

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

1

HOUSE BILL 2022*

Short Title: Expand Access to the Courts. (Public)

Sponsors: Representatives Weiss, Bordsen, Love (Primary Sponsors); Faison, Glazier, Harrison, Insko, and Ross.

Referred to: Finance, if favorable, Appropriations.

May 10, 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 "

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

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

6 ...

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

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

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

27 ...

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

1 Carolina State Bar for the provision of services described in
 2 G.S. 7A-474.4."

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

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

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

34"

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

36 "**§ 7A-474.1. Legislative findings and purpose.**

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

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

43 "**§ 7A-474.2. Definitions.**

1 The following definitions shall apply throughout this Article, unless the context
2 otherwise requires:

3 ...

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

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

19 **"§ 7A-474.4. Funds.**

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

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

34 **"§ 7A-474.5. Records and reports.**

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

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

1 defendant's or respondent's copy of the citation or other criminal process, if any costs
2 are specified in that notice. Sections 2, 3, and 4 of this act become effective July 1,
3 2007, and apply to all costs assessed or collected on or after that date. The remainder of
4 this act becomes effective July 1, 2007.