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FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED

Senate Bill No. 204

(BY SENATORS KESSLER, OLIVERIO, CHAFIN, FOSTER, GREEN,
HUNTER, JENKINS, MINARD, STOLLINGS, WELLS, WHITE,
BARNES, CARUTH, DEEM, HALL, MCKENZIE AND YODER)

[Passed March 10, 2007; in effect ninety days from passage.]

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AN ACT to amend and reenact §52-1-17 of the Code of West Virginia, 1931, as amended, relating to assessing the cost of petit juries in magistrate court.

Be it enacted by the Legislature of West Virginia:

That §52-1-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. PETIT JURIES.

§52-1-17. Reimbursement of jurors.

- 1 (a) A juror shall be paid mileage, at the rate set by the
- 2 Secretary of the Department of Administration, for
- 3 travel expenses to and from the juror's residence to the

4 courthouse or other place where the court is convened
5 and shall be reimbursed for other expenses incurred as
6 a result of his or her required attendance at sessions of
7 the court at a rate of not less than fifteen dollars nor
8 more than forty dollars, set at the discretion of the
9 circuit court or the chief judge of the circuit court, for
10 each day of required attendance. The reimbursement
11 shall be based on vouchers submitted to the sheriff and
12 shall be paid out of the State Treasury.

13 (b) When a jury in any case is placed in the custody of
14 the sheriff, he or she shall provide the jury with meals
15 and lodging while they are in the sheriff's custody at a
16 reasonable cost to be determined by an order of the
17 court. The costs of the meals and lodging shall be paid
18 out of the State Treasury.

19 (c) Any time a panel of prospective jurors has been
20 required to report to court for the selection of a petit
21 jury in any scheduled matter, the court shall, by specific
22 provision in a court order, assess a jury cost. In both
23 magistrate and circuit court cases the jury cost shall be
24 the actual cost of the jurors' service: *Provided*, That the
25 actual cost of a magistrate jury can only be assessed
26 where the jury request or demand occurs on or after the
27 first day of July, two thousand seven. For any
28 magistrate court case in which the jury request or
29 demand occurred prior to the first day of July, two
30 thousand seven, the jury cost assessed shall be two
31 hundred dollars. The jury costs shall be assessed
32 against the parties as follows:

33 (1) In every criminal case, against the defendant upon
34 conviction, whether by plea, by bench trial or by jury
35 verdict;

36 (2) In every civil case, against either party or prorated
37 against both parties, at the court's discretion, if the
38 parties settle the case or elect for a bench trial; and

39 (3) In the discretion of the court, and only when
40 fairness and justice so require, a circuit court or
41 magistrate court may forego assessment of the jury fee,

42 but shall set out the reasons for waiving the fee in a
43 written order: *Provided*, That a waiver of the
44 assessment of a jury fee in a case tried before a jury in
45 magistrate court may only be permitted after the circuit
46 court, or the chief judge of the circuit court, has
47 reviewed the reasons set forth in the order by the
48 magistrate and has approved the waiver.

49 (d)(1) The circuit or magistrate court clerk shall by the
50 tenth day of the month following the month of
51 collection remit to the State Treasurer for deposit as
52 described in subdivision (2) of this subsection all jury
53 costs collected and the clerk and the clerk's surety are
54 liable for the collection on the clerk's official bond as
55 for other money coming into the clerk's hands by virtue
56 of the clerk's office. When the amount of the jury costs
57 collected in a magistrate court case exceeds two
58 hundred dollars, the magistrate court clerk shall
59 separately delineate the portion of the collected jury
60 costs which exceeds two hundred dollars.

61 (2) The jury costs described in subdivision (1) of this
62 subsection shall upon receipt by the State Treasurer be
63 deposited as follows:

64 (A) All jury costs collected in a magistrate court case
65 which exceed two hundred dollars shall be deposited in
66 the state's General Revenue Fund; and

67 (B) The remaining balance of the collected jury costs
68 shall be deposited as follows:

69 (i) One-half shall be deposited into the Parent
70 Education and Mediation Fund created in section six
71 hundred four, article nine, chapter forty-eight of this
72 code; and

73 (ii) One-half shall be deposited into the Domestic
74 Violence Legal Services Fund created in section six
75 hundred three, article twenty-six of chapter forty-eight
76 of this code.

77 (e) The sheriff shall pay into the State Treasury all

78 jury costs received from the court clerks and the sheriff
79 shall be held to account in the sheriff's annual
80 settlement for all the moneys.

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

Chwhite
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell G. Thomas
.....
Clerk of the Senate

Dugan M. Sear
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this
the *4th* Day of *April*, 2007.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

APR 03 2007

Time 1:35 p