

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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SENATE BILL 960

Short Title: Expand Access to the Courts.

(Public)

Sponsors: Senators Clodfelter; Atwater, Dannelly, and Kinnaird.

Referred to: Finance.

March 20, 2007

A BILL TO BE ENTITLED
AN ACT TO INCREASE COURT FEES, TO PROVIDE ADDITIONAL FUNDING
FOR COURT INFORMATION TECHNOLOGY, AND TO AMEND THE
ACCESS TO CIVIL JUSTICE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-304(a)(4) 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.

...

(4) For support of the General Court of Justice, the sum of ~~eighty-five dollars and fifty cents (\$85.50)~~ ninety-three dollars (\$93.00) in the district court, including cases before a magistrate, and the sum of ~~ninety-two dollars and fifty cents (\$92.50)~~ one hundred dollars (\$100.00) in the superior court, to be remitted to the State Treasurer. For a person convicted of a felony in superior court who has made a first appearance in district court, both the district court and superior court fees shall be assessed. The State Treasurer shall credit the sum of five dollars (\$5.00) to the Court Information Technology Fund provided for in G.S. 7A-343.2 and shall remit the sum of ~~one dollar and five cents (\$1.05)~~ three dollars (\$3.00) 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.

...."

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

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

5 ...

6 (2) For support of the General Court of Justice, the sum of ~~seventy-nine~~
7 ~~dollars (\$79.00)~~ eighty-six dollars (\$86.00) in the superior court,
8 except that if a case is assigned to a special superior court judge as a
9 complex business case under G.S. 7A-45.3, an additional ~~two hundred~~
10 ~~dollars (\$200.00)~~ two hundred ten dollars (\$210.00) shall be paid upon
11 its assignment, and the sum of ~~sixty-four dollars (\$64.00)~~ seventy
12 dollars (\$70.00) in the district court except that if the case is assigned
13 to a magistrate the sum shall be ~~fifty-three dollars (\$53.00)~~. sixty
14 dollars (\$60.00). Sums collected under this subdivision shall be
15 remitted to the State Treasurer. The State Treasurer shall credit the
16 sum of five dollars (\$5.00) to the Court Information Technology Fund
17 provided for in G.S. 7A-343.2 and shall remit the sum of ~~one dollar~~
18 ~~and five cents (\$1.05)~~ three dollars (\$3.00) of each fee collected under
19 this subdivision to the North Carolina State Bar for the provision of
20 services described in G.S. 7A-474.4, and ninety-five cents (\$.95) of
21 each fee collected under this subdivision to the North Carolina State
22 Bar for the provision of services described in G.S. 7A-474.19."

23 **SECTION 3.** G.S. 7A-306(a)(2) reads as rewritten:

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

26 ...

27 (2) For support of the General Court of Justice the sum of ~~forty dollars~~
28 ~~(\$40.00)~~. forty-seven dollars (\$47.00). In addition, in proceedings
29 involving land, except boundary disputes, if the fair market value of
30 the land involved is over one hundred dollars (\$100.00), there shall be
31 an additional sum of thirty cents (30¢) per one hundred dollars
32 (\$100.00) of value, or major fraction thereof, not to exceed a
33 maximum additional sum of two hundred dollars (\$200.00). Fair
34 market value is determined by the sale price if there is a sale, the
35 appraiser's valuation if there is no sale, or the appraised value from the
36 property tax records if there is neither a sale nor an appraiser's
37 valuation. Sums collected under this subdivision shall be remitted to
38 the State Treasurer. The State Treasurer shall credit the sum of five
39 dollars (\$5.00) to the Court Information Technology Fund provided for
40 in G.S. 7A-343.2 and shall remit the sum of ~~one dollar and five cents~~
41 ~~(\$1.05)~~ three dollars (\$3.00) of each forty-dollar (\$40.00) General
42 Court of Justice fee collected under this subdivision to the North
43 Carolina State Bar for the provision of services described in
44 G.S. 7A-474.4."

1 **SECTION 4.** G.S. 7A-307(a)(2) reads as rewritten:

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

6 ...
7 (2) For support of the General Court of Justice, the sum of ~~forty dollars~~
8 ~~(\$40.00)~~, forty-seven dollars (\$47.00), plus an additional forty cents
9 (40¢) per one hundred dollars (\$100.00), or major fraction thereof, of
10 the gross estate, not to exceed six thousand dollars (\$6,000). Gross
11 estate shall include the fair market value of all personalty when
12 received, and all proceeds from the sale of realty coming into the
13 hands of the fiduciary, but shall not include the value of realty. In
14 collections of personal property by affidavit, the fee based on the gross
15 estate shall be computed from the information in the final affidavit of
16 collection made pursuant to G.S. 28A-25-3 and shall be paid when that
17 affidavit is filed. In all other cases, this fee shall be computed from the
18 information reported in the inventory and shall be paid when the
19 inventory is filed with the clerk. If additional gross estate, including
20 income, comes into the hands of the fiduciary after the filing of the
21 inventory, the fee for such additional value shall be assessed and paid
22 upon the filing of any account or report disclosing such additional
23 value. For each filing the minimum fee shall be fifteen dollars
24 (\$15.00). Sums collected under this subdivision shall be remitted to the
25 State Treasurer. The State Treasurer shall credit the sum of five dollars
26 (\$5.00) to the Court Information Technology Fund provided for in
27 G.S. 7A-343.2 and shall remit the sum of ~~one dollar and five cents~~
28 (\$1.05) three dollars (\$3.00) of each forty-dollar (\$40.00) General
29 Court of Justice fee collected under this subdivision to the North
30 Carolina State Bar for the provision of services described in
31 G.S. 7A-474.4.

32 "

33 **SECTION 5.** G.S. 7A-474.1 reads as rewritten:

34 "**§ 7A-474.1. Legislative findings and purpose.**

35 The General Assembly of North Carolina declares it to be its purpose to provide
36 access to legal representation for indigent persons in certain kinds of civil matters. The
37 General Assembly finds that such representation can best be provided in an efficient,
38 effective, and economic manner through ~~five geographically based field~~ the established
39 legal services programs in this State."

40 **SECTION 6.** G.S. 7A-474.2(4) reads as rewritten:

41 "**§ 7A-474.2. Definitions.**

42 The following definitions shall apply throughout this Article, unless the context
43 otherwise requires:

44 ...

1 (4) "~~Geographically based field~~ Established legal services programs"
2 means the following not-for-profit corporations using State funds to
3 serve the counties listed: Legal Services of the Southern Piedmont,
4 serving Cabarrus, Gaston, Mecklenburg, Stanly, and Union Counties;
5 Legal Aid Society of Northwest North Carolina, serving Davie,
6 Forsyth, Iredell, Stokes, Surry, and Yadkin Counties; ~~North-Central~~
7 ~~Legal Assistance Program, serving Durham, Franklin, Granville,~~
8 ~~Person, Vance, and Warren Counties;~~ Pisgah Legal Services, serving
9 Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania
10 Counties; and Legal Services Aid of North Carolina, ~~servi~~^{ng}~~g~~
11 ~~83~~ counties in North Carolina; a statewide program; or any successor
12 entity or entities of the named organizations, or, should any of the
13 named organizations dissolve, the entity or entities providing
14 substantially the same services in substantially the same service area."

15 **SECTION 7.** G.S. 7A-474.4 reads as rewritten:

16 **"§ 7A-474.4. Funds.**

17 Funds to provide representation pursuant to this Article shall be provided to the
18 North Carolina State Bar for provision of direct services by and support of the
19 ~~geographically based field~~ established legal services programs. The North Carolina
20 State Bar shall allocate these funds directly to each of the ~~five geographically based~~
21 ~~field~~ established legal services programs based upon the eligible client population in
22 each ~~area program, area,~~ area, with Pisgah Legal Services receiving the allocation for
23 Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania ~~Counties, based~~
24 ~~upon the eligible client population in each area program. Counties; Legal Aid Society of~~
25 Northwest North Carolina receiving half of the allocation for Davie, Forsyth, Iredell,
26 Stokes, Surry, and Yadkin Counties; and Legal Services of Southern Piedmont
27 receiving half of the allocation for Cabarrus, Gaston, Mecklenburg, Stanly, and Union
28 Counties. The North Carolina State Bar shall not use any of these funds for its
29 administrative costs."

30 **SECTION 8.** G.S. 7A-474.5 reads as rewritten:

31 **"§ 7A-474.5. Records and reports.**

32 The ~~geographically based field~~ established legal services programs shall keep
33 appropriate records and make periodic reports, as requested, to the North Carolina State
34 Bar."

35 **SECTION 9.** Section 1 of this act becomes effective July 1, 2007, and
36 applies to all costs assessed or collected on or after that date, except that in
37 misdemeanor or infraction cases disposed of on or after that date by written appearance,
38 waiver of trial or hearing, and plea of guilt or admission of responsibility pursuant to
39 G.S.7A-180(4) or G.S.7A-273(2), in which the citation or other criminal process was
40 issued before that date, the cost shall be the lesser of those specified in G.S. 7A-304(a),
41 as amended by Section 1 of this act, or those specified in the notice portion of the
42 defendant's or respondent's copy of the citation or other criminal process, if any costs
43 are specified in that notice. Sections 2, 3, and 4 of this act become effective July 1,

1 2007, and apply to all costs assessed or collected on or after that date. The remainder of
2 this act becomes effective July 1, 2007.