

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE BILL 520

Short Title: Court Fee Changes.

(Public)

Sponsors: Senator Clodfelter.

Referred to: Finance.

March 15, 2005

A BILL TO BE ENTITLED
AN ACT TO INCREASE AND ADJUST FEES IN THE GENERAL COURT OF
JUSTICE.

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.

(2) For the use of the courtroom and related judicial facilities, the sum of ~~twelve dollars (\$12.00)~~ seventeen dollars (\$17.00) in the district court, including cases before a magistrate, and the sum of ~~thirty dollars (\$30.00)~~ thirty-five dollars (\$35.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders and other personnel of the Office of Indigent Defense Services, magistrates, juries, and other

1 court related personnel; computer equipment, software, and supplies
2 for data sharing and automation; office space, furniture and vaults for
3 the clerk; jail and juvenile detention facilities; free parking for jurors;
4 and a law library (including books) if one has heretofore been
5 established or if the governing body hereafter decides to establish one.
6 In the event the funds derived from the facilities fees exceed what is
7 needed for these purposes, the county or municipality may, with the
8 approval of the Administrative Officer of the Courts as to the amount,
9 use any or all of the excess to retire outstanding indebtedness incurred
10 in the construction of the facilities, or to reimburse the county or
11 municipality for funds expended in constructing or renovating the
12 facilities (without incurring any indebtedness) within a period of two
13 years before or after the date a district court is established in such
14 county, or to supplement the operations of the General Court of Justice
15 in the county.

16 (3) For the retirement and insurance benefits of both State and local
17 government law-enforcement officers, the sum of six dollars and
18 twenty-five cents (\$6.25), to be remitted to the State Treasurer. Fifty
19 cents (50¢) of this sum shall be administered as is provided in Article
20 12C of Chapter 143 of the General Statutes. Five dollars and
21 seventy-five cents (\$5.75) of this sum shall be administered as is
22 provided in Article 12E of Chapter 143 of the General Statutes, with
23 one dollar and twenty-five cents (\$1.25) being administered in
24 accordance with the provisions of G.S. 143-166.50(e).

25 (3a) For the supplemental pension benefits of sheriffs, the sum of
26 seventy-five cents (75¢) to be remitted to the Department of Justice
27 and administered under the provisions of Article 12G of Chapter 143
28 of the General Statutes.

29 (4) For support of the General Court of Justice, the sum of seventy-six
30 dollars (\$76.00) in the district court, including cases before a
31 magistrate, and the sum of eighty-three dollars (\$83.00) in the superior
32 court, to be remitted to the State Treasurer. For a person convicted of a
33 felony in superior court who has made a first appearance in district
34 court, both the district court and superior court fees shall be assessed.
35 The State Treasurer shall remit the sum of two dollars (\$2.00) of each
36 fee collected under this subdivision, other than cases before a
37 magistrate, to the Judicial Public Financing Campaign Fund. The State
38 Treasurer shall remit the sum of ~~one dollar and five cents (\$1.05)~~ of
39 ~~each fee collected under this subdivision to the North Carolina State~~
40 ~~Bar for the provision of services described in G.S. 7A-474.4, and~~
41 ~~ninety-five cents (\$.95) of each fee collected under this subdivision to~~
42 ~~the North Carolina State Bar for the provision of services described in~~
43 ~~G.S. 7A-474.19. G.S. 7A-474.19, and a portion of each fee collected~~
44 ~~under this subdivision, in an amount equal to that specified in the table~~

below, to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4:

<u>Fiscal Year</u>	<u>Amount</u>
<u>January 2002</u>	
<u>through 2004-2005</u>	<u>\$1.05</u>
<u>2005-2006</u>	<u>2.05</u>
<u>2006-2007</u>	<u>3.05</u>
<u>2007-2008 and after</u>	<u>4.05.</u>

- (5) For using pretrial release services, the district or superior court judge shall, upon conviction, impose a fee of ~~fifteen dollars (\$15.00)~~ thirty dollars (\$30.00) to be remitted to the county providing the pretrial release services. This cost shall be assessed and collected only if the defendant had been accepted and released to the supervision of the agency providing the pretrial release services.
- (6) For support of the General Court of Justice, for the issuance by the clerk of a report to the Division of Motor Vehicles pursuant to G.S. 20-24.2, the sum of fifty dollars (\$50.00), to be remitted to the State Treasurer. Upon a showing to the court that the defendant failed to appear because of an error or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive this fee.
- (7) For the services of the State Bureau of Investigation laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of three hundred dollars (\$300.00) to be remitted to the Department of Justice for support of the State Bureau of Investigation. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction."

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

"(a) In every civil action in the superior or district court, except for actions brought under Chapter 50B of the General Statutes, the following costs shall be assessed:

- (1) For the use of the courtroom and related judicial facilities, the sum of ~~twelve dollars (\$12.00) in cases heard~~ seventeen dollars (\$17.00) in the district court, including cases before a magistrate, and the sum of ~~sixteen dollars (\$16.00) in district and~~ thirty-five dollars (\$35.00) in the superior court, to be remitted to the county in which the judgment is rendered, except that in all cases in which the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used

1 in the same manner, for the same purposes, and subject to the same
 2 restrictions, as facilities fees assessed in criminal actions.

- 3 (2) For support of the General Court of Justice, the sum of ~~sixty-nine~~
 4 ~~dollars (\$69.00)~~ eighty-two dollars (\$82.00) in the superior court, and
 5 the sum of ~~fifty-four dollars (\$54.00)~~ seventy-five dollars (\$75.00) in
 6 the district court except that if the case is assigned to a magistrate the
 7 sum shall be forty-three dollars (\$43.00). Sums collected under this
 8 subdivision shall be remitted to the State Treasurer. The State
 9 Treasurer shall remit the sum of two dollars (\$2.00) of each fee
 10 collected under this subdivision, other than cases assigned to a
 11 magistrate, to the Judicial Public Financing Campaign Fund. The State
 12 Treasurer shall remit the sum of ~~one dollar and five cents (\$1.05)~~ of
 13 each fee collected under this subdivision to the North Carolina State
 14 Bar for the provision of services described in G.S. 7A-474.4, and
 15 ninety-five cents (\$.95) of each fee collected under this subdivision to
 16 the North Carolina State Bar for the provision of services described in
 17 G.S. 7A-474.19. G.S. 7A-474.19, and a portion of each fee collected
 18 under this subdivision, in an amount equal to that specified in the table
 19 below, to the North Carolina State Bar for the provision of services
 20 described in G.S. 7A-474.4:

<u>Fiscal Year</u>	<u>Amount</u>
<u>January 2002</u>	
<u>through 2004-2005</u>	<u>\$1.05</u>
<u>2005-2006</u>	<u>2.05</u>
<u>2006-2007</u>	<u>3.05</u>
<u>2007-2008 and after</u>	<u>4.05."</u>

27 **SECTION 3.** G.S. 7A-306(a) reads as rewritten:

28 "(a) In every special proceeding in the superior court, the following costs shall be
 29 assessed:

- 30 (1) For the use of the courtroom and related judicial facilities, the sum of
 31 ~~ten dollars (\$10.00)~~ seventeen dollars (\$17.00) to be remitted to the
 32 county. Funds derived from the facilities fees shall be used in the same
 33 manner, for the same purposes, and subject to the same restrictions, as
 34 facilities fees assessed in criminal actions.
- 35 (2) For support of the General Court of Justice the sum of ~~thirty dollars~~
 36 ~~(\$30.00).~~ seventy-five dollars (\$75.00). In addition, in proceedings
 37 involving land, except boundary disputes, if the fair market value of
 38 the land involved is over one hundred dollars (\$100.00), there shall be
 39 an additional sum of thirty cents (30¢) per one hundred dollars
 40 (\$100.00) of value, or major fraction thereof, not to exceed a
 41 maximum additional sum of two hundred dollars (\$200.00). Fair
 42 market value is determined by the sale price if there is a sale, the
 43 appraiser's valuation if there is no sale, or the appraised value from the
 44 property tax records if there is neither a sale nor an appraiser's

1 valuation. Sums collected under this subdivision shall be remitted to
 2 the State Treasurer. The State Treasurer shall remit the sum of ~~one~~
 3 ~~dollar and five cents (\$1.05)~~ a portion of each thirty dollar (\$30.00)
 4 seventy-five-dollar (\$75.00) General Court of Justice fee collected
 5 under this ~~subdivision~~ subdivision, in an amount equal to that specified
 6 in the table below, to the North Carolina State Bar for the provision of
 7 services described in G.S. 7A-474.4. G.S. 7A-474.4:

<u>Fiscal Year</u>	<u>Amount</u>
<u>January 2002</u>	
<u>through 2004-2005</u>	<u>\$1.05</u>
<u>2005-2006</u>	<u>2.05</u>
<u>2006-2007</u>	<u>3.05</u>
<u>2007-2008 and after</u>	<u>4.05."</u>

14 **SECTION 4.** G.S. 7A-307(a) reads as rewritten:

15 "(a) In the administration of the estates of decedents, minors, incompetents, of
 16 missing persons, and of trusts under wills and under powers of attorney, in trust
 17 proceedings under G.S. 36A-23.1, and in collections of personal property by affidavit,
 18 the following costs shall be assessed:

- 19 (1) For the use of the courtroom and related judicial facilities, the sum of
 20 ~~ten dollars (\$10.00)~~, seventeen dollars (\$17.00), to be remitted to the
 21 county. Funds derived from the facilities fees shall be used in the same
 22 manner, for the same purposes, and subject to the same restrictions, as
 23 facilities fees assessed in criminal actions.
- 24 (2) For support of the General Court of Justice, the sum of ~~thirty dollars~~
 25 ~~(\$30.00)~~, seventy-five dollars (\$75.00), plus an additional forty cents
 26 (40¢) per one hundred dollars (\$100.00), or major fraction thereof, of
 27 the gross estate, not to exceed three thousand dollars (\$3,000). Gross
 28 estate shall include the fair market value of all personalty when
 29 received, and all proceeds from the sale of realty coming into the
 30 hands of the fiduciary, but shall not include the value of realty. In
 31 collections of personal property by affidavit, the fee based on the gross
 32 estate shall be computed from the information in the final affidavit of
 33 collection made pursuant to G.S. 28A-25-3 and shall be paid when that
 34 affidavit is filed. In all other cases, this fee shall be computed from the
 35 information reported in the inventory and shall be paid when the
 36 inventory is filed with the clerk. If additional gross estate, including
 37 income, comes into the hands of the fiduciary after the filing of the
 38 inventory, the fee for such additional value shall be assessed and paid
 39 upon the filing of any account or report disclosing such additional
 40 value. For each filing the minimum fee shall be fifteen dollars
 41 (\$15.00). Sums collected under this subdivision shall be remitted to the
 42 State Treasurer. The State Treasurer shall remit ~~the sum of one dollar~~
 43 ~~and five cents (\$1.05)~~ a portion of each thirty dollar (\$30.00)
 44 seventy-five-dollar (\$75.00) General Court of Justice fee collected

under this ~~subdivision~~ subdivision, in an amount equal to that specified in the table below, to the North Carolina State Bar for the provision of services described in ~~G.S. 7A-474.4~~. G.S. 7A-474.4:

<u>Fiscal Year</u>	<u>Amount</u>
<u>January 2002 through 2004-2005</u>	<u>\$1.05</u>
<u>2005-2006</u>	<u>2.05</u>
<u>2006-2007</u>	<u>3.05</u>
<u>2007-2008 and after</u>	<u>4.05.</u>

- (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross estate, not to exceed three thousand dollars (\$3,000), shall not be assessed on personalty received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of twenty dollars (\$20.00) shall be assessed on the filing of each annual and final account.
- (2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs shall be assessed when the estate is administered or settled pursuant to G.S. 28A-25-6.
- (2c) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross estate shall not be assessed on the gross estate of a trust that is the subject of a proceeding under G.S. 36A-23.1 if there is no requirement in the trust that accountings be filed with the clerk.
- (3) For probate of a will without qualification of a personal representative, the clerk shall assess a facilities fee as provided in subdivision (1) of this subsection and shall assess for support of the General Court of Justice, the sum of twenty dollars (\$20.00)."

SECTION 5. Section 1 of this act becomes effective July 1, 2005, and applies to all costs assessed or collected on or after that date, except that in misdemeanor or infraction cases disposed of on or after that date by written appearance, waiver of trial or hearing, and plea of guilt or admission of responsibility pursuant to G.S. 7A-180(4) or G.S. 7A-273(2), in which the citation or other criminal process was issued before that date, the cost shall be the lesser of those specified in G.S. 7A-304(a), as amended by Section 1 of this act, or those specified in the notice portion of the defendant's or respondent's copy of the citation or other criminal process, if any costs are specified in that notice. The remainder of this act becomes effective July 1, 2005, and applies to fees assessed or collected on or after that date.