

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS55096-LLf-84 (3/1)

Short Title: Court Fee Changes.

(Public)

Sponsors: Senator Clodfelter.

Referred to:

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

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

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

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

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

~~G.S. 7A-474.19.~~ G.S. 7A-474.19, and a portion of each fee collected 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 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 ~~sixty-nine dollars (\$69.00)~~ eighty-two dollars (\$82.00) in the superior court, and the sum of ~~fifty-four dollars (\$54.00)~~ seventy-five dollars (\$75.00) in the district court except that if the case is assigned to a magistrate the sum shall be forty-three dollars (\$43.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of two dollars (\$2.00) of each fee collected under this subdivision, other than cases assigned to a magistrate, to the Judicial Public Financing Campaign Fund. The State Treasurer shall remit the sum of ~~one dollar and five cents (\$1.05)~~ of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in ~~G.S. 7A-474.19.~~ G.S. 7A-474.19, and a portion of each fee collected 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>

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

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

- (1) For the use of the courtroom and related judicial facilities, the sum of ~~ten dollars (\$10.00)~~ seventeen dollars (\$17.00) 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 ~~thirty dollars (\$30.00)~~ seventy-five dollars (\$75.00). 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

1 appraiser's valuation if there is no sale, or the appraised value from the
 2 property tax records if there is neither a sale nor an appraiser's
 3 valuation. Sums collected under this subdivision shall be remitted to
 4 the State Treasurer. The State Treasurer shall remit the sum of ~~one~~
 5 ~~dollar and five cents (\$1.05)~~ a portion of each thirty-dollar (\$30.00)
 6 seventy-five-dollar (\$75.00) General Court of Justice fee collected
 7 under this subdivision ~~subdivision~~, in an amount equal to that specified
 8 in the table below, to the North Carolina State Bar for the provision of
 9 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>

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

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

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

1 ~~and five cents (\$1.05) a portion of each thirty dollar (\$30.00)~~
 2 seventy-five-dollar (\$75.00) General Court of Justice fee collected
 3 ~~under this subdivision~~ subdivision, in an amount equal to that specified
 4 in the table below, to the North Carolina State Bar for the provision of
 5 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>

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12 (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty
13 cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the
14 gross estate, not to exceed three thousand dollars (\$3,000), shall not be
15 assessed on personalty received by a trust under a will when the estate
16 of the decedent was administered under Chapters 28 or 28A of the
17 General Statutes. Instead, a fee of twenty dollars (\$20.00) shall be
18 assessed on the filing of each annual and final account.
- 19 (2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs
20 shall be assessed when the estate is administered or settled pursuant to
21 G.S. 28A-25-6.
- 22 (2c) Notwithstanding subdivision (2) of this subsection, the fee of forty
23 cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the
24 gross estate shall not be assessed on the gross estate of a trust that is
25 the subject of a proceeding under G.S. 36A-23.1 if there is no
26 requirement in the trust that accountings be filed with the clerk.
- 27 (3) For probate of a will without qualification of a personal representative,
28 the clerk shall assess a facilities fee as provided in subdivision (1) of
29 this subsection and shall assess for support of the General Court of
30 Justice, the sum of twenty dollars (\$20.00)."

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