attorney of
121 the county of such nonpayment and provide the prosecuting

122 attorney with an abstract of judgment. The prosecuting attorney
123 shall file the abstract of judgment in the office of the clerk of
124 the county commission in the county where the defendant was
125 convicted and in any county wherein the defendant resides or
126 owns property. The clerks of the county commissions shall
127 record and index the abstracts of judgment without charge or
128 fee to the prosecuting attorney, and when so recorded, the
129 amount stated to be owing in the abstract shall constitute a lien
130 against all property of the defendant.

131 (2) When all the costs, fines, fees, forfeitures, restitution or
132 penalties described in subdivision (1) of this subsection for
133 which an abstract of judgment has been recorded are paid in
134 full, the clerk of the magistrate court shall notify the prosecut-
135 ing attorney of the county of such payment and provide the
136 prosecuting attorney with a release of judgment, prepared in
137 accordance with the provisions of section one, article twelve,
138 chapter thirty-eight of this code, for filing and recordation
139 pursuant to the provisions of this subdivision. Upon receipt
140 from the clerk, the prosecuting attorney shall file the release of
141 judgment in the office of the clerk of the county commission in
142 each county where an abstract of the judgment was recorded.
143 The clerks of the county commissions shall record and index
144 the release of judgment without charge or fee to the prosecuting
145 attorney.

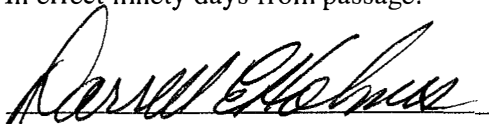
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

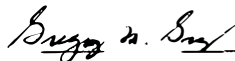

Chairman Senate Committee

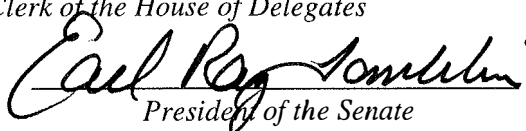

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

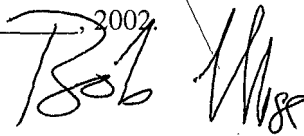

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 18th
day of March, 2002.


Governor

PRESENTED TO THE

GOVERNOR,

Date 3/12/02

Time 3:20 pm