WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2009

ENROLLED
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 370

(Senator Kessler, original sponsor)

[Passed April 8, 2009; in effect ninety days from passage.]
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AN ACT to amend and reenact §62-11C-4 and §62-11C-7 of the Code of West Virginia, 1931, as amended, all relating to community corrections fees generally; clarifying that circuit clerks, magistrate clerks, municipal court clerks or his or her designee are all authorized to collect certain fees imposed pursuant to this article; and permitting only a community criminal justice board to have the authority to collect supervision or participation fees ordered by circuit courts, magistrate courts, municipal courts or the community criminal justice board.

Be it enacted by the Legislature of West Virginia:

That §62-11C-4 and §62-11C-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:
ARTICLE 11C. THE WEST VIRGINIA COMMUNITY CORRECTIONS ACT.

§62-11C-4. Special revenue account

(a) There is hereby created in the State Treasury a special revenue account to be known as the West Virginia Community Corrections Fund. Expenditures from the fund are for the purposes set forth in subsection (e) of this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter five-a of this code. The West Virginia Community Corrections Fund may receive any gifts, grants, contributions or other money from any source which is specifically designated for deposit in the fund.

(b) In addition to the fee required in section nine, article twelve of this chapter, a fee not to exceed $35 per month, unless modified by legislative rule as provided in section three of this article, is also to be collected from those persons on probation. This fee is to be based upon the person's ability to pay. The magistrate or circuit judge shall conduct a hearing prior to imposition of probation and make a determination on the record that the offender is able to pay the fee without undue hardship. The magistrate clerk, deputy magistrate clerk, magistrate assistant, circuit clerk or deputy circuit clerk shall collect all fees imposed pursuant to this subsection and deposit them in a separate account. Within ten calendar days following the beginning of the calendar month, the magistrate clerk or circuit clerk shall forward the amount deposited to the State Treasurer to be credited to the West Virginia Community Corrections Fund.

(c) In addition to the fee required in section five, article eleven-b of this chapter, a fee of $2.50 per day is to be collected from those persons on home incarceration. The
circuit judge, magistrate or municipal court judge shall consider the person's ability to pay in determining the imposition of the fee. The circuit clerk, magistrate clerk, municipal court clerk or his or her designee shall collect all fees imposed pursuant to this subsection and deposit them in a separate account. Within ten calendar days following the beginning of the calendar month, the circuit clerk, magistrate clerk or municipal court clerk shall forward the amount deposited to the State Treasurer to be credited to the West Virginia Community Corrections Fund.

(d) In addition to the usual court costs in any criminal case taxed against any defendant convicted in a municipal, magistrate or circuit court, excluding municipal parking ordinances, a $10 fee shall be added. The circuit clerk, magistrate clerk, municipal court clerk or his or her designee shall collect all fees imposed pursuant to this subsection and deposit them in a separate account. Within ten calendar days following the beginning of the calendar month, the circuit clerk, magistrate court clerk and the municipal court clerk shall forward the amount deposited to the State Treasurer to be credited to the West Virginia Community Corrections Fund.

(e) The moneys of the West Virginia Community Corrections Fund are to be disbursed by the Governor's Committee on Crime, Delinquency and Correction, upon recommendation by the community corrections subcommittee, for the funding of community corrections programs and to pay expenses of the Governor's committee in administering the provisions of this article, which expenses may not in any fiscal year exceed ten percent of the funds deposited to the special revenue account during that fiscal year.

(f) Any disbursements from the West Virginia Community Corrections Fund allocated for community corrections programs by the Governor's committee may be made
contingent upon local appropriations or gifts in money or in kind for the support of the programs. Any county commission of any county or the governing body of a municipality may appropriate and expend money for establishing and maintaining community corrections programs.

§62-11C-7. Supervision or participation fee.

(a) A circuit judge, magistrate, municipal court judge or community criminal justice board may require the payment of a supervision or participation fee from any person required to be supervised by or participate in a community corrections program. The circuit judge, magistrate, municipal court judge or community criminal justice board shall consider the person's ability to pay in determining the imposition and amount of the fee.

(b) All fees ordered by the circuit court, magistrate court, municipal court or community criminal justice board pursuant to this section are to be paid to the community criminal justice board, who shall remit the fees monthly to the treasurer of the county designated as the fiscal agent for the board pursuant to section six of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 30th Day of April, 2009.

Governor
PRESENTED TO THE GOVERNOR

APR 27 2009

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