

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 430
Corrected Copy 3/15/95
Committee Substitute Favorable 5/31/95

Short Title: Costs/Victims Assistants/AB.

(Public)

Sponsors:

Referred to:

March 9, 1995

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A COURT MAY ORDER PAYMENT OF COSTS BY CERTAIN DEFENDANTS FOR SERVICES TO VICTIMS AND WITNESSES AND TO APPROPRIATE FUNDS TO THE ADMINISTRATIVE OFFICE OF THE COURTS FOR ADDITIONAL VICTIM/WITNESS ASSISTANT POSITIONS.

The General Assembly of North Carolina enacts:

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

"§ 7A-304. Costs in criminal actions.

(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

1 law-enforcement officer employed by a municipality, the fee shall be
2 paid to the municipality employing the officer.

- 3 (2) For the use of the courtroom and related judicial facilities, the sum of
4 six dollars (\$6.00) in the district court, including cases before a
5 magistrate, and the sum of twenty-four dollars (\$24.00) in superior
6 court, to be remitted to the county in which the judgment is rendered. In
7 all cases where the judgment is rendered in facilities provided by a
8 municipality, the facilities fee shall be paid to the municipality. Funds
9 derived from the facilities fees shall be used exclusively by the county
10 or municipality for providing, maintaining, and constructing adequate
11 courtroom and related judicial facilities, including: adequate space and
12 furniture for judges, district attorneys, public defenders, magistrates,
13 juries, and other court related personnel; office space, furniture and
14 vaults for the clerk; jail and juvenile detention facilities; free parking for
15 jurors; and a law library (including books) if one has heretofore been
16 established or if the governing body hereafter decides to establish one.
17 In the event the funds derived from the facilities fees exceed what is
18 needed for these purposes, the county or municipality may, with the
19 approval of the Administrative Officer of the Courts as to the amount,
20 use any or all of the excess to retire outstanding indebtedness incurred
21 in the construction of the facilities, or to reimburse the county or
22 municipality for funds expended in constructing or renovating the
23 facilities (without incurring any indebtedness) within a period of two
24 years before or after the date a district court is established in such
25 county, or to supplement the operations of the General Court of Justice
26 in the county.

- 27 (3) For the retirement and insurance benefits of both State and local
28 government law-enforcement officers, the sum of seven dollars and
29 twenty-five cents (\$7.25), to be remitted to the State Treasurer. Fifty
30 cents (50¢) of this sum shall be administered as is provided in Article
31 12C of Chapter 143 of the General Statutes. Five dollars and seventy-
32 five cents (\$5.75) of this sum shall be administered as is provided in
33 Article 12E of Chapter 143 of the General Statutes, with one dollar and
34 twenty-five cents (\$1.25) being administered in accordance with the
35 provisions of G.S. 143-166.50(e). One dollar (\$1.00) of this sum shall
36 be administered as is provided in Article 12F of Chapter 143 of the
37 General Statutes.

- 38 (3a) For the supplemental pension benefits of sheriffs, the sum of seventy-
39 five cents (75¢), to be remitted to the Department of Justice and
40 administered under the provisions of Article 12G of Chapter 143 of the
41 General Statutes.

- 42 (4) For support of the General Court of Justice, the sum of forty-one dollars
43 (\$41.00) in the district court, including cases before a magistrate, and

1 the sum of forty-eight dollars (\$48.00) in the superior court, to be
2 remitted to the State 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 (7) For the provision of services to crime victims and witnesses as provided
16 in G.S. 15A-825, the sum of twenty dollars (\$20.00) to be assessed
17 only when the defendant is placed on supervised probation and the sum
18 of fifty dollars (\$50.00) to be assessed in all cases in which the
19 defendant is convicted of impaired driving under G.S. 20-138.1. Either
20 or both of these costs shall be assessed as applicable. These funds shall
21 be remitted to the State Treasurer.

22 (a1) The costs assessed pursuant to subsection (a) may also be collected by clerks
23 of court for charges in which a party elects to pay the court's costs to satisfy the
24 requirements of G.S. 20-7.2. Costs collected pursuant to this subsection shall be
25 allocated in the same manner as other costs collected pursuant to this section. If a party
26 elects to pay the costs of court to satisfy the requirements of G.S. 20-7.2 and is
27 subsequently adjudged guilty of the same charge by the court, he shall not be required to
28 pay the costs of court again for that charge, but he is subject to any other orders of the
29 court, including an order to pay a fine.

30 (b) On appeal, costs are cumulative, and costs assessed before a magistrate shall be
31 added to costs assessed in the district court, and costs assessed in the district court shall
32 be added to costs assessed in the superior court, except that the fee for the Law-
33 Enforcement Officers' Benefit and Retirement Fund and the Sheriffs' Supplemental
34 Pension Fund and the fee for pretrial release services shall be assessed only once in each
35 case. No superior court costs shall be assessed against a defendant who gives notice of
36 appeal from the district court but withdraws it prior to the expiration of the 10-day period
37 for entering notice of appeal. When a case is reversed on appeal, the defendant shall not
38 be liable for costs, and the State shall be liable for the cost of printing records and briefs
39 in the Appellate Division.

40 (c) Witness fees, expenses for blood tests and comparisons incurred by G.S. 8-
41 50.1(a), jail fees and cost of necessary trial transcripts shall be assessed as provided by
42 law in addition to other costs set out in this section. Nothing in this section shall limit the
43 power or discretion of the judge in imposing fines or forfeitures or ordering restitution.

1 (d) In any criminal case in which the liability for costs, fines, restitution, or any
2 other lawful charge has been finally determined, the clerk of superior court shall, unless
3 otherwise ordered by the presiding judge, disburse such funds when paid in accordance
4 with the following priorities:

- 5 (1) Costs due the county;
- 6 (2) Costs due the city;
- 7 (3) Fines to the county school fund;
- 8 (4) Sums in restitution prorated among the persons entitled thereto;
- 9 (5) Costs due the State;
- 10 (6) Attorney's fees.

11 Sums in restitution received by the clerk of superior court shall be disbursed when:

- 12 (1) Complete restitution has been received; or
- 13 (2) When, in the opinion of the clerk, additional payments in restriction will
14 not be collected; or
- 15 (3) Upon the request of the person or persons entitled thereto; and
- 16 (4) In any event, at least once each calendar year.

17 (e) Unless otherwise provided by law, the costs assessed pursuant to this section
18 for criminal actions disposed of in the district court are also applicable to infractions
19 disposed of in the district court. The costs assessed in superior court for criminal actions
20 appealed from district court to superior court are also applicable to infractions appealed
21 to superior court. If an infraction is disposed of in the superior court pursuant to G.S. 7A-
22 271(d), costs applicable to the original charge are applicable to the infraction.
23 Notwithstanding the provisions of this subsection, G.S. 7A-304(a)(7) shall not be
24 applicable to infractions."

25 Sec. 2. There is appropriated from the General Fund to the Administrative
26 Office of the Courts the sum of one million eight hundred fourteen thousand five hundred
27 fifty dollars (\$1,814,550) for the 1995-96 fiscal year and the sum of one million five
28 hundred fourteen thousand five hundred fifty dollars (\$1,514,550) for the 1996-97 fiscal
29 year to establish 50 additional Victim/Witness Assistant positions in the offices of the
30 district attorneys of this State. These positions are to be located in the offices of the
31 district attorneys according to a needs assessment made by the Administrative Office of
32 the Courts. The Administrative Office of the Courts will report to the Chairs of the
33 Justice and Public Safety Appropriations Subcommittees by June 1, 1996, as to when and
34 where the positions were filled.

35 Sec. 3. This act becomes effective October 1, 1995, and applies to persons
36 placed on probation on and after than date.