

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 611

Rules and Operation of the Senate Committee Substitute Adopted 7/13/95

Short Title: Increase Court Costs.

(Public)

Sponsors:

Referred to: Finance

April 10, 1995

A BILL TO BE ENTITLED

**AN ACT TO INCREASE FEES IN THE GENERAL COURT OF JUSTICE AND TO
ELIMINATE THE EXEMPTION FROM COURT COSTS FOR SEAT BELT
VIOLATIONS.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

(1) For each arrest or personal service of criminal process, including citations and subpoenas, the sum of five dollars (\$5.00), to be remitted to the county wherein the arrest was made or process was served, except that in those cases in which the arrest was made or process served by a law-enforcement officer employed by a municipality, the fee shall be paid to the municipality employing the officer.

- 1 (2) For the use of the courtroom and related judicial facilities, the sum of
2 six dollars (\$6.00) in the district court, including cases before a
3 magistrate, and the sum of twenty-four dollars (\$24.00) in superior
4 court, to be remitted to the county in which the judgment is rendered. In
5 all cases where the judgment is rendered in facilities provided by a
6 municipality, the facilities fee shall be paid to the municipality. Funds
7 derived from the facilities fees shall be used exclusively by the county
8 or municipality for providing, maintaining, and constructing adequate
9 courtroom and related judicial facilities, including: adequate space and
10 furniture for judges, district attorneys, public defenders, magistrates,
11 juries, and other court related personnel; office space, furniture and
12 vaults for the clerk; jail and juvenile detention facilities; free parking for
13 jurors; and a law library (including books) if one has heretofore been
14 established or if the governing body hereafter decides to establish one.
15 In the event the funds derived from the facilities fees exceed what is
16 needed for these purposes, the county or municipality may, with the
17 approval of the Administrative Officer of the Courts as to the amount,
18 use any or all of the excess to retire outstanding indebtedness incurred
19 in the construction of the facilities, or to reimburse the county or
20 municipality for funds expended in constructing or renovating the
21 facilities (without incurring any indebtedness) within a period of two
22 years before or after the date a district court is established in such
23 county, or to supplement the operations of the General Court of Justice
24 in the county.
- 25 (3) For the retirement and insurance benefits of both State and local
26 government law-enforcement officers, the sum of seven dollars and
27 twenty-five cents (\$7.25), to be remitted to the State Treasurer. Fifty
28 cents (50¢) of this sum shall be administered as is provided in Article
29 12C of Chapter 143 of the General Statutes. Five dollars and seventy-
30 five cents (\$5.75) of this sum shall be administered as is provided in
31 Article 12E of Chapter 143 of the General Statutes, with one dollar and
32 twenty-five cents (\$1.25) being administered in accordance with the
33 provisions of G.S. 143-166.50(e). One dollar (\$1.00) of this sum shall
34 be administered as is provided in Article 12F of Chapter 143 of the
35 General Statutes.
- 36 (3a) For the supplemental pension benefits of sheriffs, the sum of seventy-
37 five cents (75¢), to be remitted to the Department of Justice and
38 administered under the provisions of Article 12G of Chapter 143 of the
39 General Statutes.
- 40 (4) For support of the General Court of Justice, the sum of ~~forty-one dollars~~
41 ~~(\$41.00)~~ forty-five dollars (\$45.00) in the district court, including cases
42 before a magistrate, and the sum of ~~forty-eight dollars (\$48.00)~~ fifty-two

1 dollars (\$52.00) in the superior court, to be remitted to the State
2 Treasurer.

3 (5) For using pretrial release services, the district or superior court judge
4 shall, upon conviction, impose a fee of fifteen dollars (\$15.00) to be
5 remitted to the county providing the pretrial release services. This cost
6 shall be assessed and collected only if the defendant had been accepted
7 and released to the supervision of the agency providing the pretrial
8 release services.

9 (6) For support of the General Court of Justice, for the issuance by the clerk
10 of a report to the Division of Motor Vehicles pursuant to G.S. 20-24.2,
11 the sum of fifty dollars (\$50.00), to be remitted to the State Treasurer.
12 Upon a showing to the court that the defendant failed to appear because
13 of an error or omission of a judicial official, a prosecutor, or a law-
14 enforcement officer, the court shall waive this fee."

15 Sec. 2. G.S. 7A-305(a) reads as rewritten:

16 "(a) In every civil action in the superior or district court the following costs shall be
17 assessed:

18 (1) For the use of the courtroom and related judicial facilities, the sum of
19 six dollars (\$6.00) in cases heard before a magistrate, and the sum of ten
20 dollars (\$10.00) in district and superior court, to be remitted to the
21 county in which the judgment is rendered, except that in all cases in
22 which the judgment is rendered in facilities provided by a municipality,
23 the facilities fee shall be paid to the municipality. Funds derived from
24 the facilities fees shall be used in the same manner, for the same
25 purposes, and subject to the same restrictions, as facilities fees assessed
26 in criminal actions.

27 (2) For support of the General Court of Justice, the sum of ~~fifty-five dollars~~
28 ~~(\$55.00)~~ fifty-nine dollars (\$59.00) in the superior court, and the sum of
29 ~~forty dollars (\$40.00)~~ forty-four dollars (\$44.00) in the district court
30 except that if the case is assigned to a magistrate the sum shall be
31 ~~twenty-eight dollars (\$28.00)~~ thirty-two dollars (\$32.00). Sums collected
32 under this subsection shall be remitted to the State Treasurer."

33 Sec. 3. G.S. 7A-306 reads as rewritten:

34 "**§ 7A-306. Costs in special proceedings.**

35 (a) In every special proceeding in the superior court, the following costs shall
36 be assessed:

37 (1) For the use of the courtroom and related judicial facilities, the sum of
38 four dollars (\$4.00) to be remitted to the county. Funds derived from
39 the facilities fees shall be used in the same manner, for the same
40 purposes, and subject to the same restrictions, as facilities fees assessed
41 in criminal actions.

42 (2) For support of the General Court of Justice the sum of ~~twenty-six dollars~~
43 ~~(\$26.00)~~ thirty dollars (\$30.00). In addition, in proceedings involving

land, except boundary disputes, if the fair market value of the land involved is over one hundred dollars (\$100.00), there shall be an additional sum of thirty cents (30¢) per one hundred dollars (\$100.00) of value, or major fraction thereof, not to exceed a maximum additional sum of two hundred dollars (\$200.00). Fair market value is determined by the sale price if there is a sale, the appraiser's valuation if there is no sale, or the appraised value from the property tax records if there is neither a sale nor an appraiser's valuation. Sums collected under this subsection shall be remitted to the State Treasurer.

(b) The facilities fee and ~~twenty-six dollars (\$26.00)~~ thirty dollars (\$30.00) of the General Court of Justice fee are payable at the time the proceeding is initiated.

(c) The following additional expenses, when incurred, are assessable or recoverable, as the case may be:

- (1) Witness fees, as provided by law.
- (2) Counsel fees, as provided by law.
- (3) Costs on appeal, of the original transcript of testimony, if any, insofar as essential to the appeal.
- (4) Fees for personal service of civil process, and other sheriff's fees, and for service by publication, as provided by law.
- (5) Fees of guardians ad litem, referees, receivers, commissioners, surveyors, arbitrators, appraisers, and other similar court appointees, as provided by law. The fees of such appointees shall include reasonable reimbursement for stenographic assistance, when necessary.

(d) Costs assessed before the clerk shall be added to costs assessable on appeal to the judge or upon transfer to the civil issue docket.

(e) Nothing in this section shall affect the liability of the respective parties for costs, as provided by law.

(f) This section does not apply to a foreclosure under power of sale in a deed of trust or mortgage."

Sec. 4. G.S. 7A-307 reads as rewritten:

"§ 7A-307. Costs in administration of estates.

(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, and in collections of personal property by affidavit, the following costs shall be assessed:

- (1) For the use of the courtroom and related judicial facilities, the sum of four dollars (\$4.00), to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.
- (2) For support of the General Court of Justice, the sum of ~~twenty-six dollars (\$26.00)~~ thirty dollars (\$30.00) plus an additional forty cents (40¢) per one hundred dollars (\$100.00), or major fraction thereof, of the gross estate, not to exceed three thousand dollars (\$3,000). Gross estate shall

1 include the fair market value of all personalty when received, and all
2 proceeds from the sale of realty coming into the hands of the fiduciary,
3 but shall not include the value of realty. In collections of personal
4 property by affidavit, the fee based on the gross estate shall be
5 computed from the information in the final affidavit of collection made
6 pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed.
7 In all other cases, this fee shall be computed from the information
8 reported in the inventory and shall be paid when the inventory is filed
9 with the clerk. If additional gross estate, including income, comes into
10 the hands of the fiduciary after the filing of the inventory, the fee for
11 such additional value shall be assessed and paid upon the filing of any
12 account or report disclosing such additional value. For each filing the
13 minimum fee shall be ten dollars (\$10.00). Sums collected under this
14 subsection shall be remitted to the State Treasurer.

15 (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents
16 (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross
17 estate, not to exceed three thousand dollars (\$3,000), shall not be
18 assessed on personalty received by a trust under a will when the estate
19 of the decedent was administered under Chapters 28 or 28A of the
20 General Statutes. Instead, a fee of fifteen dollars (\$15.00) shall be
21 assessed on the filing of each annual and final account.

22 (2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs
23 shall be assessed when the estate is administered or settled pursuant to
24 G.S. 28A-25-6.

25 (3) For probate of a will without qualification of a personal representative,
26 the clerk shall assess a facilities fee as provided in subdivision (1) of
27 this subsection and shall assess for support of the General Court of
28 Justice, the sum of ~~seventeen dollars (\$17.00)~~ twenty-one dollars
29 (\$21.00).

30 (b) In collections of personal property by affidavit, the facilities fee and ~~twenty-six~~
31 ~~dollars (\$26.00)~~ thirty dollars (\$30.00) of the General Court of Justice fee shall be paid at
32 the time of filing the qualifying affidavit pursuant to G.S. 28A-25-1. In all other cases,
33 these fees shall be paid at the time of filing of the first inventory. If the sole asset of the
34 estate is a cause of action, the thirty dollars (\$30.00) shall be paid at the time of the
35 qualification of the fiduciary.

36 (b1) The clerk shall assess the following miscellaneous fees:

- 37 (1) Filing and indexing a will with no probate
38 – first page \$ 1.00
39 – each additional page or fraction thereof .25
40 (2) Issuing letters to fiduciaries, per letter over five
41 letters issued 1.00
42 (3) Inventory of safe deposits of a decedent, per box, per day 15.00
43 (4) Taking a deposition 5.00

- 1 (5) Docketing and indexing a will probated in another
2 county in the State
3 – first page 1.00
4 – each additional page or fraction thereof .25
- 5 (c) The following additional expenses, when incurred, are also assessable or
6 recoverable, as the case may be:
- 7 (1) Witness fees, as provided by law.
8 (2) Counsel fees, as provided by law.
9 (3) Costs on appeal, of the original transcript of testimony, if any, insofar as
10 essential to the appeal.
11 (4) Fees for personal service of civil process, and other sheriff's fees, as
12 provided by law.
13 (5) Fees of guardians ad litem, referees, receivers, commissioners,
14 surveyors, arbitrators, appraisers, and other similar court appointees, as
15 provided by law.
- 16 (d) Costs assessed before the clerk shall be added to costs assessable on appeal to
17 the judge or upon transfer to the civil issue docket.
- 18 (e) Nothing in this section shall affect the liability of the respective parties for
19 costs, as provided by law."
- 20 Sec. 5. G.S 20-135.2A(e) reads as rewritten:
- 21 "~~(e) Any person violating this section during the period from October 1, 1985, to~~
22 ~~December 31, 1986, shall be given a warning of violation only. Thereafter, any~~ Any
23 person violating this section shall have committed an infraction and shall pay a fine of
24 ~~twenty five dollars (\$25.00).~~ infraction. An infraction is an unlawful act that is not a
25 crime. The procedure for charging and trying an infraction is the same as for a
26 misdemeanor, but conviction of an infraction has no consequence other than payment of a
27 ~~fine. A person convicted of an infraction may not be assessed court costs.~~"
- 28 Sec. 6. This act becomes effective August 1, 1995.